

Homelessness Wardship and Commonwealth-State Relations

Author:

Shaver, Sheila; Paxman, Marina

Publication details:

Working Paper No. 101
Reports and Proceedings
0733402739 (ISBN)

Publication Date:

1992

DOI:

<https://doi.org/10.26190/unsworks/899>

License:

<https://creativecommons.org/licenses/by-nc-nd/3.0/au/>

Link to license to see what you are allowed to do with this resource.

Downloaded from <http://hdl.handle.net/1959.4/45210> in <https://unsworks.unsw.edu.au> on 2024-03-29



SOCIAL POLICY RESEARCH CENTRE

Reports and Proceedings

No. 101

July 1992

Homelessness, Wardship and Commonwealth-State Relations

by

Sheila Shaver and Marina Paxman



THE UNIVERSITY OF NEW SOUTH WALES
P O BOX 1 . KENSINGTON . NEW SOUTH WALES . AUSTRALIA . 2033

For further enquiries about the work of the Centre, or about purchasing our publications, please contact the Publications Officer, SPRC, University of New South Wales, PO BOX 1, Kensington, NSW, 2033. Telephone: (02) 697 3857. Fax: (02) 313 8367.

ISSN 1036 2835
ISBN 0 7334 0273 9

As with all issues in the Reports and Proceedings series, the views expressed in this publication do not represent any official position on the part of the Centre. The Reports and Proceedings are produced to make available the research findings of the individual authors, and to promote the development of ideas and discussions about major areas of concern in the field of social policy.

Foreword

Widespread community concern has been expressed in recent years about the number of young people, including many under 16 years of age, who are living without the stability and support normally provided by parents. Concern about youth homelessness has been most forcefully presented in the report of the Inquiry by the Human Rights and Equal Opportunity Commission (the Burdekin Inquiry), *Our Homeless Children*, published in 1989. That report indicted all levels of government for failures in policy and administration.

The needs of young people who have undertaken a premature independence lie at the boundaries of Commonwealth and State Governments. As the Burdekin Inquiry noted, one of the common factors in the backgrounds of homeless young people is a history in care. Both tradition and the Australian Constitution assign responsibility for child welfare to State Governments. State Government responsibility is especially clear in the case of children who have been made wards of state. In recent years, however, developments of Commonwealth support and other funding programs - many of them responses to youth homelessness - have brought Commonwealth assistance into closer relations with the child welfare responsibilities of State Governments.

The research presented in this Report is the result of a study commissioned by the Commonwealth Department of Social Security in which the Centre was asked to examine the changing balance and fit between Commonwealth and State programs in meeting the needs of homeless young people and in particular as they affect wards of state.

The Report reviews changing policies and practices of State welfare departments in the use of orders for care, protection and control, and Commonwealth policies and services supporting young people in and leaving care. Case studies of services to young people in care in Queensland and South Australia examine these issues in more depth.

The Report finds there is a longstanding trend to reduced use of legal orders for wardship across all States. The case studies suggest that this reduction reflects the conjunction of changing legal philosophies of care with fiscal constraints on the resources available to State welfare departments. New or extended Commonwealth measures designed to assist young people lacking parental support are particularly problematic in the case of wards under 16 years of age, for whom the Commonwealth considers the States responsible. In the result young people find themselves negotiating changing and sometimes contested boundaries between Commonwealth and State.

Peter Saunders
Director

Acknowledgements

This research would not have been possible without the assistance of the many people providing information and comment. Staff of both the Queensland Department of Family Services and Aboriginal and Islander Affairs and the South Australian Department for Family and Community Services genuinely welcomed our inquiries. We appreciate their time and perceptive observations. In particular we would like to thank Carole Peltola in Brisbane and Zofia Nowak Cremer in South Australia for co-ordinating our visits and responding to our many requests. We also wish to acknowledge the assistance of Mr Laurie Young of the New South Wales Department of Community Services and National Co-ordinator of the Welstat data collection. Peter Saunders and readers in the Social Policy Division of the Department of Social Security provided helpful comments on an earlier version of this Report. Nicky Woodburn, Lynda Pawley and Jackie Comer are responsible for layout and Lynn Sitsky and Diana Encel for editing assistance.

Contents

Foreword	i
Acknowledgements	ii
List of Tables	iv
Abbreviations	viii
1. Introduction	1
2. The Methodology of the Study	10
3. Children Subject to Orders for Care, Protection and Control	13
4. Commonwealth Income Support and Service Provisions Relevant to Young People in Care or Leaving Care	37
5. Policies and Procedures of State and Territory Governments for Children in Care and Leaving Care	50
6. Wardship and Commonwealth-State Relations in Queensland	60
7. Wardship and Commonwealth-State Relations in South Australia	87
8. Youth Homelessness, Wardship and Commonwealth-State Relations	112
References and Documents Consulted	118
Individuals and Organisations Providing Information for this Report	121

List of Tables

Table 3.1	Children Under Guardianship Orders in Australia, 1972 to 1990	19
Table 3.2	Rates of Children Under Guardianship Orders for Care and Protection: Reason by State	20
Table 3.3	Number of Children Under Guardianship Orders for Care and Protection: Reasons by Age at 30 June 1990	21
Table 3.4	Children Admitted to Guardianship and Other Orders During the Year Ending 30 June 1990 - Australia	22
Table 3.5	Children Discharged from Guardianship and Other Orders During the Year Ending 30 June 1990 - Australia	23
Table 3.6	Children Admitted to Guardianship/Other Orders by State: Aged 13 and Over, Year Ending June 1990	24
Table 3.7	Children Discharged from Guardianship/Other Orders by State: Aged 13 and Over Year Ending June 1990	24
Table 3.8	Reason for Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Year Ending June 30 1990 - New South Wales	25
Table 3.9	Reason for Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Year Ending June 30 1989 - Victoria	26
Table 3.10	Reason for Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Years Ending June 30 1988 and June 30 1990 - Queensland	27
Table 3.11	Reason for Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Years Ending June 30 1988 and June 30 1990 - South Australia	28
Table 3.12	Reason for Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Year Ending June 30 1988 and June 1990 - Western Australia	29

Table 3.13	Reason for Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Year Ending June 30 1988 - Tasmania	30
Table 3.14	Reason for Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Year Ending June 30 1988 and June 30 1990 - Northern Territory	31
Table 3.15	Reason for Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Years Ending June 30 1989 and June 30 1990 - Australian Capital Territory	32
Table 3.16	Placement of Children Under Guardianship Orders and Other Orders: Summary as at 30 June 1990	33
Table 3.17	Placement of Children Under Guardianship Orders and Other Orders for Care and Protection Reasons Only: as at 30 June 1990	34
Table 3.18	Placement of Children Under Guardianship Orders and Other Orders for Offence Reasons Only: as at 30 June 1990	35
Table 3.19	Estimates of the Proportion of all Children in Care who are Aboriginal or Torres Strait Islander	36
Table 4.1	Recipients of Young Homeless Allowance by Age and State, August 1991	45
Table 4.2	Recipients of Young Homeless Allowance by Benefit Type and by State, Persons Aged Under 18, August 1991	45
Table 4.3	Recipients of Austudy Independent Status (Homeless Student Rate) by Age and State, January to October 1991	46
Table 4.4	Crisis Accommodation, Expenditure and Number of Outlets, 1990-91	47
Table 4.5	Clients Accommodated in SAAP Services on Night of 8 November 1990 by Service Type and State	48
Table 4.6	Age and Sex of Clients Accommodated in SAAP Services on Night of 8 November 1990	48
Table 4.7	Commonwealth and State Contributions to Funding of Aboriginal and Islander Child Care Agencies, 1989-90	49

Table 5.1	Legislation, Policies and Procedures for Children in Care and Leaving Care - New South Wales	53
Table 5.2	Legislation, Policies and Procedures for Children in Care and Leaving Care - Victoria	54
Table 5.3	Legislation, Policies and Procedures for Children in Care and Leaving Care - Western Australia	55
Table 5.4	Legislation, Policies and Procedures for Children in Care and Leaving Care - Tasmania	56
Table 5.5	Legislation, Policies and Procedures for Children in Care and Leaving Care - Northern Territory	57
Table 5.6	Legislation, Policies and Procedures for Children in Care and Leaving Care - Australian Capital Territory	58
Table 6.1	Children Under Orders by Type of Order, Year Ended 30 June, 1990 - Queensland	80
Table 6.2	Children Under Orders: Children on Hand at 30 June, 1986 to 1990 - Queensland	80
Table 6.3	Children Under Guardianship Orders by Age and Sex of Child, 30 June 1988 - Queensland	81
Table 6.4	Children Under Orders: Children on Hand by Age and Sex - Year Ended 30 June 1990 - Queensland	81
Table 6.5	Children Admitted to Guardianship/Other Orders by Age of Child - 1987/88 to 1989/90 - Queensland	82
Table 6.6	Children Discharged from Guardianship/Other Orders by Age of Child - 1988/89 and 1989/90 - Queensland	83
Table 6.7	Children Under Orders by Type of Placement, Year Ended 30 June 1990 - Queensland	84
Table 6.8	Children Under Orders: Children on Hand by Aboriginality by Sex and Age - 1987 to 1990 - Queensland	85
Table 6.9	Allowances and Payments to Foster Parents and Other Caregivers - Queensland	86
Table 6.10	Income Status of Participants in Transition from Care	86
Table 7.1	Children for Whom the Department had Responsibility During 1990-91 - South Australia	105

Table 7.2	Children Under Guardianship Orders by Age and Sex of Child, 30 June 1988 - South Australia	106
Table 7.3	Children Admitted to Guardianship/Other Orders by Age of Child 1987/88 and 1989/90 - South Australia	107
Table 7.4	Children Placed Under Guardianship or Control Orders for the First Time During 1990-91 - South Australia	108
Table 7.5	Children Discharged from Guardianship/Other Orders by Age of Child 1989/90 - South Australia	109
Table 7.6	Distribution of Children Under Guardianship, Detention or Control Orders as at June 30, 1991 - South Australia	110
Table 7.7	New Rates of Payment for Foster Care (\$ per week) - South Australia	111

Abbreviations

ABS	Australian Bureau of Statistics
AICCA	Aboriginal and Islander Child Care Association
ATSIC	Aboriginal & Torres Strait Islander Commission
CES	Commonwealth Employment Scheme
DEET	Commonwealth Department of Employment, Education and Training
DFS	Department of Family Services and Aboriginal & Islander Affairs, Queensland
DHHCS	Commonwealth Department of Health, Housing and Community Services (formerly the Department of Health and Community Services DHCS)
DOCS	Department of Community Services, New South Wales (formerly the Department of Family and Community Services, FACS)
DSS	Commonwealth Department of Social Security
FA	Family Allowance
FACS	Department for Family and Community Services, South Australia
FAS	Family Allowance Supplement
HREOC	Human Rights and Equal Opportunity Commission
INC	Intensive Neighbourhood Care, South Australia
JSA	Job Search Allowance
SA	Sickness Allowance
SAAP	Supported Accommodation Assistance Scheme
SAYRAC	South Australian Youth Remand and Assistance Centre
SAYTC	South Australian Youth Training Centre
SB	Special Benefit
SHR	Student Homeless Rate
SNAICC	Secretariat for National Aboriginal and Islander Child Care
SPP	Sole Parent Pension
YHA	Young Homeless Allowance
YSAP	Youth Supported Accommodation Program

1 Introduction

1.1 Homelessness Among Young People

No one knows how many young people in Australia are homeless, but conservative estimates place the total number aged below 20 at between 20,000 and 25,000. Of these it is thought that between 12,000 and 17,000 are aged 15 to 19, and about 8,500 between 12 and 15. These numbers are believed to be growing, and the proportions in younger age groups to be increasing (HREOC, 1989: 65-8).

Homelessness is not a permanent state for most of the young people who experience it. This is true even of the 'street kids' experiencing extreme forms of alienation (Wilson and Arnold, 1986: 25). It is, however, a serious condition with potentially significant social and individual consequences. Homelessness often entails not only the lack of secure accommodation but other deprivations including income, education and stable relationships with other people. Its effects may be felt both while the young person is living precariously and for long afterwards in inadequate preparation for adult life.

Youth homelessness is not a phenomenon that can be explained in its own right. It is rather the end result of various and diverse causes. Its background is to be found in changing social and economic conditions, and its foreground in the particular histories and circumstances of individual young people. As Maas and Hartley point out (1988: 3), adolescence is a period of transition in the contemporary life cycle. Within the transition from childhood to adulthood are others, from education to employment and from family to independent living. Homelessness is in many respects a transition undertaken prematurely. Often, though not always, it means that all the steps toward adulthood are telescoped into one.

Young people leave home prematurely for many reasons at once. While one factor may be salient at the moment of leaving, there are commonly a number in play in the life situation of the young person at the time. Some of these work to 'push' the young person from home. These include tensions and conflict in the home, often associated with family break-up and reformation, physical or sexual abuse, and economic hardship in the family household. These may be compounded by cultural conflicts between parent and child, and by conflicts over the young person's failure to find and maintain employment. Others work to 'pull' the young person toward early autonomy. These include a desire for independence on his or her own part and the belief that employment prospects are better elsewhere. Many of the same factors also underlie leaving school at an early age. School retention is supported by high socio-economic status, the high value placed on education by parents from non-English speaking backgrounds and attractive curriculum options within the school (Maas and Hartley, 1988: 4-13).

The relationship between leaving the parental home and homelessness is mediated by economic conditions, and specifically by the labour market for young workers and access to low-cost, low-barrier accommodation. Structural changes in the Australian economy have reduced the availability of employment to young people, and especially to those who have left school early and lack skills and work experience. Technological change and the decline of the manufacturing sector have closed employment avenues previously open to them. Growth in youth employment has consisted primarily of part-time work. At October 1991, the unemployment rate for young people aged between 16-19 years ranged from 36.5 per cent to 20.9 per cent respectively. The average duration of unemployment for 15-19 year olds is 27.9 weeks.

Nor do young people fare well in the private market for low-cost accommodation, even when they have income from part-time employment or Commonwealth income support benefits. The average weekly rent paid by single persons in the private housing sector is \$89.41. The figure is \$80.46 per week if one includes private, public and board/lodging housing arrangements (ABS, Income Distribution Survey, 1990). Not only are rents beyond their means and bonds beyond young people's capacity to save, but other low-income groups are often preferred as tenants. While those below 18 are legally able to sign the documents establishing tenancy these are not binding in some respects, disadvantaging them in the competition for scarce housing. Legislation in New South Wales and South Australia enabling minors to enter into contracts appears to be little used (HREOC, 1989: 205-6). Other types of low-cost accommodation such as boarding houses and hostels are in diminishing supply due to gentrification of inner-city suburbs and the cost of health and safety standards.

Single young people have little effective access to public housing. The Commonwealth-State Housing Agreement permits their accommodation in housing funded under it, and a 1987 amendment to the *Housing Assistance Act* prohibits discrimination on the basis of age. In most States, however, their housing needs continue to be ranked behind those of other groups.

1.2 Homelessness and State Care

This study is concerned with a further factor contributing to homelessness among young people: being or having been in the care of the state. Maas and Hartley (1988: 17-8) note that ex-inmates of correctional or protective institutions have been recognised as a significant group among the young homeless population since the late 1970s. The Burdekin Inquiry (HREOC, 1989: 109) concluded that, 'A period of time spent in a child welfare or juvenile justice institution, or otherwise detached by the welfare system from the natural family, seems to increase significantly a child's chances of becoming homeless.' In her Foreword to Taylor's study (1990: vi) Carter has estimated that 50 per cent of homeless young people are or have been wards of the state.

The Burdekin Inquiry (HREOC, 1989) cited evidence from research studies and material presented to the Inquiry showing that a high proportion of homeless or 'runaway' young people had prior experience of this kind. The Inquiry blamed State welfare departments for multiple and unstable placements of children in care, frequent and poorly judged returns to the family environment, and incarceration in children's homes and detention facilities. It noted the high proportions of Aboriginal youth in protective and correctional systems. It commented, too, on the lack of supportive programs to assist young people with the process of leaving State care. The Report argued that:

This evidence is a serious indictment of the State -- which has not only the power to provide for these children but an obligation, and the resources, to do so. Wardship involves a transfer to the State, by means of a court order, of the rights and duties of the parents with respect to the child. The obligations of the State to the child who is made a state ward, therefore, are the same as those of parents. (HREOC, 1989: 110)

The Inquiry further found that many of the young people presenting at refuges and other crisis services have been referred there by State welfare departments. Many of these are or have been clients of those departments. The evidence of such referrals was fragmentary. Specific reports referred to Victoria and New South Wales, but the Inquiry clearly believed the practice was not limited to those States. Many of these referrals concerned children under the age of 16.

In a South Australian study of homelessness among children under 16, Quixley (1990: 15-6, 22-3) found both a high proportion (71 per cent) of all referrals to accommodation agencies coming from government sources, mainly the Department for Family and Community Services (FACS), and a high proportion of those accommodated (52 per cent) being FACS clients. More than one quarter of those who were FACS clients had no worker allocated to them at the time of referral. The working realities faced by field staff also indicate that they may often find it necessary to refer young people to services they would acknowledge as inappropriate. In another South Australian study, Cole (1989: 21) noted that because adolescent placements often take place in a crisis situation field staff are likely to view thorough assessment as a 'luxury'. In the first instance they must seek whatever accommodation is available to secure the physical safety of the child.

1.3 Homelessness and Commonwealth-State Relations

Homeless young people find themselves at the boundaries of responsibility dividing Commonwealth and State Governments, and it is these boundaries with which this study is concerned.

At the broadest level, State Governments are responsible for child welfare. As the Burdekin Report (HREOC, 1989) has so forcefully commented, the responsibility of the State is particularly clear where the State has assumed the role and

responsibilities of parenthood through the force of the law. These responsibilities consist not only of the obligation to provide financial and material support including accommodation, but the advice and concern for the needs and long-term well-being of the young person which parents would otherwise provide.

The Commonwealth Government is also implicated in the needs and well-being of adolescents. As it does to other parents, the Commonwealth has a responsibility for income support to caregivers having the care and control of dependent children. Young persons also have entitlements to income support on their own behalf while continuing in full-time education, when sick or disabled, and in the too-likely circumstances of unemployment. In recent years some income support has been extended to young people under 16 unable to live at home. The Commonwealth also plays a role in the lives of young people through a variety of joint Commonwealth-State programs. Most relevant to young people are those for crisis and short-term accommodation and for special assistance in the field of Aboriginal and Islander child care.

Behind the specific responsibilities of Commonwealth and State Governments lie the more basic relations of federalism in the management of the national economy and the sharing of costs and revenues. The Commonwealth Government holds greater power and responsibility than the States to control macroeconomic conditions governing employment, price stability and economic growth. These conditions set the terms under which caregivers and young people seek to achieve stable family life and the transition of young people to adult independence. Employment, housing and access to services necessary for personal well-being are fundamental to the autonomy expected of citizens in normal circumstances. Youth unemployment is currently running at high levels (more than 20 per cent for all ages below 20 years in April 1992) and is of long duration (median 16 weeks).

Similarly, tax sharing arrangements negotiated at national level largely determine the levels of resources available to State Governments. These levels in turn set the terms under which State Governments must fulfil their Constitutional functions. Ultimately the division of revenues between Commonwealth and State Governments sets limits to the resources available to the States for child and adolescent welfare. The need for resources in child and adolescent welfare has been growing in recent years, and welfare resources have failed to keep pace with these increasing needs.

This Report is concerned with a limited number of areas in the needs of young people where the roles of Commonwealth and State Governments intersect. During the 1980s the Commonwealth extended a number of its provisions to young people. These measures were specifically geared to the situation of those who were lacking parental support and homeless or at risk of becoming homeless. They included the higher Young Homeless Allowance (YHA) rate for a number of benefits (presently Job Search Allowance (JSA), Sickness Allowance (SA) and Special Benefit (SB)) and a parallel rate (Student Homeless Rate, SHR) for Austudy. SB and the Austudy were made available to young people under the age of 16 in certain circumstances. Through the Supported Accommodation Program (SAAP) and the Youth Supported Accommodation Program (YSAP) subprogram the Commonwealth joined with the

States in funding refuge accommodation and associated services. In addition, support for Aboriginal child care and other services under the Children's Services Program was increased. These and other funding programs have brought Commonwealth assistance into closer contiguity with the child welfare responsibilities of State Governments.

The focus of this research has been on this closer relationship and the responses of State Governments to these extensions of Commonwealth provision. At the heart of these responses are developments in child welfare policies of State Governments reshaping the contours of State services in the context of financial constraint. The Report is concerned in particular with fields of 'push-me-pull-you' interaction between the two levels of government in which attempts to define and redefine areas of Commonwealth and State responsibility have resulted in gaps in and barriers to the provision of support and assistance to young people.

1.4 Fundamental Questions

Two fundamental yet unresolved questions underlie Commonwealth-State interactions in child and adolescent welfare in Australia. These concern the boundaries demarcating child and adult status, and the meaning of orders defining responsibilities for guardianship and control between parents and the state. The answers to these questions that have operated in the present period are likely to be less satisfactory in the future.

What is a Child?

A variety of age standards apply in Commonwealth and State programs defining the moment at which a young person is to be recognised as having attained independence and the rights and responsibilities of adulthood (Maas and Hartley, 1988: 72-3). The *Family Law Act* confers upon young people the right to support until age 18 or upon leaving education, but does not provide a means for them to enforce such a right or confer a clear adult status upon them if the parents do not provide support. In other areas a variety of standards apply in defining the age of autonomy and independence: the age of school leaving, consent to sexual activity, entitlements to and rates of social security and education benefits, responsibility for criminal behaviour, discharge from guardianship as having reached adulthood, age of legal responsibility in matters such as leases and credit.

These differences are sources of anomaly and misfit between services, creating gaps in provision and differential treatment in otherwise like circumstances. The pattern is most chaotic for young people between the ages of 15 and 18. It is important to note that none of these age standards necessarily corresponds to the perceptions of a young person who has achieved premature independence by choice or dearth of alternative.

As Maas and Hartley (1988: 73) remark, age has become a boundary marker between areas of State and Commonwealth responsibility for the support of young people, with the sixteenth birthday marking the passage. Ironically, attempts to close gaps by extending Commonwealth provisions have blurred this boundary: included here are access to the SHR for Austudy, which depends on the school leaving age of the relevant State, and the granting of SB to young people below 16, including YHA.

What is a Ward of State?

A ward of state is a person under the guardianship and care of the State. Taylor (1990: 7) writes that wards of state have typically been removed from unsatisfactory family situations or have been judged as beyond control of their parents.

A guardianship order makes the Minister, Director or other official of a State or Territory welfare department the legal guardian of a child or young person. Responsibilities normally considered to be those of the individual's parents are transferred to the State, including, for example, the provision of support and shelter.

The State has a responsibility to protect the rights of the child. Under federal law, the Human Rights and Equal Opportunity Commission has the responsibility to promote and protect the rights of the child as set out in the *United Nations Declaration of the Rights of the Child*. The Principles in the Declaration establish children's rights to:

- grow up in the care and responsibility of their parents wherever possible;
- adequate housing;
- enjoy the benefits of social security;
- protection from all forms of neglect, cruelty and exploitation; and
- special protection (HREOC 1989: 33).

Wardship may entail differing degrees of responsibility for the support and well-being of the child. Guardianship requires that the State assume full responsibility for the care of that child. Orders, such as supervision or probation, make the State responsible for only certain aspects of behaviour and well-being.

The Department of Social Security (DSS) guidelines refer intermittently and inconsistently to one or more of wards of state, orders of care and protection and care and control, and supervision orders as disqualifying a person aged under 16 from YHA. The guidelines are based on the consideration that such an order obligates the State Government to provide material support, and include the assertion that 'In such circumstances it is considered that the State Government should accept its legal responsibilities' (DSS, 1991: para 21.2503).

Legal provisions bringing a child into the care of the State have usually been framed in two dimensions, the first being judicial and administrative, and the second grounds of protection ('care and protection') or offence ('care and control'). These orders affect one or both of guardianship or custody of the child. Guardianship refers to responsibility for the long-term welfare of the child, while custody refers to the right of daily care and control.

Orders for care, protection and custody are in the process of change in both definition and usage. One important trend is towards the use of orders having only partial effects on guardianship and custody. These orders share responsibilities for the well-being of the child between parents and the State through mechanisms such as the capacity to place parents or other members of the household under direction or to enter into an agreement governing particular aspects of care.

The increasing use of orders having partial effects on guardianship and control opens new questions concerning the division of responsibility of Commonwealth and State Governments. Existing boundaries assume that a young person either is or is not a ward of state, and assign responsibility accordingly. Partial and intermediate forms may make this assignment problematic, with the risk that the young person will have effective rights to claim support from neither.

1.5 The Use of Orders for Guardianship and Control and the Targeting of Resources

Taylor (1990) reported a decline in the number of children and young people subject to guardianship orders over a long period. Important changes in State welfare policy and practice lie behind this decline. States are attempting to operate the legal machinery of child welfare with a hand which is lighter and more accountable for its actions. In the result, orders for guardianship and control are being used less frequently and for shorter, more finite periods. These changes are embedded in the dual context of increasing respect for the human rights of families and adolescents and the move to target increasingly scarce resources where the need for State intervention is greatest.

An important long-term trend not specifically examined in this Report is toward the reduced significance of 'status offences'. These refer to forms of behaviour which would not constitute an offence if committed by an adult but which may be considered grounds for placing a child in the control of the State. A common ground is that the child is 'uncontrollable' by the parents. Past practice allowed children subject to control for status offences to be incarcerated in juvenile institutions, sometimes in the same facilities as children having committed actual offences. One reason for the decline in the use of status offence provisions, including their foreshadowed abolition in Queensland, is increased recognition of the civil rights of young people. It is also a result of greater awareness of the gendered basis on which these orders have been applied, with girls regarded as 'in moral danger' on account of sexual and other behaviour while the behaviour of boys was treated as a matter of

juvenile justice. The machinery of control now seems to be applied more discreetly. In the result, there is a sense in which children may be on the streets because in the last instance they now have greater rights, including that to leave home. At the same time it is widely believed that many children who engage in problematic behaviour have past histories of abuse in the home. Where this behaviour is extreme the young person may attract intervention on grounds of care and protection. The likely reality, however, is that the fact of the young person having left home may seem to reduce the imperative to action.

The last decade has seen a sharp decline in the numbers of children and young people subject to orders for guardianship and control. The rate of change has accelerated over this period. Developments in child protection policy and legal philosophies concerning the use of orders for protection and control suggest that these trends are likely to continue. This is the case in both of the States examined in this study. Many States plan to introduce policy initiatives and legislative revision in 1992.

In a climate of resource constraint policies have to serve a double function, serving both to guide practice and to target increasingly scarce welfare resources. Contemporary changes in policy and practice reflect conservative tendencies in child welfare philosophy, most clearly a renewed emphasis on the autonomy and privacy of the family. They also express a degree of reservation concerning the power of child welfare professionals. At the same time policy changes are necessarily implicated in resource management, including both material support and the time and attention of child welfare workers. Taylor (1990: 60-1) has observed that child welfare policy may interpret guardianship as either a right, requiring the State to intervene where parents are unwilling or unable to fulfil the duty of care, or as a stigma, authorising the State to intervene only in the last resort to protect the child from abuse or other serious harm. Both of these understandings are to be found in the policies of the various States and Territories.

1.6 Programs to Assist Young People Leaving Care

The Burdekin Inquiry (HREOC, 1989) noted the need for special programs to assist young people in the process of leaving care and/or establishing themselves in independent living. Taylor (1990) reported an almost complete absence of such services. Indeed, assistance was largely limited to the most elemental practice requirements concerning the letters to be written to young people and ensuring that wards were provided with necessary personal information concerning their origins and history in care.

The needs of wards leaving care are diverse, ranging from basic matters associated with education, employment and housing to more complex issues following from a personal history of physical and emotional trauma. To date only Queensland and South Australia have instituted specific programs to support young people through the process of leaving care. Policy in the Australian Capital Territory is to treat discharge from guardianship as an integral part of case planning.

1.7 Overview of Report

This Report examines Commonwealth-State issues in the support of young people in the care of the State. Section 2 provides a brief account of the way in which the study was carried out. Section 3 looks closely at national data on the use of orders for care, protection and control. Sections 4 and 5 review developments in Commonwealth and State provision respectively. Case studies of welfare policy and practice in Queensland and South Australia are presented in Sections 6 and 7, followed by a brief concluding discussion.

2 The Methodology of the Study

2.1 The Ambit of the Study

The research owes an important debt to Janet Taylor and her Report on *Leaving Care and Homelessness* (1990). The original research for her study was undertaken as a contribution to the Burdekin Inquiry (HREOC, 1989), and was subsequently updated to 1989. This Report extends and updates that study with a review of developments taking place in Commonwealth and State areas of responsibility. We have attempted to repeat her methods in most respects. The research also presents case studies of policy and programs in two States, Queensland and South Australia.

The focus on interplay between levels of government has meant that the study does not consider a number of issues emphasised elsewhere in discussions of the needs of homeless young people and the effectiveness of services devised for them. Perhaps the largest area of omission concerns the needs of this group with respect to employment and education. The study has been unable to examine the types of education best suited to young people at risk of homelessness. Similarly, the study has not considered employment and training needs among this group. Its brief has been limited to an examination of their access to income support services while in care through payments to their caregivers, and to themselves while in education, in the circumstances of sickness or unemployment or when homeless at a young age.

Nor has the study been able to concern itself with issues deriving from the structures of social inequality underlying child and youth welfare most generally, principally class, gender, Aboriginality and ethnicity. These are large issues raising questions about the origins of problems in family and adolescent life, differential application of the processes through which children come into care, and cultural differences among social groups in needs and appropriate forms of care. We have not considered class differences between parents and foster caregivers, nor the differential treatment of boys and girls. For resource reasons we have also been unable to examine the special needs of a number of specific groups. These include teen-age parents, young people with disabilities, refugee children, and those from non-English speaking backgrounds.

There is one important exception to these omissions. Aboriginal young people are in the care of the State in disproportionate numbers across Australia. The locus of responsibility for their particular needs is historically and constitutionally problematic, and is made still more complex by the legacies of deprivation and assimilation. In the case of Aboriginal and Islander children we have examined the role of the Aboriginal and Islander Child Care Associations (AICCA) in placement, advocacy and support of children in care.

This study has not examined the adequacy of resources available to State Governments and their welfare departments for the fulfilment of their

responsibilities for child protection and juvenile justice. It deals only with the way State authorities are cutting what is obviously a very small cloth. With resources unexamined it is not proper or possible to evaluate the adequacy of State performance in child welfare, and we have made no attempt to do so. We have not collected evidence on important aspects of the quality of welfare practice lying behind the claims implied by their frameworks of policy and legal philosophy. We do not know, for example, with what frequency children in care experience multiple placements or how often caregivers do their work with little or no assistance from the welfare department. Such information could not be interpreted outside the context of resource adequacy, and therefore this study should not be read as an evaluation of the performance of State Governments.

2.2 National Data Collection

Section 3 reviews the data available on the use of orders for care, guardianship and control across Australia. These data were drawn from the Welstat Data Collection. That section contains a discussion of the checkered history and poor quality of Welstat data. Given their many weaknesses we have not attempted any manipulation of Welstat figures.

Sections 4 and 5 report changes taking place in Commonwealth programs and State legislation relevant to young people. Section 4 presents data mainly from Commonwealth sources on programs providing income support, shelter and emergency accommodation and advisory services. Unpublished data were provided by the Social Policy Division of DSS and the Policy and Legislation Services section of the Department of Employment, Education and Training (DEET).

Section 5 examines foreshadowed changes in State legislation governing the use of orders for care, protection and control and programs to assist young people leaving care. As Taylor (1990) did, we wrote to the welfare departments of State Governments asking for information about changes taking place or planned in policies, procedures and legislation governing orders for care, protection and control. We also asked about procedures governing the discharge from care and programs to assist with the process of leaving care.

2.3 Case Studies

We looked at child welfare policy in two States, Queensland and South Australia, in much greater depth. The purpose of the case studies was to understand more fully the way in which the policy machinery of care, protection and control is changing and to place the needs of young people who have experienced it in the context of these changes.

There is no sense in which these two States may be said to represent the nation as a whole. New South Wales and Victoria are much larger, and have homeless young people on a larger scale. In addition Queensland and South Australia are atypical in apparently using orders for guardianship more readily than any other States. Of all

States these two have the highest rates of guardianship orders per thousand young people. They do, nevertheless, provide an illuminating contrast in their approaches to child welfare policy. Queensland's policy framework emphasises the importance of the family and its right to security from intervention by the State except where children are subject to specific harm, an instance of guardianship as a stigma. In contrast, the point of departure for child welfare in South Australia is the duty of parents to the child and the obligation of the State to intervene where these duties are not fulfilled, the State itself then being obliged to act as a 'good parent'. This exemplifies the view of guardianship as a right.

Visits were made to each State, during which we interviewed policy-makers, administrators and field personnel in the sections of the State welfare department most relevant to the needs of adolescents. Our investigation covered both protective care and juvenile justice. We also met with representatives of a variety of non-government organisations providing refuge and short-term accommodation, street-based advocacy and assistance, telephone counselling and crisis services. While coverage differed in detail in the two States, both programs ensured that we met staff at all organisational levels and across a broad range of functions. In addition both Departments supplied us with documentary materials including policy statements, strategy plans and internal reports and reviews.

In each State we also had group meetings with DSS field social work staff. These meetings discussed the administration of DSS provisions for young people and reflected on State services from the vantage point of these workers. Time limitations precluded a similar investigation with DEET staff administering Austudy and access to its SHR equivalent to YHA.

Finally, we also had discussions in Canberra with staff of the Social Policy Division of DSS, the Policy and Legislation Services section of DEET, and the Crisis Accommodation and Administration and Development, Child Care sections of the Department of Health, Housing and Community Services (DHHCS).

A list of interviewees, contact persons and other persons providing information is provided at the end of this Report.

3 Children Subject to Orders for Care, Protection and Control

3.1 Statistical Information on Children in Care

Data on children in care are limited and poor in quality. The principal source of national data is the Welstat Collection. Welstat, the Standardisation of Social Welfare Statistics Project, was established by the Council of Social Welfare Ministers in 1976 as a joint project of State and Commonwealth Governments. Its main aim is to develop standards for the collection of national statistics in a range of welfare areas and to assess the adequacy of existing statistical systems. These data were published by the Australian Bureau of Statistics (ABS) until 1983/84, when publication was ceased because the ABS believed the standard of data collection was below acceptable levels. The figures presented below were obtained directly from Welstat through its National Manager in New South Wales.

The figures in this Report are derived mainly from the Welstat National Data Collection on Children in Care, and are those submitted by the welfare department of each State or Territory to the Welstat Secretariat. National data suffer from inconsistency in collection, and national figures are at best crude estimates (Welstat, 1989: 1). The information provided by the State and Territory welfare departments varies in both quantity and quality. Some States and Territories are able to provide most of the data, though often not in the standardised Welstat format. Some are able to provide only limited data, whilst others provide data for particular years only (Welstat, 1989: 1.1).

A number of factors underlie differences in reporting among States and Territories. States differ in ideology and politics, and in their interests according to the issue of the day. In the result, definitions and categories are applied differently to the same phenomena. In addition, each State employs different data collection procedures. Some States collect data continuously throughout the year whilst others conduct an annual census to fill out areas in which they do not compile data regularly. There are also practical problems resulting in partial reporting, reporting on outdated forms etc. Underlying these differences are others in the commitment to Welstat itself. The Commonwealth's resource allocation is limited, and not all States have equal enthusiasm for the common data project. There are, moreover, different perceptions of the role of Welstat. Some view its principal role as the production of standardised comprehensive national data, while others share only a more limited aspiration to ensure a minimal data set.

Taylor (1990) concluded that statistics available about children leaving guardianship were inadequate for policy and evaluation purposes. The material presented in this section suffers from all these defects. Tables have inconsistent bases, some covering guardianship orders for care and protection only while others cover children subject

to orders for both guardianship and control. There are variations in the number of States included and in totals given for various categories. Data for Queensland and South Australia do not agree with material provided in welfare department annual reports for the same years.

Despite its limitations, Welstat remains the only source of national data on the use of orders for guardianship and control and the characteristics of children and young people subject to such orders. We have therefore had to rely on this data to establish national patterns in the declining numbers of children in care, and have attempted to interpret it with appropriate caution.

At the time of Taylor's (1990) Report the Commonwealth had withdrawn its contribution to Welstat and the future of the Welstat enterprise was uncertain. It has since been determined that Welstat will move to the Australian Institute of Health, where it is to receive increased Commonwealth funding. The Commonwealth has asked the States to triple their contribution. South Australia and perhaps other States are unlikely to be able to comply.

The Welstat data collection framework does not provide for the collection of information on leaving care and homelessness, hence there are no data on the number of children on guardianship orders who are homeless. In principle this gap could be closed through data collection by SAAP and other alternative accommodation services. Follow-up of young people leaving care and the proportions participating in post-care programs remains a neglected area of data collection.

3.2 Number of Children on Guardianship Orders

The numbers on guardianship orders in each State are shown in Table 3.1.¹ Except where otherwise indicated, these figures refer to children under guardianship orders for care and protection only, omitting in most instances orders for detention and control on account of offences.

As Taylor (1990) reported, the number of children placed on guardianship orders has been declining steadily over the last two decades. These numbers dropped by about one third between 1972 and 1980, and halved again between 1980 and 1990. Moreover the rate of decline has accelerated over the same period, averaging 5.6 per cent fewer children per year in the period 1972-1980, 7.6 per cent fewer per year in the period 1980-1987 and 9.0 per cent per year over the three years to 1990.

The decline in the use of guardianship orders began earlier in South Australia than in the other States, and was most rapid in New South Wales, Victoria and Western Australia in the period between 1980 and 1987. Queensland, South Australia and Western Australia have seen a sharp drop in the last three years.

1 For ease of presentation these and subsequent tables are shown at the end of the Section.

The decline in the use of guardianship orders in the last few years is even more marked when figures are put in population context. Table 3.2 shows the number of orders expressed as a rate per thousand young people under the age of 18. Rates are shown for 1988 (from Taylor, 1990: 73) and for 1990. Rates have fallen in all States. The ranking remains unchanged, with highest use of orders in Queensland and South Australia and lowest in New South Wales and the Australian Capital Territory. Steepest falls have taken place in the States with a high use of orders, principally Queensland and South Australia.

Most children subject to guardianship orders for care and protection are aged 12 and under (Table 3.3), but there are substantial numbers on orders in the adolescent years. Proportions in the adolescent age groups vary little among States.

3.3 Admission to and Discharge from Orders

Table 3.4 shows the age distributions of children admitted to orders of various kinds during the year ending 30 June 1990, and Table 3.5 the age distribution of children discharged from orders for the same period. Both Tables exclude data for Tasmania and Victoria. Differences in age profiles for orders on account of offences and care and protection are readily apparent, and the two bases for orders need to be considered separately.

Orders for care and protection tend to be applied in greater numbers to very young children and to children in adolescence. Admission to orders for care and protection in adolescence is somewhat more common for girls than for boys. There is a marked fall in the number of admissions at age 15. Children are admitted to orders on account of offences only when aged 10 or older, with many more boys than girls admitted. The numbers on guardianship orders for offence refer to Queensland, the only State to use such an order.

Discharges from orders for care and protection show little consistent variation with the age of child below age 12, after which age the frequency of discharges from guardianship orders begins to rise. The largest numbers are discharged at age 16. Discharges from orders for offending behaviour are most frequent in the group aged 16 and 17. As with admissions, more boys than girls are discharged.

Tables 3.6 and 3.7 show numbers of children aged 13 and over admitted and discharged in each State in 1989-90. In all States the number discharged exceeded the number admitted. The pattern is largely determined by the large number of children in the offender categories, where many orders are of short duration. The pattern also holds, however, for orders for care and protection, the only exception being other orders for care and protection in New South Wales where admissions exceed discharges.

Tables 3.8 to 3.15 present reasons for discharge from orders for each State and Territory for varying years according to the availability of data. In all cases by far the largest number of discharges result from the expiry of a time-limited order at an

age below 18 years. In many cases these discharges are from orders made on account of offence. Expiry of order at age 18 accounts for a notable number of discharges only in Western Australia (35 per cent of all discharges), Queensland (19 per cent) and Victoria (14 per cent). Presumably discharges made as Other Department Decisions entail a degree of discretion. These are important in Victoria (24 per cent of all discharges), Northern Territory (19 per cent), Tasmania (13 per cent), Queensland (11 per cent) and Western Australia (10 per cent).

3.4 Placement of Children on Orders

Table 3.16 shows the placement of children subject to guardianship and other orders in each State at 30 June 1990. Most children on orders live either with parents or other relatives, or in a foster home. In all States and Territories except the Australian Capital Territory these categories account for more than 65 per cent of all placements. There is, however, a good deal of variation in the proportions of children under orders living with parents or relatives and the proportions in foster care. South Australia has the largest proportion of children in care in foster homes at 57 per cent, and Victoria an unusually low proportion (18 per cent). In New South Wales 51 per cent of placements are with parents or other relatives, and in Queensland and the Northern Territory 41 per cent and 40 per cent respectively.

There are wide variations in the use of residential care of all forms. It is most frequent in Victoria and the Australian Capital Territory, and least frequent in Queensland and South Australia.

Tables 3.17 and 3.18 show placements of children separately for those on orders for care and protection and on orders for offences. Data are not available for all States. Comparison of the two Tables shows that in all States virtually all foster placements are made for care and protection. Residential care is also used largely for children on protective orders, though in Victoria applies to some children on orders for offence.

Placement policies usually favour maintaining the child in or returning the child to the home wherever possible, and placement within the extended family as the next alternative. Table 3.17 shows comparatively large numbers of children on orders for care and protection placed with parents or other relatives. In Victoria 47 per cent and in the Northern Territory 41 per cent of such children are in placements of this kind. Children remaining in or returned to the parental home have clear needs for support and monitoring of their safety. Using Welstat data it is not possible to distinguish between children living with parents and those living with other relatives, hence it is not possible to consider the implications of these figures for case monitoring.

3.5 Aboriginal and Torres Strait Islander Children on Orders

Aboriginal and Torres Strait Islander children are over-represented among those on orders in all States, and where numerical information is available they are shown as over-represented many times over. Table 3.19 supplements information gathered by Taylor in 1987 with later information for Queensland. Table 6.8 in Section 6 below provides more detailed information for Queensland.

The Burdekin Inquiry (1989: 133) cited data on this question from the Senate Standing Committee on Social Welfare (1985, para 1.10). There are broad correspondences but also certain large discrepancies between these sets of figures. An apparent increase in Aboriginal and Islander children in care in South Australia is inconsistent with discussion in the *FACS Annual Report* for 1989-90 of successful efforts to reduce the number of Aboriginal young people in secure care.

3.6 Summary and Discussion

States and Territories differ a good deal in their readiness to make children wards of state. In 1990 rates of orders for guardianship per thousand children under 18 varied from a high of 3.5 in Queensland to an extreme low of 0.4 in the Australian Capital Territory. The next lowest rate was 1.6, in New South Wales.

The number of children on orders has been falling steadily over the last two decades, and declining increasingly rapidly in recent years. Diminishing use of the legal machinery of care and protection can be seen in both absolute numbers of children under orders and in substantially greater numbers discharged from than admitted to orders in 1990. In population terms, rates of orders have been falling most rapidly in those States with the highest use of orders.

The Burdekin Inquiry (HREOC, 1989) suggested that State welfare departments were abrogating their responsibilities to young people in their care. Of itself a reduction in the number of children in care does not necessarily signal such an abrogation. There is no way of determining an objectively right level of wardship. Critics have long urged State welfare authorities to replace their once heavy reliance on the legal machinery of protection with greater emphasis on preventive services (Carter, 1983). The trend to lower numbers appears to have been well established before the appearance of homeless young people in substantial numbers and is part of a wider historical move toward de-institutionalisation in health and welfare.

Nevertheless the strong decline does mean that State welfare authorities are reducing the numbers of children for whose well-being they are clearly and unambiguously responsible. Wardship entails all the obligations of parenthood, and no other response is fully comparable in the range or cost of care. The duration and magnitude of the reduction suggests a growing reluctance to stand *in loco parentis* except in the last resort.

At the same time there is no evidence of a selective retreat from wardship in the adolescent years. In 1990 at least, particularly large numbers were admitted to orders for care and protection between the ages of 11 and 15, and many fewer were discharged at these ages. Data on reasons for discharge show little use of departmental discretion to reduce numbers in this age group subject to orders.

There is, however, evidence that state authorities are coming to treat the age of 16 as an end point for the exercise of wardship functions. Young people are widely recognised as having a degree of independence at this age. It is relevant also that young people aged 16 and over are eligible for Commonwealth income support. While most States have significant numbers continuing on orders after their sixteenth birthday, very few young people seem to be admitted to wardship after that age and very large numbers discharged.

Queensland is the only State to apply guardianship orders to children in State care on account of offences, orders for care and control being the usual legal form. There is also wide variation among States in the frequency with which these orders are used, and though the data are poor, they seem to show the same pattern as in the use of guardianship orders. Data were not collected on the use of these orders before 1990, but the pattern of admission and discharge in that year does not suggest that the use of these orders is declining.

The effects of de-institutionalisation can also be seen in the placement of children subject to orders for both care and protection and for care and control. In most States, Victoria being the main exception, children on orders for care and protection reside in the homes of their parents, other relatives or foster parents. Most of those on orders for offences also live with parents or other relatives, but New South Wales and Queensland have substantial numbers in juvenile corrective institutions.

Aboriginal and Islander children are greatly over-represented among children in care in all States.

Table 3.1: Children Under Guardianship Orders in Australia, 1972 to 1990

State	1972 June	1980 June	1987 June 30	1988 June 30	1989 June 30	1990 June 30 ^(b)
NSW	5 949	4 449	2 623	2 743	2 502	2 391
VIC	7 236	4 561	2 703	2 589	2 634	2 522
QLD	4 601	4 525	3 659	3 498	na	2 780
SA	3 111	1 243	1 345	1 413	1 357 ^(a)	965
WA	4 907	2 901	1 080	885	792	717
TAS	937	636	461	439	na	na
NT	na	162	167	110	na	108
ACT	105	89	65	na	52 (Jan-Oct 89)	33
Total	26 846	18 566	12 103	11 677	-	9516

Notes: (a) Includes children under guardianship, detention and control orders.
 (b) Guardianship orders for care and protection.

Source: Taylor (1990) Table 1; Welstat Data Collection 1991.

Table 3.2: Rates of Children Under Guardianship Orders for Care and Protection: Reason by State

State	Population 0-17 years June 1990	No. Under Guardianship June 1990	Rate per 1,000 June 1990	Rate per 1,000 June 1988
NSW	1 538 169	2 391	1.554	1.811
VIC	1 140 460	2 522	2.211	2.271
QLD	799 748	2 780	3.476	4.616
SA	360 637	965	2.676	3.866
WA	451 059	717	1.589	2.138
TAS	127 528	na	na	3.362
NT	51 836	108	2.083	2.171
ACT	80 009	33	0.412	na
Total	4549486	9516	2.092	2.670

Source: Welstat data collection; ABS (3201.0); Taylor (1990).

Table 3.3: Number of Children Under Guardianship Orders for Care and Protection: Reasons by Age at 30 June 1990

Age	State							Total
	VIC	SA	NSW	WA	ACT	NT	QLD	
0 - 12	1511	544	1405	366	19	75	1516	5436
13	172	70	176	61	1	5	184	669
14	225	74	200	68	3	10	239	819
15	262	74	209	71	5	9	280	919
16	227	92	197	72	4	4	268	864
17	97	102	131	63	1	5	280	679
Adult	18	-	68	16	0	0	13	115
Unknown	10	-	5	0	0	0	0	15
Total	2522	965	2391	717	33	108	2780	9516

Note: No data have been received from Tasmania.

Source: Welstat Data Collection.

Table 3.4: Children Admitted to Guardianship and Other Orders During the Year Ending 30 June 1990 - Australia

Age of child at time of admission	Admissions to Orders									
	Guardianship					Other Orders				
	Offence		Care/ Protection		Offence		Care/ Protection		Total Admissions	
	M	F	M	F	M	F	M	F	M	F
0	0	0	49	49	0	0	40	44	89	98
1	0	0	38	43	0	0	36	29	74	74
2	0	0	29	34	0	0	37	31	66	65
3	0	0	24	23	0	0	25	23	49	47
4	0	0	23	27	0	0	27	29	50	58
5	0	0	27	21	0	0	27	17	54	38
6	0	0	24	29	0	0	19	10	43	41
7	0	0	15	27	0	0	19	14	34	43
8	0	0	29	20	0	0	19	12	48	32
9	0	0	22	22	0	0	15	14	37	37
10	1	0	30	10	10	0	21	20	62	32
11	5	0	33	32	24	1	11	19	73	53
12	12	0	40	40	65	9	20	21	135	72
13	33	4	66	50	181	28	21	32	301	118
14	72	11	63	82	374	87	18	39	527	226
15	141	23	27	55	672	110	8	26	848	218
16	201	15	9	16	942	141	4	3	1156	175
17	23	3	6	6	967	111	1	1	997	121
Adult	0	0	1	1	203	13	1	0	205	14
Unknown						1				
Total ^(a)	488	56	555	587	3438	500	370	384	4851	1562

- Notes:**
1. Details of children in the Northern Territory admitted to Other Orders for offence reasons are not available.
 2. No data are available for Tasmania. For Victoria only totals are available; Guardianship Orders, care and control (557); Other Orders, offence (1 597); Other Orders, care and protection (2 643); total (4 797).
 3. Queensland is the only State with children under Guardianship Orders for offence measures.

(a) Individual figures for girls add to 1527, error contained in Welstat data supplied.

Source: Welstat Data Collection.

Table 3.5: Children Discharged from Guardianship and Other Orders During the Year Ending 30 June 1990 - Australia

Age of child at time of admission	Discharges from Orders										
	Guardianship					Other Orders					Total Admissions
	Offence		Care/ Protection		Offence		Care/ Protection				
	M	F	M	F	M	F	M	F			
	M	F	M	F	M	F	M	F			
0	0	0	19	14	0	0	15	13	34	27	
1	0	0	14	8	0	0	25	20	39	28	
2	0	0	13	17	0	0	17	17	30	34	
3	0	0	22	10	0	0	16	18	38	28	
4	0	0	23	20	0	0	21	19	44	39	
5	0	0	16	13	0	0	18	17	34	30	
6	0	0	28	17	0	0	22	6	50	23	
7	0	0	14	21	0	0	12	19	26	40	
8	0	0	17	11	0	0	20	14	37	25	
9	0	0	17	19	0	0	14	10	31	31	
10	1	0	15	14	7	0	20	17	43	31	
11	3	0	16	17	6	4	10	14	35	35	
12	5	1	16	11	37	7	13	26	74	45	
13	11	1	25	16	188	24	16	26	240	67	
14	33	5	38	42	352	105	12	41	435	193	
15	82	17	34	35	624	98	7	21	747	171	
16	142	10	52	75	915	144	14	14	1123	243	
17	161	10	40	49	1023	103	5	10	1229	172	
Adult	75	5	331	313	256	10	35	23	697	351	
Unknown			1	1		1	1	2	2		
Total	513	49	750	724	3409	495	314	347	4986	1615	

- Notes:**
1. Details of children in the Northern Territory discharged from Other Orders for offence reasons are not available.
 2. No data are available for Tasmania. For Victoria only totals are available; Guardianship Orders, care and control (837); Other Orders, offence (1 822); Other Orders, care and protection (2 535); total (5 194).
 3. Queensland is the only State with children under Guardianship Orders for offence measures.

Source: Welstat Data Collection.

Table 3.6: Children Admitted to Guardianship/Other Orders by State: Aged 13 and Over, Year Ending June 1990

State	Guardianship		Other Orders		Total Admissions
	Offence	Care/ Protection	Offence	Care Protection	
NSW	0	93	2178	123	2394
QLD	526	150	547	17	1240
WA	0	33	0	0	33
ACT	0	0	168	5	173
SA	0	93	936	5	1034
NT	0	13	0	20	33
Total	526	382	3829	170	4907

Note: No data are available for Tasmania and Victoria.

Source: Welstat Data Collection.

Table 3.7: Children Discharged from Guardianship/Other Orders by State: Aged 13 and Over Year Ending June 1990

State	Guardianship		Other Orders		Total Discharges
	Offence	Care/ Protection	Offence	Care/ Protection	
NSW	0	243	2 135	95	2473
QLD	552	399	639	73	1663
WA	0	153	0	0	153
ACT	0	12	168	6	186
SA	0	220	901	28	1 149
NT	0	24	0	24	48
Total	552	1 051	3 843	226	5 672

Note: No data are available for Tasmania and Victoria.

Source: Welstat Data Collection.

Table 3.8: Reason For Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Year Ending June 30 1990 - New South Wales

Age of child at time of discharge	Expiry of Specified Time		Adoption	Transfer of Guardianship	Other Dept. Decision	Other	Total Male	Total Female	Total
	Attained 18 years	Other							
0 - 12	0	68	17	13	266	162	301	255	526
13	0	158	0	2	24	20	147	57	204
14	0	384	1	2	24	29	310	130	440
15	0	752	1	0	23	19	650	145	795
16	0	1004	2	2	31	15	895	159	1054
17	3	1217	2	0	19	18	1085	173	1258
Adult	116	229	0	1	4	7	291	66	357
Unknown		1			2	2	3	5	8
Total	119	3813	23	20	393	272	3682	960	4642

Source: Welstat Data Collection.

Table 3.9: Reason For Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Year Ending June 30 1989 - Victoria

Age of child at time of discharge	Expiry of Specified Time						Total
	Attained 18 years	Other	Adoption	Transfer of Guardianship	Other Dept. Decision	Other	
Total	85	304	13	5	143	51	601

Note: The age and sex breakdown 1989 and all data for 1988 and 1990 are not available.

Source: Welstat Data Collection.

Table 3.10: Reason For Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Years Ending June 30 1988 and June 30 1990 - Queensland

Age of child at time of discharge	Expiry of Specified Time																	
	Attained 18 years		Other		Adoption		Transfer of Guardianship		Other Dept. Decision		Other		Total Male		Total Female		Total	
	88	90	88	90	88	90	88	90	88	90	88	90	88	90	88	90	88	90
0 - 12	a	0	35	36	106	24	5	2	119	143	15	1	165	120	115	86	280	206
13	a	0	66	53	2	1	0	1	15	13	2	0	67	62	18	6	85	68
14	a	0	120	158	0	1	1	0	20	19	3	0	113	135	31	43	144	178
15	a	0	232	341	1	0	1	0	26	16	1	6	221	306	40	57	261	363
16	a	0	340	94	3	3	0	1	57	36	1	0	315	470	86	64	401	534
17	a	0	605	478	3	1	0	0	46	36	5	1	454	454	205	63	659	517
Adult	a	471	97	86	0	0	0	0	2	9	0	0	87	363	12	203	99	566
Total	a	471	1495	1646	115	30	7	5	285	272	27	8	1422	1910	507	522	1929	2432

Note: 1. a = missing data.
2. No data are available for 1988/89.

Source: Welstat Data Collection.

Table 3.11: Reason For Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Years Ending June 30 1988 and June 30 1990 - South Australia

Age of child at time of discharge	Expiry of Specified Time																	
	Attained 18 years		Other		Adoption		Transfer of Guardianship		Other Dept. Decision		Other		Total Male		Total Female		Total	
	88	90	88	90	88	90	88	90	88	90	88	90	88	90	88	90	88	90
0 - 12	a	0	113	154	1	a	0	a	2	a	47	24	105	114	58	70	163	184
13	a	0	97	105	0	a	0	a	0	a	4	2	75	86	26	21	101	107
14	a	0	212	215	0	a	0	a	0	a	7	3	156	156	63	62	219	218
15	a	0	237	251	0	a	0	a	1	a	18	5	191	206	65	51	256	257
16	a	0	389	418	0	a	0	a	1	a	36	1	342	346	84	73	426	419
17	a	0	351	359	1	a	0	a	1	a	52	1	355	323	50	37	405	360
Adult	a	123	203	91	0	a	0	a	2	a	42	0	177	155	70	59	247	214
Total	a	123	1602	1593	2	a	0	a	7	a	206	36	1401	1386	416	373	1817	1759

Note: 1. a = missing data.
2. No data were available for 1988/89.

Source: Welstat Data Collection.

Table 3.12: Reason For Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Year Ending June 30 1988 - June 1990 - Western Australia

Age of child as at time of discharge	Expiry of Specified Time		Adoption	Transfer of Guardianship	Other Dept. Decision	Other	Total Male	Total Female	Total
	Attained 18 years	Other							
	88 89 90	88 89 90	88 89 90	88 89 90	88 89 90	88 89 90	88 89 90	88 89 90	88 89 90
0 - 12	0 0 0	64 69 64	1 5 1	0 2 0	7 11 7	1 0 1	36 49 36	37 38 37	73 87 73
13	0 0 0	4 8 4	0 0 0	0 0 0	3 2 3	0 0 0	4 6 4	3 4 3	7 10 7
14	0 0 0	10 9 10	1 0 1	0 1 0	1 2 1	0 0 0	5 5 5	7 7 7	12 12 12
15	0 0 0	7 3 7	0 0 0	0 0 0	2 1 2	0 0 0	4 2 4	5 2 5	9 4 9
16	0 0 0	29 39 29	0 0 0	0 0 0	4 6 4	1 0 1	12 16 12	22 29 22	34 45 34
17	0 0 0	2 10 7	0 0 0	0 0 0	4 5 4	0 1 0	6 6 6	5 10 5	11 16 11
Adult	79 103 79	0 0 0	0 0 0	0 0 0	1 2 1	0 0 0	37 59 37	43 46 43	80 105 80
Total	79 103 79	121 138 121	2 5 2	0 3 0	22 29 22	2 1 2	104 143 104	122 136 122	226 279 226

Source: Welstat Data Collection.

Table 3.13: Reason For Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Year Ending June 30 1988 - Tasmania

Age of child at time of discharge	Expiry of Specified Time						Total Male	Total Female	Total
	Attained 18 years	Other	Adoption	Transfer of Guardianship	Other Dept. Decision	Other			
0 - 12	a	15	1	0	2	0	11	7	18
13	a	12	0	0	2	0	10	4	14
14	a	12	0	0	4	0	11	5	16
15	a	18	0	0	0	0	14	4	18
16	a	21	1	1	4	0	21	6	27
17	a	33	0	0	11	0	25	19	44
Adult	a	65	0	0	5	0	43	27	70
Total	a	176	1	1	28	0	135	72	207

Note: 1. a = missing data.
2. No data are available for 1988/89 and 1989/90.

Source: Welstat Data Collection.

Table 3.14: Reason For Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Year Ending June 30 1988 - June 30 1990 - Northern Territory

Age of child at time of discharge	Expiry of Specified Time		Adoption	Transfer of Guardianship	Other Dept. Decision	Other	Total Male	Total Female	Total
	Attained 18 years	Other							
	88 89 90	88 89 90	88 89 90	88 89 90	88 89 90	88 89 90	88 89 90	88 89 90	88 89 90
0 - 12	a 0 0	54 46 41	0 0 0	0 5 4	22 14 18	11 19 26	42 45 50	45 39 39	87 84 89
13	a 0 0	3 6 10	0 1 0	0 0 2	1 1 3	2 3 1	3 4 9	3 7 7	6 11 16
14	a 0 0	5 3 4	0 0 0	0 0 0	2 1 4	1 3 4	6 2 4	2 5 8	8 7 12
15	a 0 0	9 4 2	0 0 0	0 0 0	4 3 1	0 1 2	2 3 0	11 5 5	13 8 5
16	a 0 0	12 6 6	0 0 0	0 0 0	0 0 0	4 5 2	8 3 4	8 8 4	16 11 8
17	a 0 0	9 4 1	0 0 0	0 0 0	0 1 0	1 2 0	5 4 0	5 3 1	10 7 1
Adult	a 3 6	9 0 0	0 0 0	0 0 0	0 0 0	0 0 0	3 2 4	6 1 2	9 3 6
Total	a 3 6	101 69 64	0 1 0	0 5 6	29 20 26	19 33 35	69 63 71	80 68 66	149 131 137

Note: a = missing data.

Source: Welstat Data Collection.

Table 3.15: Reason For Discharge from Orders by Sex and Age of Child Population: Discharges from Guardianship/Other Orders of Welfare Department During the Years Ending June 30 1989 and June 30 1990 - Australian Capital Territory

Age of child at time of discharge	Expiry of Specified Time										Total Male		Total Female		Total			
	Attained 18 years		Other		Adoption		Transfer of Guardianship		Other Dept. Decision									
	88	90	88	90	88	90	88	90	88	90	88	90	88	90	88	90		
	88	90	88	90	88	90	88	90	88	90	88	90	88	90	88	90		
0 - 12	0	0	0	3	0	0	7	2	0	9	0	0	6	11	1	3	7	14
13	0	0	2	11	0	0	10	0	0	0	0	1	6	11	6	1	12	12
14	0	0	31	27	0	0	7	1	0	1	0	2	33	27	5	4	38	31
15	0	0	42	28	0	0	10	5	0	1	0	2	37	30	15	6	52	36
16	0	0	46	43	0	0	13	6	0	0	0	6	32	50	27	5	59	55
17	0	0	62	39	0	0	2	2	0	0	0	10	56	48	8	3	64	51
Adult	0	5	0	0	0	0	0	0	0	0	0	0	0	4	0	1	0	5
Total	0	5	183	151	0	0	49	16	0	11	0	21	170	181	62	23	232	204

Note: No data were available for 1987/88.

Source: Welstat Data Collection.

Table 3.16: Placement of Children Under Guardianship Orders and Other Orders: Summary as at 30 June 1990

State/ Terr.	Residential Child Care Establishments					Residential Care Establishment			Corrective Establishment			Other Placement					Total	
	Other Establishments for Children					Hospital/ nursing home	Boarding school	Resident adult care	Juvenile corrective institute	Youth training centre	Prison	Foster care	Living with parent/ other relative	Other adult care	Living independ	Unauthor absence		Other
	Establishments especially for handicapped children	Juvenile hostel	Family group	Campus home	Other													
NSW	a	56	170	b	268	18	c	0	442 ^d	e	f	1 645	593	1	f	64	104	3 360
VIC	17	113	556	81	369	14	0	0	0	80	5	888	2 501	180	137	8	0	4 949
QLD	21	36	105	120	29 ⁱ	9	9	4	120 ^h	e	13	1 555	1 719	202	230	e	57	4 229
SA	24	23	27	0	23	0	0	0	0	38	2	837	167	128	3	14	192	1 478
WA	6	19	17	28	9	1	1	0	8	0	1	323	225	8	2	0	73	721
NT	2	0	6	0	1	0	1	0	18	08	08	52	47	2	0	3	0	115
ACT	1	2	0	8	3	0	3	0	10	0	0	16	12	0	0	0	1	56
Total	71	249	881	237	702	42	14	4	581	118	21	5 316	5 264	521	372	89	427	14 908

- Notes:
1. No information has been received from Tasmania.
- NSW
- (a) Not available, children in such establishments are subsumed in 'other establishments' for children.
 - (b) Not distinguishable from 'Other Residential Child Care'.
 - (c) Not available (not separable from 'other placement').
 - (d) 13 children under orders for Care and protection also under orders for offence reasons - they have only been counted once in this table.
 - (e) Not applicable.
 - (f) Not available.
- NT
- Data do not include children admitted to Other Orders for Offence Reasons
- (g) Unknown if children in goals are included
- QLD
- (h) Includes detention centres that may not be exclusively for children.
 - (i) Includes departmental receiving and assessment centres and congregate care homes.
- Source: Welstat Data Collection.

Table 3.19: Estimates of the Proportion of all Children in Care who are Aboriginal or Torres Strait Islander

State	Year	Proportion Aboriginal or Islander
NSW	1987	11%
VIC	1987	3.8% (Only 0.6% of all children)
QLD	1991	28%
NT	1987	'Over-represented'
SA	1987	24%
TAS	1987	'Over-represented'
WA	1987	40%
ACT	1987	'Over-represented'

Source: Taylor, 1990: 22; State and Territory welfare departments.

4 Commonwealth Income Support and Service Provisions Relevant to Young People in Care or Leaving Care

During the 1980s the Commonwealth Government extended its range of provisions relevant to young people. In part, these developments were responses to child poverty and high youth unemployment, but by the end of the decade other motivations had also become significant. One was an increased emphasis on the importance of education, training and the acquisition of employment skills in a restructuring economy. Another was widespread recognition, heightened by the Burdekin Inquiry (HREOC, 1989), that large numbers of young people were homeless or at risk of homelessness. These changes have continued into the 1990s.

Some programs in areas of traditional Commonwealth responsibility, primarily income support, have been extended to young people who have left home at early ages, fulfilling responsibilities for support that in normal circumstances would be the obligation of parents. In other areas of need new programs have been established or existing ones expanded, often jointly with the States, to fill what had become pressing gaps in service provision. The need for supported short-term accommodation and crisis assistance was one such gap. In the same way the Commonwealth has taken increasing part in the funding of child welfare with respect to adoption and placement of Aboriginal children.

This section reviews a selected range of Commonwealth provisions important to the needs of young people and identifies points at which boundary conflicts arise concerning the roles and responsibilities of the Commonwealth and the States.

4.1 Income Support to Caregivers

The Commonwealth provides benefits to parents or other persons responsible for the care and control of dependent children under the age of 16 and for dependent full-time students aged 16 to 24 who are not entitled to a Commonwealth Student Assistance Scheme payment such as AUSTUDY. These include Family Allowance (FA) and Family Allowance Supplement (FAS) and, in certain circumstances, benefits to support the care of children with disabilities. Most of these benefits are subject to a means test on the income and assets of the caregiver.

These benefits are paid to foster parents of children subject to orders for guardianship or control on the same terms as to the caregivers of other children. FA is paid without means test on behalf of all children in institutional care, including children subject to guardianship orders.

Where the caregiver is in receipt of a pension, benefit or JSA, Newstart Allowance (NSA) or SA, the Commonwealth also pays additional pension, benefit or allowance (AP/B/A) for the support of dependent children under the age of 16 and for dependent students over 16 not entitled to AUSTUDY. FAS is payable at the same rates as AP/B/A to caregivers in low-income working families not in receipt of a pension, benefit or other major allowance. From 1 January 1993, AP/B/A and FAS will be merged into a single payment.

As in the case of FA, foster parents qualify for AP/B/A or FAS in the same way as other caregivers. If the foster parent is a sole parent, however, there are two provisos. The child must be permanently placed with the caregiver and the placement must have been in effect for a minimum period of 12 months.

4.2 Department of Social Security Income Support to Young People

DSS provides income support to young people in circumstances of unemployment, sickness, and other special need. In the mid 1980s special rates were introduced to provide higher levels of support where young people are homeless.

JSA provides income support for young people who are looking for work. The young person must have reached the age of 16, be unemployed and may be required to satisfy an activity test. JSA is payable until the young person turns 18, after which, if the person has been unemployed for 12 months or more, he or she can claim NSA. SA provides income support for people who are temporarily unable to work because of illness or injury. SA is available to young people from the age of 16, and requires the demonstration of temporary incapacity for work and loss of income. SB is a discretionary payment granted to provide income support to a person in severe financial need and ineligible to receive another pension or benefit. It is paid to young people in a number of situations common among those at risk of homelessness, including pregnancy, newly discharged from detention or custody, and in immediate hardship during the deferment period for JSA or other benefits. A recent Budget measure has granted SB to young people from low income families during the 13 week education leaver deferment period. Recipients exempt from the parental income test are already eligible for support during the education leaver deferment period.

Wards of state aged 16 and over are eligible for JSA, SA and SB at the standard rate on the same terms as other young people. These benefits are subject to means tests on the income and assets of the young person and to means test on the income and assets of their parents. The parental income test does not apply to the income of foster parents.

A higher independent rate applies to JSA and SA where the young person has lived away from home for six months or more, has been employed full-time for at least 13 weeks during this time, and does not get any financial support from parents or guardians. From 1 January 1992 eligibility has been extended to young people who

have not been employed for 13 weeks or more but who have been registered with the Commonwealth Employment Service (CES) as seeking full time work for a total of at least 13 weeks in the last 6 months. From 1 January 1992 16-17 year old JSA and SA recipients in substitute care maybe eligible for the independent rate where no fostering or similar allowance is paid by the relevant State authority.

In certain circumstances SB may be paid to young people under 16 years of age. One of these is where the young person meets the eligibility criteria for JSA or SA but for the age requirement. In this case the young person must have an employment history and be without parental support. From 1 January 1992 these young people will be eligible for JSA or SA, giving them access to the labour market assistance measures attached to these benefits. Wards of state and young people under orders for care and protection under the age of 16 are not granted SB. It is considered that their support is a legal responsibility of the State Government.

A special rate commonly known as YHA applies to payments of JSA, SA or SB where the young person is 'homeless' and under the age of 18. This rate applies where a young person is living away from the parental home because he or she does not have a parental home, because the parents will not allow the person to live with them under any terms or conditions, or because it is unreasonable to expect the young person to live at home. It is unreasonable to expect a young person to live in a home where sexual abuse, domestic violence, a long history of domestic disharmony or other exceptional circumstances of a comparable nature exist. Exceptional circumstances include criminal activity within the home, drug abuse or alcoholism in the home, prostitution by parents or other persons, insistence on the young person leaving school, and insistence that the young person enter into an unwanted marriage. SB is available to young people under 16 years of age who are homeless under these criteria. Rent Assistance is paid after 18 weeks to persons in receipt of JSA at the homeless rate. Since January 1992 recipients of the YHA have been able to request to be paid weekly instead of fortnightly.

A 'homeless' person must not be receiving continuous support of any kind from either parent, a legal guardian or a government department or authority. In the first two categories the young person must have been away from home for a minimum period of two weeks. No minimum period is required where the reason for homelessness is sexual abuse, domestic violence, a long history of domestic disharmony or other exceptional circumstances. Special administrative arrangements apply in the assessment of eligibility of YHA. Because of the complexity and sensitivity of the determinations to be made claimants are interviewed immediately upon application by an Administrative Service Officer Class 4.

Table 4.1 shows the age distributions of young people receiving the YHA in each State in August 1991. Table 4.2 shows the type of benefit for which the YHA was received by young people under 18 years in each State.

4.3 Income Support to Young People in Education Provided by the Department of Employment, Education and Training

Austudy living allowances provide income support for students in full time secondary and tertiary education. Only secondary student allowances to young people under 18 years of age are discussed further here.

Austudy benefits are available to students who have reached the age of 16 or, in the case of homeless students, who have reached the minimum school leaving age in the State concerned. Benefits are subject to a test of means on the income of the student and, except where the student is classed as independent, on the income and assets of the parents. The living allowance is normally paid to the student, but parents of younger students can request that the money be paid to them. Austudy is not paid where parents receive FA, FAS or additional pension or benefit in respect of the student.

Austudy living allowances to students under the age of 18 are paid at one of three rates, 'standard', 'away' and 'independent'. Where the young person is in State care and foster parents are in receipt of a fostering allowance the living allowance is paid at the maximum standard rate. If the foster parents do not receive an allowance the away rate applies. There is no means test on the income of foster parents.

The independent rate applies where the student qualifies for independent status and in 1991 entitled the student to the same benefit level as the away rate. A test of means applies to the personal income of the student and, where applicable, of a spouse. Independent status is conferred where the student is an orphan or the student's parents are unable to exercise their responsibilities, where the student is a refugee without parents living in Australia, or where the student is homeless because of domestic violence, sexual harassment, serious family breakdown, or other similar exceptional circumstances. In order to qualify for independent status on the grounds of homelessness the student must not be receiving any direct or indirect assistance from parents, support from another person or payment from a Commonwealth or State Government. Recipients of YHA from DSS can transfer to Austudy at the independent rate.

Table 4.3 presents information on the number of young people receiving Austudy living allowances at the SHR.

4.4 The Youth Supported Accommodation Program

In 1985 Commonwealth support for a variety of emergency housing schemes was rationalised under SAAP, of which YSAP is one component. The program is jointly funded by the Commonwealth and the States on a dollar for dollar basis.

During 1988 the program was reviewed (Chesterman, 1988), and a new agreement between the Commonwealth and States took effect in 1989. The new agreement has

a five-year term, with a forward funding commitment for three years. Changes in 'SAAP Mark II' include a move away from the previous program design based on three subprograms for Youth Supported Accommodation, Women's Emergency Services and General Supported Accommodation. In the new program eligibility of services for funding will be based on the target groups to be assisted. The program specifies five main groups to be targeted:

- young people;
- women and women with children who are homeless and/or in crisis as a result of domestic violence;
- families, including single parent families;
- single men; and
- single women.

The program focuses on transitional support for individuals who are homeless and in crisis. Funding is provided through a range of service models of varying duration, type and levels of support.

The *Supported Accommodation Assistance Act 1989* specifies that 'young people' does not include persons under the age of 16. The Act does not preclude funded services from assisting young persons under 16, but it specifically excludes services provided exclusively for this group. It also disallows services replacing or duplicating services and assistance already provided by or the responsibility of other government programs or services such as substitute care.

Table 4.4 shows SAAP funding and service outlets for each State for the financial year 1989-90. Service outlets are presented in terms of the subprogram categories of the 1985-1989 SAAP agreement.

Tables 4.5 and 4.6 present some results from the 1990 National Client Census of persons accommodated under the SAAP program. Table 4.5 shows the numbers accommodated in each service type for each State. Table 4.6 shows the age distribution of persons accommodated in services for young people.

4.5 The Children's Services Program and Aboriginal and Islander Child Care Agencies

The Aboriginal Child Placement Principle began as a Department of Aboriginal Affairs guideline. It was accepted by all Welfare Ministers, and is embodied in legislation in New South Wales, Victoria and the Northern Territory.

The Aboriginal Child Placement Principle states that:

When a child is to be placed outside his/her natural family, then the order for priority of placement should be:

1. A member of the child's extended family;
2. Other members of the child's Aboriginal community who have the correct relationship with the child in accordance with Aboriginal customary law;
3. Other Aboriginal families living in close proximity.

This order of priority of placement is to be followed in absence of good cause to the contrary at all times. (Atkinson, 1991: 9)

Present Commonwealth assistance supporting the Aboriginal Child Care Principle is channelled through the Children's Services Program of DHHCS. The most direct assistance consists of funding support to twelve AICCAs and their peak body the Secretariat of National Aboriginal and Islander Child Care (SNAICC). In addition these bodies receive funds from DEET and from the Aboriginal and Torres Strait Islander Commission (ATSIC).

AICCAs are non-government organisations concerned with the needs and care of Aboriginal and Islander children. Though their goals have never been formally specified, expectations of them include:

- placement of Aboriginal children with Aboriginal families;
- implementation of the Aboriginal Child Placement Principle;
- preservation and re-unification of Aboriginal children with their families and Aboriginal communities; and
- to provide resources and advice to Aboriginal children going through fostering adoption and the court process (Atkinson, 1991: 44).

State and Territory Governments also provide funding to AICCAs. Commonwealth and State contributions in each State are shown in Table 4.7. The shares of the two levels of government differ significantly among States.

As responsibility for child welfare and placement of children in substitute care lies with State and Territory Governments, the Commonwealth regards the Aboriginal Child Placement Principle as the financial responsibility of those governments. Since 1986 it has not been prepared to increase its financial contribution to the implementation of the Principle (Atkinson, 1991: 11-12).

Discussions began about the transfer of responsibility for funding AICCAs to the States in 1989. In 1990 a National Review of AICCAs was commissioned, funded

jointly by DHHCS and ATSIC. The report, prepared by Graham J. Atkinson, was submitted in January 1991. The brief for this report goes far beyond issues of Commonwealth/State funding to include the roles, functions and performances of these organizations.

Atkinson (1991: 83-95) recommended a co-ordinated funding arrangement in which funding responsibilities are shared by the Children's Services Program, ATSIC, SNAICC, DEET and State and Territory Governments. In particular, the report recommended that the States be responsible for funding, program support and advice to AICCAs for services related to the Aboriginal Child Placement Principle. It suggests that States and Territories should also be responsible for service evaluation.

In discussing proposals to transfer funding responsibilities to the States the report notes a number of potential disadvantages:

- Resistance of AICCAs going back to a [State] system that failed in its service delivery in the first place;
- Variations between States and Territories' attitude and administration of Aboriginal Programs. Some have been co-operative and progressive, others not so. A potential consequence of this is that some AICCAs will get support, while others may not; and
- Uncertainty whether States and Territories would accept shared responsibility for AICCA Program. Past reluctance of States and Territories has contributed towards a lingering sense of mistrust (Atkinson, 1991: 88).

Consultation about the findings and recommendations of the Atkinson report is currently in progress.

4.6 Summary and Discussion

The extension of provisions for young people which took place during the 1980s has brought Commonwealth services into closer and more complex contiguity with the roles and service provisions of State Governments. Extended access to income support measures, particularly SB, YHA and YSAP, involved the Commonwealth in benefits and services to young people under the age of 16, blurring accepted boundaries between areas of Commonwealth and State responsibility. Even at older ages the administration of the YHA has involved the Commonwealth in parent-child relations including sensitive areas of family interaction such as sexual abuse, often with families already known to State welfare departments. Commonwealth support for specialist Aboriginal child welfare services has entailed the duplication of primary welfare functions of State Governments under non-government auspices.

Extensions in Commonwealth provision raise particular problems where the young person is in the care of the State. The purpose of many of the new or extended

measures has been to provide supplemental help to those young people whose parents cannot or will not assist them. In the strict legal sense at least, a ward of state does have a responsible parent, and the rules of eligibility for income support have been drawn to avoid this responsibility being passed from the States to the Commonwealth. Hence wards under the age of 16 are ineligible for DSS benefits. Wards 16 and over may be ineligible for benefit at independent rates². The same underlying principles apply to Austudy benefits. In the result, wards of state are treated differently than non-wards in otherwise similar circumstances. The differences do not all work one way: the parental means test for JSA and SA is not applied to the income of foster parents, potentially advantaging some young people in care. Less happily, young people failed by State care may also be refused by the Commonwealth. Evidence elsewhere in this report also suggests that the rules concerning the treatment of wards of state is poorly understood and, however wrongly, regarded as discriminatory.

Similar boundary issues apply in the funding of YSAP services. The disallowance of special services for young people under 16 ensures that SAAP funding does not duplicate the proper work of State welfare departments, limiting the program to generalist and crisis involvement with this group. The lack of specialist crisis services for this group is a consequence, as is the possibility of individuals being pushed and pulled between Commonwealth and State departments.

An extended Commonwealth role in the funding of Aboriginal child care raises different issues. That AICCAs represent a significant contribution to an area of State government responsibility is not in dispute. However, while the Commonwealth has no constitutional role in child welfare, it does have a more general mandate with respect to Aboriginal well-being. The continued over-representation of Aboriginal and Islander children in care is a key issue in that mandate. Present funding arrangements do not appear to be leading to a reduction in the disproportionate application of orders for care and control to this group.

2 If the ward can satisfy the normal independence criteria he or she can receive the independent rate. If the ward is in substitute care and the carers do not receive a fostering or similar allowance, he or she can receive the independent rate.

Table 4.1: Recipients of Young Homeless Allowance by Age and State, August 1991

State	Age						Total
	12	13	14	15	16	17	
NSW	1	9	72	257	538	822	1699
VIC	0	1	9	80	357	562	1009
QLD/NT	0	2	29	122	408	640	1201
SA	0	0	0	70	210	347	627
WA	0	3	17	122	288	377	807
TAS	0	1	6	33	134	199	373
Total	1	16	133	684	1935	2947	5716

Source: Department of Social Security.

Table 4.2: Recipients of Young Homeless Allowance by Benefit Type and by State, Persons aged under 18, August 1991

State	Job Search Allowance	Sickness Benefit	Special Benefit	Total
NSW	1231	16	452	1699
VIC	821	7	181	1009
QLD/NT	946	11	244	1201
SA	495	6	126	627
WA	618	6	183	807
TAS	300	0	73	373
Total	4411	46	1259	5716

Source: Department of Social Security.

Table 4.3: Recipients of Austudy Independent Status (Homeless Student Rate) by Age and State, January to October 1991

Age ^(a) /Sex	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	Total
- 15 Female	316	243	183	67	121	27	9	58	1 024
- 15 Male	190	155	106	29	87	16	5	21	609
16 Female	502	412	272	925	140	66	10	89	1 583
16 Male	266	206	182	53	95	30	13	43	888
17 Female	451	454	232	92	115	48	14	96	1 502
17 Male	286	214	176	46	88	23	11	66	912
18 Female	401	326	184	88	88	40	14	76	1 217
18 Male	266	220	123	51	68	25	7	40	800
Total Female	1 670	1 435	871	339	464	181	47	319	5 326
Total Male	1 008	795	587	179	338	94	36	172	3 209
Total	2 678	2 230	1 458	518	802	275	83	491	8 535

Note: (a) Age as at 1 January.

Source: Department of Employment, Education and Training.

Table 4.4: Crisis Accommodation, Expenditure and Number of Outlets, 1990-91

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	Aust
Expenditure (\$'000)									
SAAP ^(a)	23 413	17 583	12 307	7 549	7 143	3 365	2 056	2 567	80 983
Number of Outlets									
SAAP target groups									
- Youth	169	109	68	44	79	21	3	10	503
- Women escaping domestic violence	93	51	56	31	59	13	6	11	320
Families	47	18	105	40	85	6	9	3	313
Single women	18	10	1	15	2	4	4	2	56
Single men	58	37	13	22	30	9	6	1	176
General	10	27	35	15	-	4	-	2	93
Total	395	252	278	167	255	57	28	29	1 461

Notes: (a) Supported Accommodation Program.
 (b) As at 30 June 1991. Includes hostels, refuges, halfway houses, meal services and day centres.

Source: Department of Community Services and Health, Annual Report 1989-90, Table 87.

Table 4.5: Clients Accommodated in SAAP Services on Night of 8 November 1990 by Service Type and State

Service Type	ACT	NSW	VIC	QLD	SA	WA	Tas	NT	Total
Youth	44	457	705	369	142	116	68	8	1909
Women/domestic violence	34	185	7	165	78	61	46	9	585
Families	18	130	32	291	121	51	56	28	727
Single women	14	115	0	19	20	51	14	15	248
Single men	0	761	646	341	196	174	75	69	2262
Multiple	179	332	93	249	0	82	21	0	956
Total	289	1980	1483	1434	557	535	280	129	6687

Source: Home for a Night, Supported Accommodation Assistance Program, National Client Census 1990: 17.

Table 4.6 Age and Sex of Clients Accommodated in SAAP Services on Night of 8 November 1990

Age (years)	Male	Female	Not Stated	Total
Under 16	139	158	0	297
16-19	610	557	2	1169
20-24	165	148	1	314
25 and above	51	53	0	104
Not stated	6	8	1	15
Total	971	924	4	1899

Source: Home for a Night, Supported Accommodation Assistance Program, National Client Census 1990: 20.

Table 4.7 Commonwealth and State Contributions to Funding of Aboriginal and Islander Child Care Agencies, 1989-90

Year	Commonwealth \$	%	State \$	%	Total
1989/90					
VIC	401 239	38.03	653 606	61.9	1 054 854
TAS	67 009	100.00	0	0.0	67 009
NSW	375 946	64.40	162 999	35.6	583 945
NT	149 242	81.00	33 055	9.0	184 297
QLD	1 482 221	80.30	363 043	19.7	1 845 264
SA	495 839	68.00	227 600	32.0	723 439
WA	303 113	71.70	120 457	28.3	422 570
	3 274 609	67.70	1 562 760	32.3	4 836 369

Source: Atkinson, 1991: 39.

5 Policies and Procedures of State and Territory Governments for Children in Care and Leaving Care

Taylor (1990) outlines the relevant legislation, policies and procedures in each State and Territory relating to guardianship. Overall, she found that:

the changes generally involve an emphasis on seeing guardianship as a last resort, a move to short-term guardianship of one or two years rather than till the age of 18, decisions about guardianship being made by the children's courts rather than by the Minister, annual reviews, case planning procedures covered by legislation, and a range of possible dispositions of children, including State guardianship but also guardianship to other parties, and in some States a distinction between guardianship and custody. Custody of the child involves responsibility for the daily care and control, while guardianship involves the responsibility for the long-term welfare of the child. (Taylor, 1990: 25)

Our inquiries updating Taylor's (1990) work show that guardianship continues to be viewed as appropriate only in the last resort, and where orders are applied, reunion of the family is a principal objective of policy and case planning.

In 1989 some States and Territories were more clearly concerned than others to improve the situation of young people. Contact with the relevant departments since Taylor's (1990) study indicates that legislation, policies and procedures relating to guardianship are under review across the country. Tables 5.1 to 5.6 update Taylor's *Leaving Care and Homelessness* (1990), summarising the legislation, policies and procedures on guardianship of States and Territories in 1989. Tables are not provided for Queensland and South Australia, as these are covered in greater depth in Sections 6 and 7.

1992 appears to be the critical year for child welfare in Australia. Major new legislation is expected in four States and Territories (New South Wales, Western Australia, Tasmania, Queensland) and the completion of developments already underway in three others (Victoria, South Australia and the Australian Capital Territory). A review is planned in the Northern Territory.

A number of common trends in policy can be discerned. At the basis of these is a shared view that the use of the powers of guardianship should be minimised and that welfare departments should be made clearly accountable for the care of children on orders. Legislation, policies and practices to this end are planned in a number of States and Territories. These include the introduction of a wider range of orders

providing alternatives to wardship, and usually for orders with shorter duration. Such changes are planned in Western Australia, Queensland and South Australia. Substitute care policies increasingly stress the importance of maintaining the child's relation with the family and reintegrating child and family wherever possible. Case planning is a common mechanism for ensuring the maintenance of family ties and departmental accountability.

Several States and Territories are moving to codify the cultural rights and requirements of Aboriginal and Islander children and families in departmental policy and practice. Specific policy principles have been approved in Western Australia, and their adoption is planned in Queensland and the Northern Territory.

Finally, a number of States are in the process of restructuring their child welfare departments. These include Victoria, South Australia, and the Northern Territory. In Queensland and Tasmania moves are underway to establish clearer separation between child protection and juvenile justice. In Tasmania it is intended that these changes will result in fewer children being taken into care on account of offences.

All States and Territories pay foster parents or other caregivers allowances for the support of wards. These allowances are meant to cover the expenses of care but not wages for the carer. Payments often include a sum provided as pocket money for the ward. South Australia and Western Australia are moving to link payment levels to rates established by the Australian Institute of Family Studies.

In the Australian Capital Territory support for wards appears to terminate at age 16. States vary a good deal in the way they treat wards receiving Commonwealth benefits such as Austudy or JSA. In general the level of State support is reduced, but a number of States and Territories -- New South Wales, South Australia, Tasmania -- continue to provide supplementary support in certain circumstances.

One of Taylor's (1990) main findings was the lack of information about children leaving guardianship in each State and Territory. This gap has gone unaddressed and it is difficult to get an accurate picture of what is happening to wards and ex-wards across Australia. Across the country most guardianship orders automatically expire at 18 years except in special circumstances. Though the Burdekin Inquiry (HREOC, 1989) put them on the agenda, procedures for leaving care and for post-care remain neglected. Taylor (1990) describes programs for leaving care as uncoordinated and inadequate to the numbers of children in care and the length and breadth of their needs (Taylor, 1990: 49). The majority of States do not have adequate policies and procedures for children leaving care. Some are reviewing their work in this area, but few are optimistic about the prospect for change in the current economic climate.

Similarly there is little evidence of meaningful policy and procedures for active follow-up of young people after they have left care. Again this area is under review in most States and Territories. The Department of Community Services (DOCS), New South Wales, is conducting a number of research projects to address this area.

State and Territory income support made directly available to wards and ex-wards is adhoc, a problem likely to be exacerbated by the move to short-term guardianship. In some States and Territories income support rates have recently been reviewed, yet the lack of clear guidelines remains with respect to eligibility and duration. Access to such support is at the discretion of the State welfare department. There is a lack of information about levels and patterns of take-up.

5.1 Discussion

Across the country declining use of orders for care, protection and control is reflected not only in lower numbers of orders but also in policies and legislative development. Policy and practice have clearly anticipated parliamentary action: while the trend to lower numbers is of long standing, legislative change appears to have begun only in the late 1980s, with most States and Territories still to complete the process. So far the need for programs to assist young people leaving care and support after the termination of wardship has not been addressed in most States.

Policy frameworks give increasing weight to the responsibility, security and autonomy of the family, with welfare authorities directed to remove a child only where no alternative exists. Case management policies stress the maintenance of family ties and early return of the child to the family wherever this is consistent with the safety of the child. While these policies may minimise the use of the heavy machinery of child protection and the expensive support of children in State care, they do not necessarily imply substantial reduction in surveillance by the State or the cost of child welfare. Properly applied, the policy preference for family care requires the commitment of significant resources to social casework in family functioning and to monitor the well-being of children at risk. The present research has been unable to assess the extent to which such resource demands are being met.

Policy frameworks are also coming to include recognition in principle of the importance of cultural issues in child welfare and juvenile justice. The need for such development appears better recognised with respect to Aboriginal and Islander children than to other cultural groups. To have substance, this recognition also has to be backed with resources: to increase the number of workers with cultural qualifications; to equip these workers with professional and management skills; to develop culturally specific preventive programs.

Table 5.1: Legislation, Policies and Procedures for Children in Care and Leaving Care New South Wales

Legislation	<i>Children (Care and Protection) Act, 1987</i>
Definition of a Child in Care	<p>'According to this Act a ward is:</p> <ul style="list-style-type: none"> - a child declared to be a ward under this Act by an order in force under section 72(1)(c)(iii). - a child declared to be a ward under this Act by an order in force under Section 95(4). - a child declared to be a ward under this Act by an order in force under the <i>Adoption of Children Act, 1965</i>'.
Recent Changes to the Legislation	The <i>Children (Care and Protection) Act 1987</i> has been reviewed by the Community Welfare Advisory Council and it is anticipated that legislative changes will be introduced in the Autumn Session of Parliament in 1992. The guardianship provision of the <i>Disability Services and Guardianship Act, 1987</i> is currently being reformed.
Policies & Procedures for Children in Care	Policies and procedures relating to services for wards are governed by general principles established under S 91 of the <i>Children (Care and Protection) Act, 1987</i> . One of the objectives of the Substitute Care Services provided by the Department is to, where possible, return the child to his/her family. These provisions form an important part of the Case Plan which governs the individual services provided to a ward.
Income Support for Children in Care	Carers of wards are eligible for an age-related fostering allowance [standard rate or special needs(disability) rate] and reimbursements for contingency items. In addition, wards are eligible for the payment of age-related pocket money. If a ward is eligible for, and in receipt of, a Commonwealth income support payment, for example, Austudy or JSA, he or she may also be eligible for a Subsidy Allowance payment by the DOCS. This allowance is determined on the basis of his or her assessed needs. The fostering allowance rates were increased in February 1991.
Procedures for Children Leaving Care	The procedures relating to discharge of wardship and post wardship services are provided in accordance with S 92 of the <i>Children (Care and Protection) Act, 1987</i> . No changes since 1989.
Note:	The above information is an update to Taylor's <i>Leaving Care and Homelessness</i> , (1990), which outlines the States and Territories legislation, policies and procedures in 1989.
Source:	Correspondence with the Department of Community Services, New South Wales.

Table 5.2: Legislation, Policies and Procedures for Children in Care and Leaving Care - Victoria

Legislation	<i>Children and Young Persons Act, 1989</i>
Definition of a Child in Care	<p>'The Court must not make a protection order that has the effect of removing a child from the custody of his or her parent unless -</p> <ul style="list-style-type: none"> - the Court has considered and rejected as being contrary to the safety and well-being of the child, an order allowing the child to remain in the custody of his or her parent; and - the Court is satisfied that all reasonable steps have been taken by the Director-General to provide the services necessary to enable the child to remain in the custody of his or her parents; - the Court considers that the making of the order is in the best interests of the child.
Recent Changes to the Legislation	All legislative provisions governing children and young people in need of protection or who have committed offences are brought together in one Act. The government in 1989 adopted recommendations of the Fogarty report on establishing a single track child protection system, which was to be established across Victoria by 1992.
Policies & Procedures for Children in Care	Currently being amended and finalised. It was hoped that this would be completed by the end of 1991.
Income Support for Children in Care	A range of support benefits are available including clothing, travel, health, education, recreation. Eligibility for these allowances depends on being subject to a guardianship order. On reaching the age of 15 years a young person becomes eligible for the Commonwealth allowance of Austudy (independent rate). At 16 years, JSA is available.
Procedures for Children Leaving Care	The procedures for discharging young people from guardianship are presently under review. This was to be complete by the end of 1991.
Note:	The above information is an update to Taylor's <i>Leaving Care and Homelessness</i> , (1990), which outlines the States and Territories legislation, policies and procedures in 1989.
Source:	Correspondence with the Department of Community Services, Victoria.

Table 5.3: Legislation, Policies and Procedures for Children in Care and Leaving Care - Western Australia

Legislation	<i>Children Welfare Act, 1947</i>
Definition of a Child in Care	Children in need of care and protection include among others those children who have no means of subsistence/support; vagrants; under guardianship or in custody of a person who is unfit; is not being maintained properly or at all; is found in a place where any drug or prohibited plant is used; is ill-treated, or suffers injuries apparently resulting from ill-treatment; and is living or behaves in such a manner as to indicate that the mental, physical or moral welfare of the child is likely to be in jeopardy.
Recent Changes to the Legislation	The <i>Child Welfare Act</i> has recently been reviewed and extensive changes are proposed to legislation dealing with State guardianship. These include a greater range of orders available to the Court after a finding of need for care and protection is made; provision of the Court with powers to determine placement and access disputes and to set conditions to support family reunification and the child's contact with significant people, culture, etc. (see the Legislative Review's report, 'Laws For People').
Policies & Procedures for Children in Care	<p>It is Departmental policy to apply for a care and protection order only when there is no other way to adequately protect the child. The guide to practice was introduced in 1987 and has recently been reviewed to include policy and procedural developments. These include the introduction of pre-trial conferences in the Children's Court since 1989, limiting duration of applications to the minimum necessary, and accommodation of Aboriginal and other minority cultural issues.</p> <p>Following committal, a case conference is held within 28 days, and this establishes short and medium term goals of intervention. Case reviews of wards are held every 3 months and a case conference every 6 months. Policy requires the Department to work toward directing that wards be returned to family care where possible and that ongoing relationships of wards with their families of origin be maintained and developed. This requires that extensive involvement and support be provided to families. Divisional staff are responsible for coordinating the required support. It may be a mix of Departmentally provided services and those provided by the non-government sector. The extent of services provided to a ward's family will depend on the feasibility of the child's return to their care.</p>
Income Support for Children in Care	<p>The amount of income support provided to wards depends on the child's age and living circumstances and individual cases. All wards are entitled to pocket money payments and clothing.</p> <p>Current subsidies to foster carers are considered to be inadequate. The Substitute Care Review discusses this issue. It is Departmental policy to tie subsidy rates to rates established by the Australian Institute of Family Studies. This has not yet been approved by cabinet.</p>
Procedures for Children Leaving Care	The Substitute Care Review was critical of the lack of follow-up and support given to young people who have left State care. Policy and procedural guidelines are being developed to remedy this situation. The Legislative Review has also proposed changes that will direct Departmental support of children who have left care and enable the provision of financial and material assistance where required.
Note:	The above information is an update to Taylor's <i>Leaving Care and Homelessness</i> , (1990), which outlines the States and Territories legislation, policies and procedures in 1989.
Source:	Correspondence with the Department of Community Services, Western Australia.

Table 5.4: Legislation, Policies and Procedures for Children in Care and Leaving Care - Tasmania

Legislation	<i>Children Welfare Act, 1960</i>
Definition of a Child in Care	Declaration of a child to be a ward of state places the child under the guardianship of the Director of Community Welfare who then has full guardianship responsibilities for the care of the child until that child is 18 years of age or discharged from wardship.
Recent Changes to the Legislation	Legislative changes are planned to occur in 1992 with the separation of Juvenile Justice from Child Welfare.
Policies & Procedures for Children in Care	<p>The current <i>Child Welfare Act</i> allows parents to directly approach a Children's Court alleging their child/children are beyond control. In the past 12 months to 30 June, 1991, there was a marked increase in applications by parents to the Children's Court.</p> <p>Following the separation of Juvenile Corrections from Children's Services there has been a reduction in the number of children being declared wards in the Children's Court as a result of offending. It is anticipated that planned changes to the legislative base will encourage this pattern.</p>
Income Support for 16. Children in Care	<p>Children under wardship are fully supported financially by the State up to the age of 16.</p> <p>Wards aged 16 years and over are eligible for an income subsidy (Youth Subsidy) up to the equivalent of Commonwealth Benefits for 18 year olds. Each case is considered on its merits and related to the particular needs of each young person. Currently very few young are in receipt of Youth Subsidy.</p> <p>Financial support of \$750.00 per annum is also available to all wards and ex-wards of state up to the age of 21 years, to meet the personal developmental needs of children. \$300,000 was expended in this area for the 12 month period to June 1991 for 382 wards.</p>
Procedures for Children Leaving Care	<p>There is no set policy/practice in relation to follow up for the post wardship period. Declaration of wardship is until the age of 18 years. A dispensation of wardship may be obtained by Ministerial Authority. Of the 71 children discharged in the 12 months to June 1991, 46 were discharged when they reached the age of 18 years, and 18 were discharged prior to this age following Ministerial approval.</p>
Note:	The above information is an update to Taylor's <i>Leaving Care and Homelessness</i> , (1990), which outlines the States and Territories legislation, policies and procedures in 1989.
Source:	Correspondence with the Department of Community Services, Victoria.

Table 5.5: Legislation, Policies and Procedures for Children in Care and Leaving Care - Northern Territory

Legislation	<i>Children Welfare Act, 1983</i>
Definition of a Child in Care	One who is in the sole guardianship of the Minister or in the joint guardianship of the Minister and another person (usually the parents). Children, except for adoption purposes, can only come into care for 'care and protection' reasons. Children cannot become 'state-wards' only by reason of being offenders.
Recent Changes to the Legislation	A review of the legislation is expected to begin in 1992. Part I of the Act contains definition of 'in need of care', Part IV deals with the court process, and Part VII of the Act defines a child in the care of the Minister and sets out the Minister's rights, powers, duties, obligations and liabilities in relation to a child in care.
Policies & Procedures for Children in Care	<p>A comprehensive review of the Department's policies and procedures began in 1990. The essential principles have been established and work continues on the drafting of the detailed procedural guidelines.</p> <p>The Department is currently undergoing substantial restructuring which is stalling detailed work on procedures. The restructuring involves the integration and amalgamation of community health, community welfare, and other services. Services to children in care and their families will be provided through 'community care centres', of which the first will open in March or April 1992. Once the new structure is finalised work will begin on the new substitute care and guardianship procedures.</p> <p>It is expected that the primary responsibility for the provision of services to children in care will remain unchanged. The Act (S.54) requires each case to be formally reviewed every three months. In cases where the child is in the sole guardianship of the Minister the order is reviewed by the Family Matters Court at least every two years. Other orders are reviewed by the Court at least every 12 months.</p> <p>An aim of working with children in care is, where possible, to work towards returning the child to the family. This includes the provision of counselling services, mediation services and if appropriate material assistance. Parents are encouraged to maintain contact with their children in care and the S.66 of the Act allows the Minister to provide support to facilitate access.</p>
Income Support for Children in Care	<p>In foster care the caregivers are paid an allowance to offset the cost of care (currently approximately \$70.00). In addition the Department meets the cost of major items of expense. An allowance is also paid to the foster parents to provide pocket money for the child and the rate is age related to a maximum of \$20.00. Payments to other caregivers vary with circumstances.</p> <p>Payments to children living independently depends on the circumstances, including other income, of the child. Generally assistance is to a level which ensures that the child has the basic necessities of life. There are no specific guidelines as to the eligibility, levels, or duration of support.</p>
Procedures for Children Leaving Care	Presently this area of practice is under review. To date there has been little or no follow-up on any of the young people who left care solely because their order expired on their achieving the age of 18 years. 'Procedures and practice relating to young people who leave care when they turn eighteen have been unsatisfactory and the Northern Territory has been guilty of many of the worst practices identified in the Burdekin Report' (Correspondence with the Department).
Note:	The above information is an update to Taylor's <i>Leaving Care and Homelessness</i> , (1990), which outlines the States and Territories legislation, policies and procedures in 1989.
Source:	Correspondence with the Department of Community Services, Northern Territory.

Table 5.6: Legislation, Policies and Procedures for Children in Care and Leaving Care - Australian Capital Territory

Legislation	<i>Children Welfare Act, 1986</i>
Definition of a Child in Care	<p>While a child is a ward of the Director, the Director has, subject to this Ordinance, the care of the child to the exclusion of parents or other guardian of the child and has the same rights, power, duties, obligations and liabilities as a natural parent of the child would have. In particular, the Director:</p> <ol style="list-style-type: none"> Is entitled to the custody of the ward; is responsible for providing or arranging for the provision of the necessities and amenities of life to the ward, including the maintenance and accommodation of the ward and recreation and entertainment for the ward; and is responsible for the well-being of the ward' (CSA, 1986).
Recent Changes to the Legislation	<p>The current amendments to this Act which are taking place include:</p> <ul style="list-style-type: none"> - Drafting deficiencies relating to the interstate transfer of wards provision (S116) are to be remedied; and - 'Care', 'custody' and 'control' terminology throughout the CSA 1986 is to be rationalised to accord with the <i>Family Law Act</i> definitions of 'guardianship' and 'custody'.
Policies & Procedures for Children in Care	<p>Legislation relating to wardship falls under part 4 of the CSA 1986. S 83 (1)(e) actually authorises the Children's Court to make wardship orders. A proviso to this section is that a wardship order will not be made unless the court is satisfied that no other order (i.e. supervision, residential) would be in the best interests of the child. A time limit must be specified with all orders. Within 2 months of the expiration of the order, an application must be made to the Court for a review of that order to assess if the child is no longer in need of care.</p> <p>Legislation states a wardship order may be qualified by requiring the Director or carer of child to consult a parent of the child before exercising wardship powers. Whilst under wardship order, a Court may make an access order regarding a ward.</p> <p>Families are assisted through the provision of direct casework services or referred to other agencies to deal with problems that led to the child being made a ward in the first place. The level of Branch involvement ranged from none at all to intensive weekly contacts. Material support is provided to families where this will either directly benefit the child or is considered necessary to prevent further deterioration in the family's circumstances generally. Support is based on a case plan and assessed per needs of each individual case.</p>
Income Support for Children in Care	<p>The Director of Welfare is responsible for fully maintaining the ward. Under the CSA, the court can also order parents of a child who has been made a ward to contribute to the cost of the care of the child, taking into account their financial circumstances. The Director is also able to authorise, in his or her discretion, financial or other assistance to an ex-ward.</p> <p>Many wards are in foster care, for which foster carers receive reimbursement of the cost of caring for the ward.</p>

Table 5.6: Legislation, Policies and Procedures for Children in Care and Leaving Care - Australian Capital Territory (cont.)

Income Support for Children in Care (cont.)	<p>All wards would be considered eligible for income support. The duration and extent of income support provided is determined by assessment of needs and varies according to the individual circumstances of the child and is the responsibility of the Director of Welfare up to the age of 16.</p> <p>Children engaged in education (secondary, tertiary, trade, apprentice) or seeking accommodation costs and general needs including pocket money have their expenses met by the Branch. Children in receipt of DSS income or otherwise, would be expected to contribute to the cost of their care, the exact amount being determined by the circumstances.</p> <p>Where a child is self sufficient through employment or Austudy, income support may take the form of special payments for expense items such as clothing or furniture.</p>
Procedures for Children Leaving Care	<p>Wardship orders must have a time limit on them and all wardships automatically lapse at the age of 18 years. When the discharge of wardship is recommended the event is worked toward as part of a case plan for the child. All wards about to be discharged are thoroughly assessed, taking into account the emotional and material consequences. Exit programs and independent living skills programs are used to prepare young people for leaving care of the state. Ongoing involvement by the Branch is continued accordingly. A ward receives a copy of any order granted by the Court.</p>
Note:	<p>The above information is an update to Taylor's <i>Leaving Care and Homelessness</i>, (1990), which outlines the States and Territories legislation, policies and procedures in 1989.</p>
Source:	<p>Correspondence with the Housing and Community Services Bureau, Australian Capital Territory.</p>

6 Wardship and Commonwealth-State Relations in Queensland

6.1 The Child Welfare Policy Framework

The key ideas shaping child welfare policy in Queensland are brought together in a forthcoming *Green Paper on Child Protection Legislation, Queensland* in preparation by the Department of Family Services and Aboriginal and Islander Affairs (DFS). The *Green Paper* is to be issued in preparation for new legislation governing child protection and control, updating and revising statutes to bring them in line with established practice. The *Green Paper* is in the final stages of preparation.

The basic premise of child welfare policy in Queensland is the need to give the widest possible protection and assistance to the family as the fundamental unit of society. There is a particular case for such protection and assistance where the family is responsible for the care and education of children. Fundamental to policy is respect for the autonomy of the family and the entitlement of parents to bring up their children as they feel is appropriate. Such entitlement includes security from external intervention with respect to values, culture and standards above a basic minimum.

It is the responsibility of the State, nevertheless, to ensure that children are not subjected to abuse or neglect, and to protect the rights and promote the welfare of children. Because it is intrusive and coercive, state intervention should occur only when the child has come to specific harm through physical, sexual or emotional abuse, or through neglect, or where there is substantiated risk of such specific harm. Intervention should be limited to the minimum extent necessary to secure the protection of the child. Compulsory removal of a child from the family should occur only when there is an unacceptable risk of recurring harm.

Wherever possible DFS seeks to maintain children within the family and strengthen family functioning. In such circumstances a range of community-based preventative and support services are provided. Where a child must be removed the DFS aims to reunite the family within the shortest possible time. Any decision concerning intervention should take into account its effect on the stability of family relationships and the welfare and interests of the child. Due regard should be given to the wishes of parents and of the child where the child has the maturity to comprehend the future contemplated in the proceedings.

With the strong commitment to minimising intervention goes another, the assurance that a child not able to be returned to the family be established in a secure alternative family environment. The maximum period allowed for work toward family reunification is two years. Placement policy favours foster care over other

alternatives, but not to the exclusion of a role for small residential institutions. This approach is summarised in eight Intervention Planning Principles formally adopted in 1990 (DFS, *Annual Report*, 1989-1990).

Among principles which may be expressed in new legislation the *Green Paper* includes the need to foster and assist the indigenous, ethnic or cultural identity of a child, child's parents and other members of the child's family. The Paper notes that DFS has officially endorsed the Aboriginal Child Placement Principle advocated by AICCA since 1987.

6.2 Administrative Structure

The DFS was created in December 1989 through the amalgamation of the former Departments of Community Services, Family Services and the Office of Ethnic Affairs. The combined Department is structured in four Divisions: Protective Services and Juvenile Justice, Community Services Development, Intellectual Disability Services, and Aboriginal and Islander Affairs. Divisions are subdivided into Branches.³ There are five regions, with a total of 41 Area Offices. Special regional arrangements apply in the Division of Islander Affairs in view of the distribution of Aboriginal and Islander people in Queensland.

Most field programs operate at the area level and serve young people with needs deriving from both protective and justice sectors. The organisation of field social work varies with region and with area office but in many cases is currently structured on the basis of worker specialisation in, for example, assessment or case management, protection or justice. A review of field services has recently been undertaken and a new team model is under discussion. It is likely that teams will focus on either intake and assessment or ongoing case management.

6.3 Orders for Guardianship, Care and Control

Orders for Care and Protection

The care and protection of children subject to abuse or neglect is governed by the *Children's Services Act 1965-1989*. It is proposed to repeal and replace sections of this Act which are considered out of date and inconsistent with present good practice.

Orders for care and protection need to be understood in the context of the child protection process in Queensland. Notification of suspected child abuse has been mandatory for medical practitioners since 1980, and voluntary reporting applies for a wider group of professions and individuals. Such notifications are investigated by

3 The Bureau of Ethnic Affairs is separate and directly responsible to the Director-General.

area office staff and the outcome recorded in a Child Protection Register. Where necessary, investigation may be referred to a Suspected Child Abuse and Neglect (SCAN) team. There are 43 such teams operating throughout Queensland, core membership of which consists of an officer of the Department, a doctor and a police officer. SCAN teams operate under the supervision of a Co-ordinating Committee on Child Abuse chaired by a representative of DFS. There is no recognition of either body in present legislation and it is proposed to formalise the roles and responsibilities of both.

In the proposed legislation the definition of a child in need of protection is to be based on the child suffering specific harms in terms of physical, emotional or sexual abuse or of neglect. Grounds are to be defined so as to be less judgemental than in the existing Act, to make it clear that poverty alone is not sufficient cause for intervention, and to tighten provisions so as to recognise the autonomy of the family and the principle of minimal State intervention. The age of a child for the purpose of care and protection is to be raised from the present age of 17 to 18, making it consistent with the age of majority in Queensland. Revised legislation is to give a statutory basis presently lacking for the investigation of child abuse. The Act will provide power of entry and search for authorised officers and permit temporary custody for the purpose of medical examination. Consideration is also being given to putting the Child Protection Register, at present an administrative function, on a statutory basis.

At present the Children's Court may make one of the following orders:

- a parent or guardian may be ordered to enter into a Recognisance with a fine to be paid if breached;
- the Director-General may be ordered to exercise Protective Supervision; or
- the child may be admitted to the Care and Protection of the Director-General.

In the case of an order for Protective Supervision the parents retain guardianship but must accept ongoing DFS supervision in their own home until the order is discharged or the child reaches the age of 18.⁴ An order for care and protection transfers guardianship to the Director-General until the order is discharged by administrative or court action or until the child reaches the age of 18. The *Green Paper* is critical of these provisions as both offering too few options and being too rigid in the period for which orders apply. It argues for expanding the range of orders and for legislative expression of DFS's Intervention Planning Principles.

A wider range of orders is recommended for inclusion in a new Act;

4 There is an inconsistency in the draft *Green Paper* concerning the maximum age at which a child may be subject to a protective order. The Paper states at one point that the age is to be raised from 17 to 18 but at another describes present orders as extending to age 18.

- An Undertaking would constitute a formal agreement for a period not exceeding two years. An Undertaking could direct either a parent or a child, might provide for supervision by a Departmental officer, and could be brought back to the Court if breached;
- An order for Protective Supervision would be similar to the present provision but would be made for a maximum period of two years and would include specific conditions. Such an order would be supervised by Departmental officers and could be brought back to Court if thought necessary;
- One-year orders for Custody would allow the Court to place a child in the custody of the Director-General for a period of up to 12 months. Parents would not have daily care of the child, but would retain guardianship powers and be involved in major decisions affecting the child's well-being. Review standards are to be established to ensure that plans to reunite child and family are proceeding;
- An order for Custody and Guardianship is similar to the order for Custody but would also provide for the Director-General to assume guardianship. Such an order is to be used only in exceptional and serious cases where ongoing parental involvement in decision-making for the child is believed to be detrimental; and
- An order to place the child in the Custody and Guardianship of the Director-General until the age of 18 is to be used only in the last resort.

Shorter and more closely defined orders have been recommended because experience has shown that with the elapse of time it becomes more difficult to return a child to the family. Intensive work in family reunification is most effective at an early stage and is better understood by children at that time. It is proposed to give the parents the right to apply to the Court for access to a child in custody or guardianship. There are proposals also for a mediation process before Court determination of orders for custody or guardianship.

The two new one-year orders are intended to increase the accountability of DFS and to ensure that a child does not remain in child protection any longer than necessary. Where DFS wishes to extend the order for a maximum of one further year it would be obliged to apply to the Court. In such an application DFS would be required to document the work it has carried out with the family and provide reasons for extending the order in terms of the family's progress or change. It would also have to demonstrate that the child continues to require protection.

The *Green Paper* also proposes that the responsibility of the Director-General in relation to children subject to orders be spelled out in legislation. Included in these responsibilities are:

- the replacement of discretionary powers by statutory obligations, including preference for placement in geographic proximity to the family and with persons of similar ethnic or cultural background;
- to undertake consultation with the Aboriginal and Torres Strait Islander community;
- to permit parents, siblings and members of the extended family to have contact with the child;
- to review long-term progress once a year;
- to provide or arrange medical and dental examinations; and
- to provide assistance of a financial or other nature on a discretionary basis when the child is discharged from guardianship and subsequently seeks it.

The *Green Paper* foreshadows repeal of status offences, i.e. behaviour which when exhibited by an adult would not attract State intervention. In the present Act these behaviours are described as 'uncontrollable' and include ideas such as 'exposed to physical or moral danger'. Such provisions allow a child to be placed in the guardianship of the Director-General for a period not extending past the child's eighteenth birthday. Their use has been declining over the past decade. It is proposed that new legislation treat such 'uncontrollable' children as in need of protection rather than care and control. They are not to be placed in detention centres under any circumstances.

The recommendations contained in the *Green Paper* are aimed at bringing legislation in line with established practice. In their legal philosophy they reflect a move to establish a basis for increased accountability for the use of legal powers and the effectiveness of DFS intervention. In practical policy terms they also serve to clarify the basis for targeting of DFS resources through the use of shorter periods of care and clearer definition of the appropriate scope of care and protection. Intervention Planning Principles limit DFS responsibility where a case for protection from specific harm has not been established.

Orders for Juvenile Offenders

New legislation is also planned for juvenile justice, including concurrent revision of statutes governing the Children's Court. A Juvenile Justice Strategy has been developed replacing the existing 'welfare model' with one based on justice and equity in relation to the offence committed. These changes reflect established directions of change in practice. The new framework takes cognisance of the desirability of:

- encouraging the police to administer formal cautions to first or minor offenders with the purpose of diverting them from formal Court processes;
-

- having greater regard for the legal rights of children;
- having regard to criminal justice principles such as proportionality of sentencing;
- the seriousness of the offence for which the child has been convicted being the primary basis for the detention of the child;
- recognition of the need to divert young offenders from detention; and
- the development of practices clearly separating responses to status offenders and offenders, to the point where it is rare for a child not convicted of an offence to be admitted to a detention centre.

A major provision in the proposed *Children's Court Bill* is the establishment of a Children's Court Judge with a three-fold role:

- as a moderator to promote equity in sentencing through the examination of severe judgements;
- if the child elects, to hear serious offences sitting alone, probably to apply to children aged from 10 to 16 years;⁵ and
- to hear formal appeals.

It is also proposed to give magistrates the power to sentence juvenile offenders. At present magistrates have only the power to recommend detention, formal decision-making power residing with the Director-General. The Juvenile Justice Strategy includes a number of principles affecting sentencing. Any sentence made by a court should be the least restrictive alternative consistent with the protection of the community, the seriousness of the offence and the age and/or maturity of the offender. A sentence should not be imposed on the basis of perceived needs for support and assistance. Sentences should be proportional to the seriousness of the offence, and should be specific and determinate.

At present three forms of order apply to young offenders:

- Supervision ('children's probation') entails neither guardianship nor custody;
- Care and Control places the young person under guardianship of the Director-General. It may or may not include detention in custody; and
- Care and Control orders also result from applications (status offences).⁶

5 The age of adult criminal responsibility in Queensland is 17.

6 Use of these orders has decreased in the past decade but does still occur. On 30 June 1990 there were 86 children on such orders.

Proposed legislation expands these sentencing options with non-custodial and custodial orders.

- Non-custodial unsupervised options:
 - Reprimand with no recording of conviction;
 - Good Behaviour Order for a period of up to 12 months, with no recording of conviction; and
 - Fine, having regard to the capacity of the child to pay, conviction may be recorded.
- Non-custodial, supervised options:
 - Community Service Order, conviction may be recorded; and
 - Probation for up to one year, conviction may be recorded.
- Custodial options:
 - Immediate Release Order enabling young offender sentenced to detention to be released into the community subject to participation in a specified supervisory program, conviction may be recorded; and
 - Detention in a detention centre of DFS (i.e. not an adult prison), for a maximum of six months in normal circumstances.

None of these orders will affect guardianship, which is in future to be considered only on grounds of protective needs. This change will bring Queensland into line with other States, none of which apply guardianship orders on account of offences.

An inbuilt review applies, normally after three months, to both supervision and non-custodial care and control orders. A final review examines both justice and welfare issues. In line with the separation of justice from welfare considerations the acceptance of welfare services is voluntary and failure to take them up does not constitute a breach of the order concerned.

Children and Young People on Orders

The quality of available data on the use of orders is poor, and there is little agreement among sources; it is clear, however, that the use of orders is declining. Different patterns of change are taking place in protective services and juvenile justice.

Table 6.1 shows the number of children on all types of orders for the year ended 30 June 1990. By far the largest number of orders are made for care and protection.

Table 6.2 shows the number of children in Queensland 'on hand', i.e. on all types of orders for the five years to 30 June 1990. The numbers have been declining steadily over the period.

Table 6.3 shows Welstat figures for the age and sex distribution of children under guardianship orders at 30 June 1988, the most recent date for which a full age breakdown is available. For both sexes the largest numbers are found in the early teen years, rising to a maximum at age 16. Table 6.4 shows DFS figures for age and sex of all children 'on hand' at the same date. The age pattern is similar to that in Table 6.3.

Table 6.5 shows the number of children admitted to various orders over the three years to 30 June 1990. Numbers declined for both types of care and protection order but rose in the case of guardianship on account of offence. Offender orders of both types were made in comparatively large numbers in 1988-1990. There was a sharp drop in the number admitted to care and protection orders for the age group 15 and over.

Table 6.6 compares numbers of children discharged from orders for the years 1988-1989 and 1989-1990. Data are unavailable for 1987-1988. The bulk of orders discharged were for offences, but the numbers discharged from care and protection orders were also relatively high. These figures show no marked increase in discharge of young people from orders for care and protection at age 16. Larger numbers on orders for offences are discharged at that age. In 1989-1990, 53 per cent of all discharges occurred between the ages of 15 and 17. In the previous year, 69 per cent of all discharges had been from that age group.

Comparison of numbers admitted and discharged from orders also shows a pattern of declining use of orders. In both years for which comparison is possible there were more discharges than admissions. (In the offence categories admissions exceed discharges in the case of guardianship orders but the pattern is inverted for other orders.) The excess of discharges over admissions is clearly age related, appearing at age 16 in most categories.

6.4 Substitute and Residential Care of Adolescents

A variety of alternative care services provide care for children unable to remain at home. The primary target group for in-care services is children removed from home because of concerns about abuse or neglect. These include foster care and a number of special programs, residential care, and community placement programs, for which children must be in the temporary custody, custody or guardianship of the Director-General. Additional early intervention services (short-term 24-hour care, assessment and therapy centre) also have this group as a primary responsibility. In Queensland, 20 per cent of children in protective care are moved at least once during their first year in State care. Some 80 per cent move more than once in their period in care. On average eight per cent move at least ten times per year (Alternative Care Trends/Issues, n.d.). A Strategic Plan for Alternative Care and Intervention has

recently been prepared setting out future directions for the development of alternative care in Queensland (Division of Community Services Development, 1991).

Table 6.7 shows the type of placement of children under orders in Queensland at 30 June 1990.

Intervention Planning Principles favour the care of children at home wherever possible, and at 30 June 1990 some 40 per cent of children subject to orders were living with their families (DFS, *Annual Report 1989-1990*). Separate figures are not available for relative care.

Foster Care

Where substitute care is necessary, foster care is normally preferred over other alternatives. At 30 June 1990, 37 per cent of children on orders were placed with foster families (DFS, *Annual Report 1989-1990*). At the present time all foster care is under the direct management of the DFS, but the development of community-based foster care programs is planned. Five foster agencies are to be funded in 1991-1992 (Division of Community Services Development, 1991). There is a shortage of foster parents, and a growing need for foster parents willing to take adolescents (DFS, *Annual Report 1989-1990*).

The Community-based Adolescent Support Scheme (CASS) is a special locally-based program for time-limited family placements for young offenders aged between 12 and 16. The program caters for young people who would otherwise enter secure care or who have a substantial offending history. CASS families are specially trained and maintain their orientation through monthly meetings.

The Proctor Program is a short-term intensive program for adolescent girls aged 13 to 17 who are at risk of entering the juvenile justice system or who have entered it and are under the guardianship of the Director-General. A girl is placed with an adult woman who acts as mentor for a period of eight weeks. Since it was introduced in 1980 the program has grown from an initial four Proctors to the present six. In recognition that girls are less likely than boys to engage in offending behaviour, its emphasis has changed from girls on care and control to care and protection orders. At the conclusion of their Proctor stay girls may return to the family, be placed in alternative care or embark upon independent living. There is no comparable program for boys.

There are five AICCA's in Queensland; these are based in Brisbane (2), North Queensland (2) and Mount Isa, and are co-ordinated by a state-wide body. Among other functions these organisations deal with the placement of Aboriginal and Islander children with appropriate families. Twenty percent of AICCA funds are provided by the Queensland Government. Queensland AICCAs have a total of 53 staff, of whom only two are funded by the State (Atkinson, 1991: 39, 67). There is an Aboriginal Liaison Officer in the Alternative Care Section of the DFS.

Aboriginal and Islander children form a disproportionately large number of children on orders in Queensland: at 30 June 1990, 27 per cent of those under care and protection and 40 per cent of those under care and control. Table 6.8 shows age distributions for Aboriginal and Islander children in both groups. Very large numbers of adolescents are in care.

While Queensland AICCAAs have the largest number of staff of those in any State by a substantial number, they also appear to have very heavy demands placed upon them. Fieldworkers in all areas consulted reported drawing upon the AICCAAs whenever an Aboriginal or Islander child was concerned. It is reported that services to this group of children and young people are still inadequate. Some 20 per cent of Aboriginal and Torres Strait Islander children are currently placed with non-Aboriginal or Islander caregivers.⁷

A DFS officer is now consulting with Queensland AICCAAs and working to develop recommendations concerning the implementation, resourcing and training requirements of the Aboriginal Child Placement Principle in Queensland. There is a need for increased resources for implementation and training in this area of work, and in particular for increased staffing with culturally qualified officers from the Aboriginal and Islander communities. In August 1991 less than 1 per cent of staff in the Division of Protective Services and Juvenile Justice and 3.2 per cent of staff in DFS as a whole were Aboriginal or Islander. While Aboriginal and Islander staffing in DFS exceeds the proportion in the general Queensland population, it is argued that the more appropriate comparison is with the proportion of children in care. Given the urgency of reducing this latter figure, it is suggested that an appropriate target for Aboriginal and Islander staffing might be 15 per cent. Such a target would allow for Aboriginal staff to become full professionals and to deal not only with Aboriginal but with all client groups. The implications of this target for training are significant.

Payments to foster parents increase with the age of the child. In addition, in some age groups a higher rate applies in the first four weeks. Rates were increased following the 1990-91 Budget. These rates are set out in Table 6.9.

An initial outfitting allowance is also payable for children in foster care and in respect of children in licensed residential care facilities. This is currently \$195 for a child under 12 years and \$239 for a child 12 years and over. Foster parents may also apply to a separate fund for expenses arising out of particular needs of the child. Parents make individual application, and grants are made at the discretion of the Regional Manager. Foster care allowances also apply to children placed in emergency 24-hour care.

The rate for Proctors is \$68.10 per day. Parents in CASS receive \$162.50 per week. The Licensed Residential Care Program subsidises organisations providing residential care at a higher rate for programs specifically for children 12 years of age

7 This figure is likely to include placements made in earlier years, and hence is not necessarily an accurate indicator of current placement practice.

or over (\$81.75 per week) than for those conducting programs for all ages (\$73.50). A salary subsidy is also paid.

The foster payment system assumes that foster parents will claim benefits such as FA on behalf of the child, and no deductions are made in respect of these benefits. Nor are deductions made in the case where the young person receives benefits such as Austudy or JSA unless these are paid at the independent rate, in which case no foster allowance would be paid.

Young people on orders living independently or while in supported accommodation may be paid a Living Expenses Allowance (also known as 'Advance Account') of \$95.10 per week. This payment is limited to four weeks, with possible renewal for a further four weeks. In some circumstances DFS may support young people on guardianship orders in independent living by paying the foster allowance directly to the young person.

Residential Care

At 30 June 1990 about 10 per cent of children under orders were placed in residential care, with a further 2 per cent in 'other establishments' including a correctional centre, hospitals and establishments for handicapped children and for youth. Most residential care is provided by non-government agencies funded by the State's Division for Community Services Development. About 21 per cent of children on care and control orders based on offences were detained in youth centres.

The Strategy Plan for Alternative Care and Intervention (1991) identifies a number of problems in the area of residential care, principally the predominance of the family group home type and the inappropriate geographical location of some facilities. One consequence of these problems is low occupancy rates in some group homes. The Plan notes particular difficulty in finding alternative care placements for children with behavioural problems. These problems are to be addressed through the replacement of the licensing model for funding non-government agencies with a corporatised approach in which DFS will solicit and contract services in terms of its Strategy Plan. A key intention of the Plan is to attempt to diversify the range of alternative care available in Queensland. This includes services directed to the whole family, non-residential programs, services which target specific cultural groups, preventive programs and after care. A significant redirection of funds is expected.

Adolescent services are a major focus of this redirection and the Plan provides for partial replacement of the family group home model with that of the Rostered Youth Worker. This will provide group living, without house parents but with youth workers rostered on a 24-hour basis. Some of these are already in operation. Youth workers in the non-government sector expressed reservations about the Rostered Youth Worker Model as potentially putting a lone worker in danger. They suggested it might be better to concentrate more resources on shelter-type services.

Youth Supported Accommodation Program

There are 48 services funded under YSAP in Queensland. Crisis shelters are the most common type of accommodation services, but other models include supervised accommodation, semi-independent housing, individual and shared housing, community placement with families, detached youth workers and life skills development programs. There are a number of services specifically for Aboriginal and Torres Strait Islanders.

The program's National Client Census for 16 November 1989 showed 198 people under the age of 18 accommodated in SAAP funded services in Queensland, of whom 54 were under the age of 16 (SAAP, 1989).⁸ SAAP guidelines do not permit the funding of specialised shelter accommodation for the under-16 age group. As in South Australia, there is widespread agreement that shelter accommodation is inappropriate for children under 16, who need more support of more kinds than the refuge model envisages. There was, however, less expression of concern than in South Australia about the 'contamination' effects on children placed among older and more street-wise groups.

There is a shortage of affordable long-term accommodation available to young people leaving shelters. Single young people have too low a priority for public housing to have realistic prospects, and are generally not permitted to sign a lease until they have reached the age of 18. In 1989-1990 seven accommodation and support services in areas which the Burdekin Inter-departmental Working Party identified as high need were approved. These included four services targeting Aboriginal and Islander young people and three targeting young women with or without children.

Crisis Care

Crisis Care is a 24-hour telephone counselling service which focuses on child and family welfare matters. The service covers the entire State. It is staffed by 9 workers, a maximum of two on duty during any one shift. When two workers are on duty, one is available to leave the office to assist with urgent and emergency situations. Crisis care receives about 36,000 calls per year.

The main activities of Crisis Care include:

- general emergency back-up service for DFS clients after-hours;
- telephone counselling;
- referral and counselling service for women in domestic violence situations;

⁸ The National Client Census conducted in 1990 does not provide comparable information for that year.

- child protection investigations;
- dealing with runaway adolescents;
- counselling of parents who self-refer regarding concerns that they may abuse their children;
- arrangements for after-hours placements at a youth centre;
- dealing with runaways from residential and foster care;
- emergency relief;
- emergency accommodation for families;
- emergency placements for children;
- after-hours provision of medical consents for children in care; and
- provision of a link between police and court services about children appearing in the Children's Court.

A telephone counselling service specifically for children, Kids Help Line, is funded by Boys Town. The service has a large number of counsellors, with a number on duty at one time in addition to a supervisor. Counsellors are supported by computer and have on-screen access to a postcode-indexed service directory for use in making referrals. The service presently serves Queensland and the Northern Territory, and plans to extend its coverage to Victoria in the near future.

The service received 82,000 calls in the first seven months since it opened at the end of March 1991. By far the largest number have been 'soft calls', i.e. calls without a problem content. There were 32,000 'problem calls' during the same period. Statistics on the type of calls and, where known, demographic characteristics of the caller are being compiled. The emphasis in Kids Help Line is on empowering children by enabling them to state their own needs. It was expected that the largest number of problem calls would be from children wishing to discuss problems of abuse, but in actual experience the largest single category of calls concerns problems with relationships. Most calls are dealt with through counselling, but 18 per cent of callers are referred to other service providers.

6.5 Leaving Care and Post-Care Programs

The Transition from Care Program was developed in response to the Burdekin Inquiry, (HREOC, 1989). A six-month pilot program began in December 1990, after which a report (*Report, Transition from Care Program*, n.d.) was prepared. The Program has continued to operate, but has suffered cutbacks in the 1991 State budget. The pilot project operated state-wide from eight locations in area offices but its scale is to be reduced in the current year. As a permanent program it continues to

operate throughout Queensland, but from only six locations. Two hundred young people passed through the program in its first year.

The program is targeted at young people aged between 16 and 18 who are subject to care and protection orders, care and control orders as a result of application, and in certain cases lengthy care and control orders as a result of committing offences. Its basis is an individualised program for each young person based on personal aims and support needs. The young person works on this program with the assistance of a youth resource worker. Where possible the worker is recruited from his or her own network, but most often these are people with experience in youth work. They are employed on a part-time basis. In the Logan City area it was reported that a youth resource worker would have a case load of no more than two or three adolescents, and often only one, for a period of between two and six months. Experience suggests that the optimum period is about three months, by which time the goals set will have been addressed or it will have become apparent that a more limited target is achievable. Discharge from care is not an identified criterion of success for the program and not all those regarded as completing the program satisfactorily are discharged.

The report on the first six months examined the outcomes of the program for 102 participants. This group tended to have:

- a long history of contact with DFS;
- a long history of regular abuse;
- a high degree of mobility;
- a history of numerous placements including foster families, family group homes, hostels and institutions;
- a history of family violence; and/or
- a lack of support networks in the community.

The majority were aged 16 or 17, but the group included three young people aged below 16. Nineteen were Aboriginal. All but one were on orders, the majority for care and protection.

For the majority of its participants the program brought significant gains: improved stability in accommodation, improved family relationships, participation in activities likely to assist in securing employment, and the acquisition of practical living skills. Gains in education and employment did, however, tend to fall off after completion of the program and may have depended to a substantial degree on the intensive support the program entails. A major finding of the review of the program after six months was that 87 per cent of participants identified the resolution of issues concerning past personal history as an important need. That these issues were addressed in part (46 per cent), significantly (28 per cent), or completely (5 per cent) is an important measure of the program outcome.

One dimension of the assistance provided is in gaining access to social services, including income support. Table 6.10 shows changes in source of income over the first six months of the program. Though the numbers are small the pattern is clear, showing a transfer of income support from State and family to Commonwealth sources.

Young people on guardianship orders can receive support from DFS's Advance Account during the waiting period after application for DSS benefits. These payments can be arranged before discharge from guardianship. Current Queensland legislation precludes the provision of financial assistance to young people after their discharge from orders.

6.6 Interaction of Commonwealth and State Government in Meeting the Needs of Young People in Care

Income Support from the Department of Social Security

DSS provisions for the support of dependent children are an important source of income for the support of children in care. These benefits include FA, FAS, and in some circumstances pensions and fringe benefits. Receipt of these is assumed in the payment system for foster care. The Queensland payment system does not reduce foster care payments on account of receipt of Austudy or DSS benefits received by the young person except where these are paid at independent or homeless rates.

In the case of foster care, aspects of these provisions are the subject of some contention in Queensland. Problems were expressed most commonly with respect to the health care card but may also apply to a number of other provisions. Eligibility for these benefits is determined according to the income and circumstances of the foster parents. This is in contrast to the situation of children in residential care, who are automatically entitled to the health care card and to FA paid on their behalf. Children in foster care are not entitled to the health care card in their own right or to be assessed as a disadvantaged person when foster parents claim family allowance. Clarification is being sought as to whether the State or DCHHS has responsibility for the legislation relating to guidelines for the issue of health care cards.

Perhaps because of the shortage of foster parents, there is also dissatisfaction with the treatment of foster parents without other dependent children who claim JSA/NSA, SB or sole parent pension (SPP). It appears that this follows a tightening of guidelines requiring that a qualifying child be permanently placed and have been in the foster parent's care for a minimum period of 12 months. A case is cited in which a foster mother with no dependent children of her own and placed with four children in care was denied:

- JSA/NSA because she was not able to actively seek work due to the need to care for the children;
-

- SPP because the children had not been with her for the minimum 12 months period and might not be staying permanently; and
- SB because the children in her care did not require constant care.

This case was the subject of a letter from the Queensland Minister for DFS to the Minister of DSS. In its response DSS pointed out that the claimant was unable to qualify for JSA/NSA because DFS does not allow foster parents to seek employment. The DSS places no restrictions on persons with children in their care seeking employment. SB was found to be not payable because the claimant, by choosing to become a foster parent, had adopted a lifestyle by which she was unable to earn sufficient livelihood (in this case to qualify for JSA/NSA).

There is also confusion about the entitlement of young people on orders and aged 16 and 17 to benefits such as JSA. There is strong feeling that to treat a child on orders differently from an age mate not on orders is discriminatory. As in South Australia, it was believed (wrongly) that a means test on parental income applies to foster parents of applicants for benefits such as JSA. It was frequently pointed out that such parents have no legal responsibility for the financial support of the young person.

Field social workers with the DSS believe that children are being discharged from orders earlier than in the past, the purpose being to make them eligible for Commonwealth services. There has indeed been a marked decline in the numbers of young people on orders, but there was no evidence that the decline has occurred for this reason. DSS social workers also consider that the DFS is more reluctant than in the past to take new people into care, and numbers of admissions and discharges are consistent with this impression. Foreshadowed changes in the form and use of orders are also likely to have this effect. Staff in programs such as Transition from Care see the move from dependence on the DFS to the use of Commonwealth income support as a step towards independence and self-reliance.

State field staff reported variability in the administration of Commonwealth benefits, particularly the YHA, from office to office. Many said that much depended on forming good working relationships with particular officers. Some light was shed on the working relation between members of the State and Commonwealth departments in a letter sent by a DSS social worker unable to meet personally with the investigator:

While we at have always had a good liaison relationship with Family Services locally, our expectations have been low. We have been told that there aren't enough staff, that caseloads are very high and that there is no money for financial support of young people whether or they are not in care unless an official fostering arrangement is in place. Fortunately, DFS & AIA financial assistance possibilities are only at issue when the claimant is under 16. In my experience very few such claimants are actually in care.

With respect to the last point, DFS figures for the number of children in care do not distinguish between those under and over the age of 16.

From the point of view of workers at both levels, the assignment of determination of eligibility for the YHA rate of benefit to DSS social workers appears to have greatly improved its administration. This arrangement appears satisfactory in practice.

Income Support from the Department of Employment, Education and Training

Austudy benefits are treated in the support for foster and residential care in the same way as those provided by the DSS. Foster parents report no difficulty in securing Austudy entitlements for children in their care. This group are knowledgeable about application procedures.

Youth workers reported that waiting times for Austudy effectively deterred homeless young people from resuming study. They remarked on inconsistencies in administrative practice concerning DSS and DEET benefits and would like to see the two departments work more closely together. They commented that the young people they deal with do not cope well with complex application procedures and would prefer not to be paid to being 'hooked to a bureaucracy'. As in South Australia, DSS social workers commented on the lack of field social work staff available to handle applications and assessment for the SHR of Austudy assistance.

Youth Supported Accommodation Program and Crisis Accommodation

There seems to be a tussle going on over the provision of SAAP-funded services to children on orders. A directive from the Division of Community Services Development has instructed that children under 16 are not to be placed in SAAP services. However, workers in the field argue that there is often no alternative and it is reported that DFS officers do seek SAAP placements for their clients on at least some occasions. Shelter workers feel the DFS is not fulfilling its responsibilities and have sometimes personally taken a young person to the DFS office, presumably to insist that something be done. In practice it does appear that SAAP services accept young people under 16. It was reported that experience with the Transition from Care Program had made SAAP workers more willing to accept wards because these workers now saw the young people as receiving DFS support. In principle short-term support payments from the Advance Account may be used as payment to a shelter for accommodating a ward, but it is doubtful that this happens in practice.

The concept of YSAP as a transitional service depends on the availability of longer term accommodation and other support services. While there appears to be a greater variety of supported accommodation in Queensland than in South Australia, there clearly remains a shortfall; there is very little accommodation for independent living. The 60 children on orders shown in the *Annual Report 1989-90* as living in 'Establishments for Youth/Adults' are likely to be in SAAP-funded services.

Aboriginal and Islander Child Care Agencies

As remarked above, AICCAs play a very large role in Queensland. This work includes not only active involvement in the support and placement of Aboriginal and Islander children in care but also with assistance to children going before the court. AICCAs have also been concerned with the development of refuge and shelter accommodation. In 1989-1990 Queensland agencies received 45 per cent of all Commonwealth AICCA funding (Atkinson, 1991: 39).⁹ Queensland contributes far less to AICCA funding than other States.

Even with the present level of Commonwealth support, Queensland continues to have extremely high numbers of Aboriginal and Islander children in care and in addition, a high rate of placement in non-Aboriginal and Islander homes. The view was expressed that in any changed funding arrangements, funding for services to Aboriginal children and families should not be reduced.

6.7 Summary and Discussion

A significant reduction in the use of guardianship orders is underway in Queensland. In the two years from June 1988 to June 1990 the rate of guardianship orders per thousand children aged under 18 years has declined from 4.6 to 3.7 per cent. To date this reduction has been most pronounced in orders for care and protection, but the planned abolition of the use of guardianship orders for offender categories will, when implemented, bring a further large reduction. Behind this trend lies a by now established legal philosophy emphasising the right of the family to security from intervention except in circumstances where the child is clearly subject to harm or risk of harm. The philosophy reflects concern to respect the privacy and civil liberties of the family and to use State power in ways supporting rather than dividing families. This philosophy is to be expressed in new legislation bringing statutory provisions in line with child welfare practice. Planned legislative changes include new forms of order having graded levels of severity and shorter and more clearly defined durations. These new forms imply further reduction in numbers subject to the full powers of guardianship in the future. They also imply increasing needs for support and supervision to those on lesser orders in the future.

The contemporary policy emphasis has come into being at a time when child welfare resources are severely limited, and although we did not investigate resource allocations, shortfalls were obvious in all areas of adolescent care. There are visible gaps in the supply of foster care, in supervision and support to caregivers, and in crisis services. The DFS has prepared strategic plans in some of these areas and for the redirection of the resources of non-government providers, but these beginnings have yet to show clear results in improved standards.

9 AICCAs provide a wide range of services, hence not all the funds represented in this figure are applied to work with children in the care of the State.

In the context of resource scarcity restriction of the use of legal orders is serving the further function of targeting limited welfare resources on those children whose need for care and protection is most compelling. The likely corollary is that resources, as well as legal intervention, have been drawn away from less clearly defined areas of service to children at risk and away from services with preventive functions. There does not appear to have been any compensating development of such services.

The targeting function served by the increasingly restricted use of orders is compounded by the limitation of foster payment support to children on orders. One consequence of this limitation is a lack of support to children in the care of relatives where a need for care and protection has not been established. In these circumstances there may be a conflict between the avoidance of unnecessary legal intervention and the need for support for the caregiving capacities of extended family members. This situation is likely to be especially common in Aboriginal communities.

The Queensland payment system supports foster care throughout the term of the order, and does not appear to be affected by the young person's receipt of Commonwealth income support such as Austudy or JSA. Such a policy helps to sustain foster care while an order is in effect. However Queensland legislation prohibits payment after discharge from wardship, potentially affecting the stability of foster placements through the mid-teen years. Proposed legislative changes include an order for short-term custody without guardianship. Young people in this situation will require support but will be outside the present range of payments to foster caregivers.

The case study identified several areas in which Queensland policies and programs had implications for Commonwealth programs. One is the proposed introduction of short-term orders and an order in which parents retain guardianship rights. To the extent that being a ward of state makes the young person ineligible for Commonwealth benefits, these developments raise new questions about the meaning of wardship and boundaries of responsibility. A consequence of inadequate welfare practice supporting such orders may be children 'falling out' of care in adolescence. Young people in this circumstance would be potentially eligible for SB including YHA.

Queensland's Transition from Care Program, piloted in 1990, also leads to increased claims on Commonwealth benefits. The program appears effective in assisting young people to resolve issues deriving from the experience of being in care, and to return to their families or establish themselves in independent living. Another measure of its effectiveness was that the young people were encouraged to seek education or employment opportunities. At the same time the cost of their support has been transferred from the State to the Commonwealth through claims for income support payments. This is a quite proper form of assistance for such a program to provide. Budget cutbacks have reduced the resources available to this program, and a gap remains in services to assist young people leaving care.

It is not Queensland policy to accommodate young people on guardianship or other orders in refuges or other crisis accommodation, but workers facing a dearth of other possibilities clearly do so on at least some occasions. The realities workers face stem from shortfalls in both appropriate foster care for adolescents and in medium and long term alternative accommodation. The prohibition in SAAP guidelines against specialist refuge and other services for children under 16 means that such referrals put young adolescents in contact with older and more street-wise groups.

Finally, Queensland is heavily reliant on the staff of the AICCAs for assistance in locating and supervising appropriate placements for these young people. Fundamental to the problem are the disproportionate numbers of Aboriginal and Islander children subject to orders in Queensland. Queensland appears not to be addressing this problem. Neither is the State paying its share of the cost of AICCA services or developing its own staff with appropriate qualifications.

Table 6.1: Children Under Orders by Type of Order, Queensland, Year Ended 30 June, 1990

Type of Order	No	%
Care and Control (Offences)	593	14.0
Care and Control (Applications)	86	2.0
Total Care and Control	679	16.1
Care and Protection (Voluntary Applications)	325	7.7
Care and Protection (Applications)	2 369	56.0
Total Care and Protection	2 694	63.7
Supervision (Offences)	463	10.9
Supervision (Applications)	24	0.6
Total Supervision	487	11.5
Protective Supervision	359	8.5
Queen's Pleasure	10	0.2
Total	4 229	100.0

Source: Department of Family Services and Aboriginal and Islander Affairs, *Annual Report 1989-90*: 43.

Table 6.2: Children Under Orders: Children on Hand at 30 June, 1986-1990 - Queensland

Year ended 30 June	Male	Female	Total
1986	2 763	1 998	4 761
1987	2 670	1 878	4 548
1988	2 596	1 830	4 426
1989	2 563	1 783	4 346
1990	2 501	1 728	4 229

Source: Department of Family Services and Aboriginal and Islander Affairs, October 1991.

Table 6.3: Children Under Guardianship Orders by Age and Sex of Child - Queensland, 30 June 1988

Age of Child	Male	Guardianship Orders		Total
		Female		
0	32	30		62
1	31	27		58
2	50	39		89
3	44	43		87
4	70	51		121
5	65	59		124
6	54	67		121
7	63	65		128
8	69	74		143
9	72	60		132
10	82	80		162
11	75	65		140
12	96	94		190
13	128	105		233
14	183	134		317
15	259	188		447
16	318	200		518
17	266	160		426
Adult	17	4		21
Total	1 974	1 545		3 519

Source: Welstat Data Collection.

Table 6.4: Children Under Orders: Children on Hand by Age and Sex - Year Ended 30 June 1990 - Queensland

Age Group	Male	Female	Total
0 - 4	198	214	412
5-9	404	391	795
10-14	721	525	1 246
15 & over	1 178	598	1 776
Total	2 501	1 728	4 229

Source: Department of Family Services and Aboriginal and Islander Affairs, October 1991.

Table 6.5: Children Admitted to Guardianship/Other Orders by Age of Child - 1987/88 to 1989/90 - Queensland

Age of Child as at 30 June	Admissions to Orders														
	Guardianship						Other Orders						Total Admissions		
	Offence			Care/ Protection			Offence			Care/ Protection					
	88	89	90	88	89	90	88	89	90	88	89	90	88	89	90
0	0	0	0	150	37	34	0	0	0	13	9	11	163	46	45
1	0	0	0	34	44	27	0	0	0	11	12	19	45	55	46
2	0	0	0	16	23	26	0	0	0	11	8	10	27	31	36
3	0	0	0	22	30	18	0	0	0	11	6	88	33	36	26
4	0	0	0	18	23	18	0	0	0	11	6	11	29	29	29
5	0	0	0	19	24	17	0	0	0	7	12	2	26	36	19
6	0	0	0	13	15	28	0	0	0	3	6	5	16	21	33
7	0	0	0	14	16	18	0	0	0	10	8	6	24	24	24
8	0	0	0	15	21	18	0	0	0	8	6	5	23	27	23
9	0	0	0	17	22	21	0	0	0	7	8	4	24	30	25
10	5	7	1	21	22	14	5	3	1	6	4	11	37	36	27
11	14	5	5	23	28	25	19	13	12	4	8	6	60	54	48
12	42	16	12	24	34	40	30	21	15	3	4	5	99	75	72
13	68	59	37	39	51	55	65	80	36	8	7	8	180	197	136
14	102	184	83	66	64	48	134	162	114	13	4	3	315	414	248
15	155	241	164	39	31	37	214	269	156	10	7	5	418	548	362
16	8	333	216	13	10	9	207	284	210	6	4	1	234	631	436
17	1	37	26	4	1	1	15	26	30	0	3	0	20	67	57
Adult	0	1	0	0	1	0	3	1	1	0	0	0	3	3	1
Total	395	883	544	547	496	454	692	859	575	142	122	120	1 776	2 360	1 693

Source: Welstat Data Collection.

Table 6.6: Children Discharged from Guardianship/Other Orders by Age of Child - 1988/89 and 1989/90 - Queensland

Age of Child as at 30 June	Discharges from Orders									
	Guardianship				Other Orders				Total	
	Offence		Care/ Protection		Offence		Care/ Protection		Discharged	
	89	90	89	90	89	90	89	90	89	90
0	0	0	42	3	0	0	2	0	44	3
1	0	0	12	4	0	0	5	2	17	6
2	0	0	14	6	0	0	6	6	20	12
3	0	0	10	4	0	0	6	6	16	10
4	0	0	7	13	0	0	7	9	14	22
5	0	0	15	3	0	0	9	10	24	13
6	0	0	10	8	0	0	6	10	16	18
7	0	0	15	5	0	0	4	8	19	13
8	0	0	14	8	0	0	4	5	18	13
9	0	0	14	9	0	0	6	5	20	14
10	0	1	10	7	3	0	2	7	15	15
11	4	3	13	9	9	1	5	6	31	19
12	11	6	15	4	27	14	7	9	60	33
13	18	12	17	8	38	23	13	7	86	50
14	100	38	23	9	114	82	6	10	243	139
15	172	99	33	12	197	121	10	3	412	235
16	217	152	51	30	282	195	10	6	560	383
17	296	171	156	27	220	167	18	7	790	372
Adult	58	80	56	313	46	51	3	40	163	484
Total	876	562	627	482	936	654	129	156	2 568	1 854

Notes: No data are available for 1987/88.

Source: Welstat Data Collection.

Table 6.7: Children Under Orders by Type of Placement - Queensland, Year ended 30 June 1990

Type of Placement	No.	%
Residential Care:		
Departmental institutions	130	3.1
Other residential establishments	279	6.6
Foster care	1 555	36.8
Home placement	1 719	40.6
Community based care	20	0.5
Living independently	230	5.4
Living with adults	166	3.9
In employment	16	0.4
Other establishments:		
Correctional centre	14	0.3
Hospitals	3	0.1
Special hospitals	6	0.1
Establishments for youth/adults	60	1.4
Establishments for handicapped	21	0.5
Boarding school	9	0.2
Other	1	0.0
Total	4 229	100.0

Source: Department of Family Services and Aboriginal and Islander Affairs, *Annual Report 1989-90*: 44.

Table 6.8: Children Under Orders: Children on Hand by Aboriginality by Sex and Age - 1987 - 1990 - Queensland

	Aboriginal and Islander Persons	Total Persons	% of Aboriginal/ Islander Persons
Year Ended 30 June 1990			
0 - 4	116	412	28
5 - 9	235	795	30
10 - 14	368	1 246	30
15 and over	463	1 776	26
Total	1 182	4 229	28
Year Ended 30 June 1989			
0 - 4	131	574	23
5 - 9	228	840	27
10 - 14	324	1 289	25
15 and over	396	1 643	24
Total	1 079	4 346	25
Year Ended 30 June 1988			
0 - 4	99	523	19
5 - 9	192	775	25
10 - 14	302	1 249	24
15 and over	439	1 879	23
Total	1 032	4 426	23
Year Ended 30 June 1987			
0 - 4	87	443	20
5 - 9	170	718	24
10 - 14	286	1 149	25
15 and over	489	2 238	22
Total	1 032	4 548	23

Source: Department of Family Services and Aboriginal and Islander Affairs, 1991.

Table 6.9: Allowances and Payments to Foster Parents and other Caregivers - Queensland

Age of Child	First Four Weeks (\$ weekly)	Thereafter (\$ weekly)
Less than one year	65.50	55.80
1-4 years	85.10	55.80
5-11 years	67.70	67.70
12-15	102.90	102.90
16 years and over	99.20	99.20

Note: Rates effective from 5 November 1990.

Table 6.10: Income Status of Participants in Transition from Care

	Prior to TFC	Current Income	Percent Change
No income	19	5	- 74
Supported by family	4	3	- 25
Advance Account (DFS)	9	2	- 78
Fostering payment	13	9	- 31
Austudy	5	10	+ 100
Job Search Allowance	4	7	+ 75
Young Homeless Allowance	16	28	+ 75
Sole Parents Pension	7	9	+ 29
Disability Allowance	4	3	- 25
Unemployment Benefit	9	12	+ 33
Employed	10	11	+ 10
Other	1	1	0
Not included	1	-	-

Source: *Report, Transition from Care Program (n.d.)*, Table 8.

7 Wardship and Commonwealth-State Relations in South Australia

7.1 The Child Welfare Policy Framework

The South Australian approach to child welfare policy is summarised in the policy statement *Guardianship, Long-Term Legal Status and Related Issues* (Le Sueur, 1990). This approach has as its premise the notion of children's rights and parents' duties. Children are seen as having the right to enjoy parental care and protection and to have their welfare safeguarded in a family that offers security and continuity of relationships. It is the duty of parents to ensure the health and well-being of their children, to assist them to develop their capacities, and to prepare them for independent and responsible citizenship in adult life. The powers of parents are seen as diminishing with the age and maturity of the child.

It is a basic responsibility of the State to encourage and support the ability of families to care for their children. This responsibility includes the promotion of a network of community-based services to support families, community development and social planning in new housing areas, the provision of emergency financial assistance, concessions and other measures contributing towards ensuring an adequate standard of living for low-income families, and advocacy with respect to income support and other Commonwealth responsibilities.

Families have the right to bring up their children in the light of their own values, beliefs and cultural traditions, but where parents are unable or unwilling to fulfil their duties it is the responsibility of the State to advocate for and, if necessary, to intervene on behalf of the child. In such an intervention the 'best interests' of the child must be paramount. There is a preference in South Australia for such intervention to be judicially rather than administratively based. All parties must have the opportunity to be heard, and intervention should not exceed the minimum level consistent with the safety and well-being of the child.

When the State is obliged to assume responsibility for a child, the State is itself obliged to be a 'good parent'. At bottom this means that the State must ensure that the child is better off as a result of intervention. The concept is, however, intended to embrace a much broader set of expectations. It refers also to the responsibility to ensure that the full range of a child's needs are met. Importantly, it also carries expectations about the 'life-long' needs of the child. This includes the preparation of the young person for adult life and assistance in the transition to independent living.

The key concepts underlying intervention in South Australia are family care and permanency planning.

Permanency planning is a concept used to describe the case management efforts made to ensure that a child is able to live with a family on a long-term basis. It ranges, therefore, from the provision of services to families to prevent removal of children, to the placement of a child in another family on a long-term basis and without any further contact between the child and his/her natural family. The objective is for the child to achieve long-term legal status within a family which provides for the child's optimum physical, emotional and developmental needs. (Le Sueur, 1990: 18)

Permanency planning requires active case management with prompt and decisive implementation. While family placement is not suitable for all children in need of out-of-home care, it is preferred wherever possible. Departmental procedures specify that placement in residential care occur only when a child is unable to be placed with relatives, friends or family caregivers or when the child is approaching independence.

Another feature of the South Australian approach to adolescent and family welfare is its strong emphasis on one-to-one forms of work. The majority of programs in both child protection and juvenile justice are based on this form of practice, and many demand intensive patterns of work for at least a period of time. There are, however, also some specialist community-based programs and the child protection and juvenile justice functions are in turn set in the context of a range of general community services.

7.2 Administrative Structure

On 1 October 1991 the Department for Family and Community Services (FACS) began a major reorganisation of Departmental structure and functions extending its matrix management system. Overall responsibility lies with an Executive Committee consisting of the Chief Executive Officer, the Executive Director of Operations, Regional Directors and Directors of Programs. Directors of Regions have both area and portfolio responsibilities, linking policy-making with field experience. The move to the new administrative structure will entail the replacement of 43 per cent of middle management positions with base-grade field positions.

South Australia also has a Children's Interest Bureau (Castell-McGreggor, 1987), the function of which is to provide separate representation of the interests of children. This is a body established under the *Community Welfare Act*. It is separate from FACS and independently accountable to the Minister. The Children's Interest Bureau is not discussed further in this Report.

Principal FACS programs relevant to adolescent care are as follows:

- Child Protection and Policy;
-

- Domestic Violence¹⁰;
- Substitute Care and Adoptions;
- Juvenile Offender Services; and
- Family and Community Development, including
 - Family Services,
 - SAAP and Emergency Accommodation, and
 - Counselling.

An important aspect of the new FACS structure is a move to organise field services on a generic basis. Of most relevance to the questions addressed here is the replacement of the previously separate field program for adolescents at risk by integrated Adolescent and Family Teams. Field staff are responsible for caseloads of children for whom FACS has statutory obligations (guardianship or control), children at risk and young offenders. Each child is assigned to one worker. There is an attempt to maintain distinctive forms of therapeutic treatment for these groups.

7.3 Orders for Guardianship and Care

Orders for Care and Protection

Legislation governing orders for guardianship and care in South Australia is contained in the *Community Welfare Act 1971-81* and the *Children's Protection and Young Offenders Act 1979-82*. These were amended during the 1980s to increase placement options available to the courts. Further amendments foreshadowed in Taylor (1990) have not yet taken place, but are still anticipated.

Development is toward the establishment of a wide and flexible range of legal orders providing clear and graduated degrees of intervention in parental power and authority. This reflects human rights philosophy in allowing the minimum interference in the rights and freedoms of private citizens required to protect the safety and well-being of the child. It is also in accord with a broader view that there should be correspondence between the scope of DFS intervention and the level of order applied. Though there are both administrative and judicial orders governing the care of children there is an increasing belief that administrative actions should be limited and the courts used wherever possible.

10 Child Protection and Policy and Domestic Violence are joint units with the South Australian Health Commission and there is a longer term plan to integrate them in a single unit focusing on family violence.

Judicial orders are contained in the *Children's Protection and Young Offenders Act* and determined by the Children's Court. Section 7 of the Act specifies that the factors the Court shall consider include the need to preserve and strengthen the relationship between the child and parents and other family members; the desirability of maintaining continuity in the child's life with respect to place of residence, education and employment; the child's ethnic or racial background and sense of cultural identity; and where appropriate the need to protect the community from the violent or wrongful acts of the child.

The Act empowers the Minister to apply to the Court for a declaration that a child is in need of care and protection in circumstances of maltreatment, neglect or the risk of such forms of harmful treatment; the guardians being unable or unwilling to exercise adequate supervision and control of the child; the guardians being unwilling or unable to maintain the child; or the guardians being dead, having abandoned the child, or being unable to be found.

The Court may make orders of a number of kinds. It may:

- place the child under the Guardianship of the Minister for a specified period;
- place the child under the Guardianship of Another Person;
- place the child under the control of the Chief Executive Officer to such an extent, specified in the order, as the Court thinks necessary to secure the proper care, protection or control of the child;
- make directions to the child's guardian concerning the residence and/or care and protection of the child; or
- make directions to a person who is, or has been residing with the child.

Only the first two of these orders remove guardianship, i.e. responsibility for the long-term welfare of the child and possession of the legal powers of guardianship, from the parent or previous guardian. In making these orders the Court may also make directions concerning access to the child and specify the way in which the powers of guardianship are to be exercised.

The order for Guardianship of Another Person was introduced in a 1989 amendment of the Act. Among prospective guardians under this provision are relatives, including Aboriginal relatives as defined by customary law, foster parents, other significant persons such as a long-term family friend or the previous partner of a parent, and Aboriginal elders. The order is intended to give the basis for permanent placement when return to the natural parents is unlikely or undesirable and adoption is not appropriate or possible (Le Sueur, 1990: 27).

The remaining types of order place the child, parents or other persons under a degree of control by the State without formally removing guardianship from the parents. The order placing the child in the control of the Chief Executive Officer is intended for use, often on a voluntary basis, in periods of intensive work with a family. It is

expected that the use of this order will be replaced in many cases by the 'Care Agreement' proposed to be added to the *Community Welfare Act* and discussed below.

Other judicial orders enable the Court to require that guardians take particular actions (e.g. secure medical care) for the benefit of the child, and regulate the actions of persons living with the child (such as the partner of a parent).

The addition of two further orders is currently under discussion. An order to place a child in a Place of Safety will allow FACS to investigate the circumstances of a child thought to be at risk of injury or abuse, providing a short period before formal determination by the Court. The maximum length of this order is as yet undecided, but is expected to be between one and three working days. An Early Intervention Order is expected to be very similar to the Place of Safety Order. Both orders are seen as giving workers the ability to act immediately and to seek ratification by the Court very shortly thereafter.

There are also administrative orders bringing children into the care of the state. These are contained in the *Community Welfare Act*. Important amendments are expected in both the Act and the orders for which it provides. Planned amendments to the Act will broaden the objectives of Minister and FACS to include supporting parents and families in the care of children and responsibility for the welfare of children subject to or at risk of neglect or abuse. The Minister and FACS must take into consideration the different customs, attitudes and religious beliefs of ethnic or cultural groups within the community and any relevant Aboriginal customary law.

At present the Act provides an administrative determination that a child is in need of care and protection. The order follows application by a parent or child aged 15 or above and assigns guardianship to the Minister. This provision has been the subject of criticism for giving excessive administrative authority and it is to be removed from the Act. It is to be replaced by a new provision enabling the Chief Executive Officer to enter into a Care Agreement with the guardian of the child. A Care Agreement will vest designated aspects of the care of the child in the Chief Executive Officer. It may be initiated by the guardian or by a child aged 15 or above, but where the child has reached the age of 15 the Agreement must have the child's consent. A Care Agreement must be in writing and must set out in some detail the nature and extent of care vested in the Chief Executive Officer. It is voluntary, and may be terminated at any time. The maximum term of an Agreement is to be six months, and the welfare and progress of the child must be reviewed at least once in every three months of the Agreement period. A Care Agreement is appropriate only where there are no known issues of protection. This Order is intended to enable FACS to provide services, particularly accommodation, without proceeding to Court or assuming guardianship. It does not remove or limit guardianship in any legal sense.

The *Community Welfare Act* also provides for a short-term order for Guardianship of the Chief Executive Officer through administrative action. This is a voluntary order made on application by the guardian or by a child aged 15 or above, and in this latter

case requires the consent of the child. Parents can opt out at any time. It is proposed to extend the maximum term of this order from four to six weeks.

Orders for Juvenile Offenders

Although the *Children's Protection and Young Offenders Act* provides for both children in need of protection and children offending against the law the legal provisions for care and juvenile justice are distinct. There has been some discussion of the need for a new Act separating the two functions.

The treatment of offenders has to be understood in the context of South Australia's distinctive processes in juvenile justice. Unless the police decide not to proceed, a child who has allegedly offended against the law is initially referred to a Children's Screening Panel. This Panel, consisting of a police officer and an officer of FACS, has the power to decide which branch of the legal system should deal with the child. It can decide that no action should be taken, recommend a police caution, or refer matters to a Children's Aid Panel or to a Children's Court.

A Children's Aid Panel provides an alternative to formal Court processes. Involving the child and members of the child's family, it provides guidance, counselling and assistance aimed at avoiding further offences. A Children's Aid Panel can require the child or parents to make an undertaking with respect to future behaviour or to make restitution to victims. It can also refer the matter to a Children's Court.

The Children's Court has a range of options in sentencing young persons convicted of offences. The Court may:

- place the young person on a bond, with or without conditions requiring supervision by a member of DFS;
 - set a fine;
 - require community service in lieu of fine or other monetary penalty;
 - make a Community Service Order;
 - require the young person to attend a Youth Project Centre as an alternative to detention;
 - make an order for assessment in the South Australian Youth Remand and Assessment Centre (SAYRAC);
 - place the young person in Intensive Neighbourhood Care (INC) or require that the young person undertake Intensive Personal Supervision (IPS);
-

- sentence the young person to a period of detention in the South Australian Youth Training Centre (SAYTC); or
- make an order for suspended detention.

Of these options, only INC and detention necessarily remove the young person from parental custody. Where the young person is held in detention some aspects of guardianship are taken over. INC is a special form of family-based care for young offenders and adolescents in crisis and will be discussed in more detail below.

The Use of Orders

Table 7.1 shows the numbers of children on orders during 1990-1991. As can be seen, the total number of children on orders of guardianship or control was slightly higher than in the previous year. There was also an increase in the number of new orders taken out during the year. Remarkable also are the low numbers of children placed in residential care and in secure care.

Table 7.2 shows the age distribution of children under guardianship in 1988, the most recent year for which these data are available. In South Australia the largest numbers of children declared to be 'in need of care' were in the adolescent age group. This is not a new pattern. Over the five year period 1979-1985, 49.4 per cent of children declared to be in 'need of care' were in the 10-16 age grouping (Dunstan, 1985: 1). Over the same period the numbers of children under 10 years of age declined while those in the 10-16 age group increased.

Table 7.3 shows the numbers of children admitted to orders in 1988 and 1990. The number of children admitted to guardianship/other orders 1987-88 to 1989-90 shows a marked decline over the three-year period at virtually every age level and for every category of order except other care and protection orders. Total admissions have dropped by 648 people. All admissions to guardianship, care and protection orders have decreased by 5 per cent over the three years, from 26 per cent to 21 per cent. Other offence orders have increased by 4 per cent, from 74 per cent to 78 per cent respectively.

Table 7.4 presents information about the types of orders applied to children placed under guardianship or control for the first time during 1990-1991. By far the largest number of orders were judicially determined and for guardianship.

The number of children discharged from guardianship/other orders (Table 7.5) cannot be evaluated for the same time period as data were not available for 1987/88 or 1988/89. In 1989/90 the total number discharged rose significantly from age 14 years and by 55 per cent between the ages of 15 and 17 years. The largest numbers of young people discharged from guardianship orders had been under care and protection orders, whereas for other orders, the bulk of young people had been under orders for offences.

7.4 Substitute and Residential Care of Adolescents

At June 30, 1991 there were 1330 children in South Australia under guardianship, detention or control orders (*Annual Report 1990-91*). Their placement is shown in Table 7.6, reprinted from the *FACS Annual Report 1990-91*. FACS policy stresses the desirability of maintaining children in the family wherever possible, the next favoured option being to place them within the extended family or family network. Almost one quarter were living with parents, other relatives or another adult.

Foster Care and Specialist Placement Programs

By far the largest proportion (some 61 per cent in 1990) of children under guardianship, detention or control orders are placed in foster care. FACS licenses and funds nine foster care agencies and licenses but does not fund a further two. DFS also runs a small emergency foster care service in its own right. Particular foster parents are chosen for the care of children placed in adolescence.

INC is a specialised family placement program for adolescents. The program accounts for a further 5 per cent of placements. These are time-limited, usually to 12 months, and INC parents have special training. About ten years old, INC began as a program for young offenders, and was subsequently broadened to include adolescents at risk. There is a special Aboriginal INC program, and Aboriginal children account for just under 10 per cent of INC placements. The INC program is currently under review and the likely outcome is that it will again be restricted to offenders.

Aboriginal placements are overseen by Aboriginal Family Care Committees and AICCA. The South Australian Aboriginal Child Care Agency Forum Inc. serves the entire State. Among other functions this organisation deals with the placement of Aboriginal children with Aboriginal families and the implementation of the Aboriginal Child Placement Principle. Its funding comes from the Commonwealth (68 per cent) and South Australian (32 per cent) Governments. The South Australian Government contributes a significant part of its staffing - 10 of 22 workers in 1989/90 (Atkinson, 1991: 67). There are 10 fieldworkers who travel throughout the State. The first concern of AICCA is with the needs of children in foster care and the support of Aboriginal families to keep their children at home. At the same time, however, the Aboriginal community has also expected it to address a range of diverse issues affecting family and community life. Now in its fourteenth year of operation, AICCA is working to reconcile these conflicting demands. The State is monitoring the application of the Aboriginal Child Care Principle.

FACS also has an Aboriginal Family Care program with six community-based workers across the State. The function of these workers is to support Aboriginal families in their contact with FACS and other service providers. In addition most South Australian government departments have an Aboriginal unit with Aboriginal employees.

A new payments system for foster care is being introduced in association with the new FACS structure. A key feature of the new system is that support is in future to be much more closely limited to the care of children for which there is a clear DFS responsibility. The new rate structure is shown in Table 7.7. Support payments are intended to reimburse foster parents for the cost of care, and payments are not intended to include any compensation for effort. INC and special needs placements are, however, supported at substantially higher rates.

The payments framework being introduced is to have two components. Basic Subsidy covers the costs of food, household provisions, fuel, clothing, schooling excluding uniforms or fees, gifts etc. Additional Payments consist of supplementary allowances for pocket money, clothing, pharmaceutical and medical expenses, babysitting, travel and recurring incidentals such as haircuts. The levels of both components increase with the age of the child.

There are three categories of placement used in the payments system:

- Category A: Children subject to order for guardianship or control of Chief Executive Officer;
- Category B: Children subject to the guardianship of any other person; and
- Category C: Children placed without an order (maximum three months).

Category A payments are made at the maximum level, i.e. including both Basic Subsidy and Additional Payment. For Category B and Category C placements only the Basic Subsidy is payable. Where a placement becomes permanent only Basic Subsidy is to be paid. Under the new payments system support payments for out of home care will not be available to children, whether placed with relatives or non-relatives, unless on an order.

Loadings and higher rates apply to children in short-term placements, emergency and respite care, and under the INC program. Short-term Category A placements (maximum three months) attract a loading of 25 per cent on both Basic Subsidy and Additional Payment. Emergency and respite placements have loadings of up to 100 per cent on the Basic Subsidy. INC placements are supported at the rate for the 15-17 year age group and attract a loading of 100 per cent on the Basic Subsidy. Payments for children with special needs can attract loadings of up to 200 per cent. Provision has also been made for a quarterly Education Grant to children in Category A. These placements may also be eligible for payment of incidental expenses in exceptional circumstances.

These payments are reduced in respect of income paid to the foster parents on behalf of the child. These deductions will not apply in the case of means-tested DSS and Austudy benefits paid to the foster parents. Deductions will, however, be made where the child is in receipt of benefits such as JSA or Austudy. Young people in Category A, i.e. on orders, will receive Basic Subsidy. A dollar for dollar reduction applies to those in Categories B and C, i.e. not on orders. Where the person receives

YHA, its Austudy equivalent or Austudy at the independent rate no payment is to be made, as these benefits exceed the level of state support and are considered a form of direct income support to the child.

The proposal to withdraw financial support from placements not subject to an order is likely to have particular effects in the case of Aboriginal children. Foster care payments take on added importance in the light of the low incomes of Aboriginal households and the commitment to Aboriginal care for Aboriginal children. The Aboriginal community views foster payments as a necessary support for the capacity of the extended Aboriginal family to care for the children of relatives as well as for children subject to orders. The proposal is currently being reviewed in the light of these issues, and an alternative form of support for Aboriginal caregivers is under consideration. In the meantime no support will be withdrawn from families caring for children without an order.

At the other end of the payment spectrum, the INC program is the source of a number of tensions in South Australian foster care. Intensive care and higher rates of support have made it more attractive than ordinary foster care for the placement of difficult or highly stressed adolescents. Its boundaries have proved difficult to maintain, and the higher payment rates would seem to have compounded other upward pressures on ordinary payment rates.¹¹ Higher rates also result in a sharper drop in household income when they are stopped. The difference in rates is likely to have greatest impact in Aboriginal substitute care.

Residential Care

Numbers in residential care are low in South Australia, on June 30 1990 accounting for less than 10 per cent of children on orders. Less than 2 per cent are in secure care in the units SAYTC and SAYRAC. Residential care is almost wholly limited to the care of children with disabilities or extreme behavioural problems. In addition to specialised units for children with disabilities there are three regional assessment units, four community units, and two hostels. Most of these operate under government auspices, but FACS also funds three units run by non-government organisations.

There is a shortage of residential facilities for the long-term care and accommodation of young people with severe problems. This gap applies both at the conclusion of time-limited INC placements and for those with severe behavioural disturbances. This shortfall was highlighted in a report by Cole (1989: 20-3), who noted that it had also been observed in the report of the Community Residential Care Review Committee in 1989. Given an ideological context hostile to institutional solutions

11 The need for further increases in payment rates for foster care is also argued on the grounds that rates remain below costs estimated in a study by the Australian Institute of Family Studies.

and an economic one of limited resources, it is unlikely that this gap will be addressed in the foreseeable future.

Youth Supported Accommodation Program

Some 44 organisations are funded under the YSAP in South Australia. Of these 31 provide accommodation.

The new payments system for the support of children in State care applies also to children in residential care and shelter accommodation. Details of its application to these children appear as yet unresolved, but broad principles follow those applied for foster care. Where the child is subject to an order and has no other income, Basic Subsidy and Additional Payment are to be paid. Where there is other income, Basic Subsidy only is to be paid. For children not on an order, Basic Subsidy is to be paid providing there is no other income.

The program's National Client Census for 16 November 1989 showed 88 people under the age of 18 accommodated in SAAP funded services in South Australia, of whom 22 were under 16 (SAAP, 1989).¹² A new shelter catering specifically to 'first home leavers' is currently under consideration.

Quixley's (1990: 17) study of the accommodation needs of young people in South Australia showed that of 4031 young people accommodated by non-government agencies in the eighteen months between 1 July 1988 and 31 October 1989, 756 or 19 per cent were under 16. In over half (2147) of these cases, the referral came from a government source. There were 536 young people under 16 referred to non-government agencies for accommodation. The study also showed that 113 or 15 per cent of those under 16 had no FACS worker allocated to them. Anticipated increases in the award for youth workers is expected to create severe difficulties in the financing of YSAP services. Funds are already short, forcing a number of services to close during the day with adverse effects. The Youth Housing Network has been funded to examine means of funding the new award and ways of increasing the effectiveness of services through closer integration of single-service agencies. Unfortunately this group was unable to meet with the investigators for this research during the fieldwork period.

YSAP accommodation is intended to be a transitional service from the emergency circumstances of crisis and homelessness to a more permanent arrangement. Foster care is not acceptable or necessarily appropriate for all the young people using shelter accommodation, and the short supply of alternative forms of long-term accommodation presents a recurring problem in South Australian services for homeless young people.

12 The National Client Census conducted in 1990 does not provide this information for that year.

The implications of legislation prohibiting discrimination on grounds of age for YSAP programs have yet to be investigated but can be expected to be significant.

7.5 Leaving Care and Post-Care Programs

A key point in the South Australian approach to substitute care is the aspiration for the State, when it must take on the responsibilities of guardian, to be itself a 'good parent'. The Policy Statement on *Guardianship, Long-term Legal Status and Related Issues* recognises that:

Given the financial, emotional and social support provided by most parents to their children after the age of 18 in order to assist their transition to independence, State welfare departments have generally failed to act as a 'good parent' once formal guardianship or care and control responsibilities have ceased. (Le Sueur, 1990)

The statement spells out the responsibilities of the state as a 'good parent' as having ensured that the young person:

- is as adequately prepared as possible for independent living;
- is living in a secure environment;
- is in secure employment, training or education; and/or
- has access to appropriate income supports;
- has access to general counselling/support services that he/she may require;
- has requisite knowledge of his/her life in care and of his/her natural family; and
- is provided with periodic practical advice and assistance (e.g. in emergencies or for special occasions).

This list is seen as the minimum equivalent to the responsibilities fulfilled by most parents during their children's independent establishment in society (Le Sueur, 1990: 13-4). There is an aspiration to see these requirements expressed in legislation. These requirements have been incorporated in new draft standards for discharge from guardianship in circumstances other than return to a satisfactory family environment. Practice guidelines for achieving them are in preparation.

There is no specific provision for support payments to young people after discharge from guardianship, and there is no regular practice of providing support during the waiting period for benefits such as JSA. It is possible to make discretionary payments from the Incidentals Fund.

A program for the development of Independent Living Skills was established in 1989 for young people between 16 and 18 who are leaving care or for whom this assistance is seen as having preventive value. This program helps set up young people in independent living situations in public or private rental accommodation. The proposed target group is young people who are:

- aged between 15 (normally 16) and 18 years;
- not attending school;
- in receipt of DSS benefits or employed;
- willing to be involved; and
- normally under the guardianship of the Minister or Director General, or under specific orders requiring them to accept the direction of a social worker.

Young people may also be admitted through referrals from the South Australian Housing Trust. Those having highest priority are young people leaving community residential care or who would otherwise be referred to community care, and young people leaving secure care.

In most cases the program operates through the Trust's direct lease program. These leases are direct, time-limited agreements between the young person and the Trust for low-rent, one person accommodation with low bond requirements. The goal of the program is to move the young person into the private housing sector within a period of 18 months. The program is currently staffed by one senior and four base grade workers and services the whole metropolitan area. It is shortly to be duplicated, providing a team for each metropolitan region. Client numbers will be increased from some 40 to 60 being assisted at one time. The program operates on a one-to-one basis with intensive support in the early phases, reducing over time. The worker acts as advocate with the landlord or the Trust during the establishment of tenancy, helps to gather furniture and other requisites, and assists with the setting up of the household. During the early period the worker assists with household skills, budgeting and financial matters including linkage to the CES, personal development and support. As many as four or five visits per week may be made in the first period of residence. Very few young people under 16 years have been accepted into the program, the main exceptions being single mothers. There have been few Aboriginal referrals.

A Post-Release Program also operates with young people detained in secure care. This is a casework program aimed at minimising the period of secure care and reintegrating the young person with family and community. A worker is assigned at the time of detention, and is responsible for preparing the young person for three-monthly appearances before a Review Board where release is considered. The worker continues to assist when the young person receives conditional release for the final period of the detention order. This work may include finding an appropriate placement for the young person after detention, including return to family or relative,

INC or independent living. Despite the low numbers in secure care in South Australia, there is a long-standing shortage of post-release workers.

7.6 Interaction of Commonwealth and State Government in Meeting the Needs of Young People in Care

Income Support from the Department of Social Security

DSS provisions for the support of dependent children are an important source of support for the foster care so central to child welfare in South Australia. These benefits include FA, FAS, and in some circumstances pensions and fringe benefits. The payments system for the support of foster care presumes these benefits will be received except in the case of emergency foster care for a period of less than three months. In these circumstances it is felt that an application for a benefit such as FA would disadvantage birth parents and reduce the prospects of the return of the child.

Benefits paid directly to young people are treated as reducing the need for support to foster parents, and have been identified as one factor determining the level of support provided to adolescents (Cole, 1990: 23-4). At \$124.10, the maximum independent rate for JSA is higher than the foster payment, hence no foster parent support would be payable. The presumption is that a young person in receipt of income will pay board to the foster parents and meet other personal needs from the benefit. However, where the maximum dependent rate of JSA is paid to a child under an order, FACS continues to pay basic subsidy to the foster parents.

It is commonly (but erroneously) believed that a means test for benefits such as JSA applies to the income of the foster parents of a ward. As in Queensland, such a practice is regarded as inappropriate because the foster family has no legal responsibility for the financial support of the child. Cole has suggested (1990: 23-4) that the support of young people subject to orders in their mid-teens is a joint responsibility of Commonwealth and State Governments.

As in Queensland, DSS field social workers believe that young people are being discharged from orders in order to remove obstacles to eligibility for Commonwealth benefits. This is unlikely to be the only explanation for the number of discharges before the age of 18. Other reasons are the commitment to permanency planning and the selective use of guardianship provisions.

There appear to be good working relations between State and Commonwealth field workers in the determination of eligibility for YHA. From the point of view of workers at both levels the assignment of determination to DSS social workers appears to be satisfactory in practice.

Income Support from the Department of Employment, Education and Training

Austudy benefits are treated in the support for foster and residential care in the same way as those provided by the DSS and many of the same issues concerning the responsibilities of Commonwealth and State apply.

Difficulties were reported with delays in the determination of eligibility and the commencement of payment where young people resume education after a period on DSS benefits. In part, these are due to the use of bureaucratic procedure unsuited to this client group. It occurs both that young people fall between departments and experience a gap in income support and that they obtain benefits concurrently and become liable for the return of payments for which they were ineligible. These problems were the cause of budget crises for young people trying to establish themselves in independent living.

DSS field social workers reported young people having difficulty in applying for the Austudy SHR. The young people often do not understand the application process, and in particular fail to follow through. Difficulties with the application process appear to be exacerbated by the lack of accessible social work staff in the DEET field system.

Youth Supported Accommodation Program and Crisis Accommodation

Quixley's (1990: 17) study of accommodation needs showed that FACS officers were referring a significant number of young people under 16 to shelter and crisis accommodation. It was not known what proportion of these were on orders. The payment system for foster and residential care provides for payments to be made to the organisation providing accommodation to a young person on order.

The concept of YSAP as a transitional service depends on the availability of longer-term accommodation and other support services. The South Australian Housing Trust provides one important source of low-cost accommodation for young people, but a shortfall remains. Trace-a-Place, an accommodation referral service, reports that it lists 100 clients in its share-accommodation register per month.

Similarly, because YSAP funding guidelines prohibit specialist services for young people aged under 16, those using shelter accommodation necessarily mix with older age groups. South Australian thinking is in any case opposed to the creation of institutional forms of care for this group. This view was reported both by State personnel at policy and field levels and by Quixley (1990: 11) for non-government youth workers. However not all young adolescents are candidates for family placements, and the lack of long-term alternatives such as group homes places added strains on crisis services. It poses the risk also that young people will be forced into a crisis-based cycle of existence (Quixley, 1990: 12).

Quixley (1990: 11) comments:

It would appear that the range of services available to U16's is quite wide and that **something** is available for most young people who are less than 16 years old and homeless. However, closer scrutiny suggests that availability of **constructive** and **appropriate** accommodation for this age group is less frequent. (Quixley, 1990: 11, emphasis in original)

She notes particular gaps in services for young women south of the city and culturally appropriate services for Aboriginal people and those from non-English speaking backgrounds.

South Australian legislation prohibiting discrimination on grounds of age can be expected to have profound effects on SAAP programs. Legal opinions have yet to be sought.

Aboriginal Child Care Agencies

The work of the South Australian AICCA is an important part of child welfare in that State. The AICCA appears to work well and closely with FACS staff in the support of Aboriginal children and families and in the placement of Aboriginal children. There are some tensions in the relations between AICCA and the Children's Interest Bureau.

South Australia contributes 32 per cent of AICCA funding and appears to be supportive in attitude. Nevertheless, strong concern was expressed about any move to devolve funding from the Commonwealth to the State without very strong safeguards ensuring that levels of service are maintained.

7.7 Summary and Discussion

In principle, the legal philosophy underlying child welfare in South Australia is expansive, viewing the state as obliged to sustain the child's right to the support of a 'good parent' where the parents are failing to give such support. This positive conception of the role of the State is expressed in a high rate of guardianship orders, the second highest rate in Australia. There is, nevertheless, also active concern about the importance of support for the family and the proper limits of state power. Legislative changes are underway to refine existing orders and to introduce new, lighter forms in which guardianship functions are shared between parents and the State in flexible ways.

As in Queensland, the reconsideration of guardianship and the role of the family is taking place in a context of resource constraint. While welfare performance is probably better in South Australia than in Queensland, our own assessment was made difficult by the current restructuring of FACS functions. Strategy plans in

place for the last two years suggest an attempt to address a variety of weaknesses. Quixley (1990) showed gaps in placement, worker supervision and accommodation of young people under 16.

As in Queensland the number of children subject to orders for care, protection and control has declined sharply. In two years the rate of orders has fallen from 3.9 to 2.7 per thousand children, and discharges currently exceed admissions. Over time the effect may be concentration in the use of orders on only those children whose need for protection is greatest, leaving those whose needs are less clearly defined without rights to the support of a 'good parent'. The actuality will depend on the effective availability of fieldworker resources, a prospect we were unable to assess. There do not appear to be new programs for such young people to compensate for the effects of increasing targeting.

The strong policy preference for foster care is supported by higher levels of payment to foster parents than in Queensland. At the same time, however, the use of orders as a means of targeting expenditure on children living away from home is new in South Australia. A new payments system will increase payments for children on orders but withdraw support from children living with relatives or other non-family caregivers without orders. In the past these payments were made to some caregivers to maintain their capacity to care and where they were believed to serve preventive functions. The loss of these payments is a particularly significant issue for Aboriginal caregivers. Payments to Aboriginal families in these circumstances are being continued pending consultations with Aboriginal groups and communities.

A number of aspects in South Australian child welfare policies and programs have implications for Commonwealth programs. One is the emergence of forms of orders for guardianship and control in which guardianship functions are shared between parents and the State. The boundaries of wardship and hence the relative responsibilities of State and Commonwealth are less clear with respect to such orders. To fulfil the aspirations held for them these new forms require active support and supervision by field staff. Otherwise there is a risk that the children concerned will be 'lost in care' without clear right to assistance from State or Commonwealth.

The new payments system to foster caregivers offsets Commonwealth benefits such as Austudy and JSA against State support. It appears to have been efficiently designed to reduce State support to caregivers of young people receiving these benefits to a supplementary level without destabilising the foster arrangement. In one sense it represents an attempt at a new partnership between Commonwealth and State.

South Australia's Independent Living Skills program is practically oriented to the tasks of establishing a household, managing daily life and budgeting income. The program is being doubled in scope, but its heavy dependence on the accommodation of the South Australian Housing Trust places a ceiling on its potential expansion. As in Queensland's Transition From Care program, it includes a clear emphasis on claiming Commonwealth support for efforts to secure education or employment. Its effectiveness is likely to be measured in increased claims for such benefits.

Quixley's study of the accommodation needs of young people under 16 showed substantial numbers of FACS referrals to refuge and crisis services. Issues underlying these referrals include the strong preference for foster care in the face of its unsuitability for some adolescents and a scarcity of alternative accommodation. The Independent Living Skills program addresses these needs for a group, mainly those leaving detention facilities, but a gap remains. There are concerns, too, about the 'contamination' of young people under 16 in shelters with older age groups.

South Australia continues to have disproportionate numbers of young Aboriginal people in its care and control, and there is a need for effective alternative forms of support to this group. It funds Aboriginal services, both through FACS and AICCA, more generously than most states. Its policies have been less effective in reducing the numbers of young Aboriginal people becoming caught up in the child welfare and juvenile justice systems.

Table 7.1: Children for Whom the Department had Responsibility During 1990-91, South Australia

	1989-90	1990-91
Number of children under guardianship or control orders during the year for the first time, excluding short term care under Section 28 of the Community Welfare Act	182	253
Number of children under guardianship or control orders as at 30 June	1276	1330
Number of children placed in Departmental residential care as at 30 June	65	92
Number of children under guardianship or control order placed in the community as at 30 June	1211	1238
Remands in custody as at 30 June	18	26
Number of children on bonds with supervision as at 30 June	188	192

Source: Department for Family and Community Services, South Australia, 1990a.

Table 7.2: Children Under Guardianship Orders by Age and Sex of Child South Australia, 30 June 1988

Age of Child	Guardianship Orders		Total
	Male	Female	
0	9	6	15
1	10	23	33
2	16	28	44
3	29	21	50
4	31	23	54
5	26	31	57
6	27	33	60
7	31	44	75
8	32	40	72
9	40	40	80
10	36	25	61
11	39	37	76
12	50	22	72
13	45	51	96
14	69	52	121
15	85	70	155
16	91	70	161
17	74	57	131
Adult	10	0	10
Total	750	673	1423

Source: Welstat Data Collection.

Table 7.3: Children Admitted to Guardianship/Other Orders by Age of Child 1987/88 and 1989/90 - South Australia

Age of as Child as at 30 June	Admissions to Orders									
	Guardianship				Other Orders				Total	
	Offence		Care/ Protection		Offence		Care/ Protection		Admissions	
	88	90	88	90	88	90	88	90	88	90
0 - 12	0	0	286	168	32	36	0	9	318	211
13	0	0	56	19	63	56	0	2	119	77
14	0	0	86	47	144	97	0	0	230	144
15	0	0	46	17	241	186	0	1	287	204
16	0	0	19	6	408	227	0	1	427	234
17	0	0	5	4	396	284	0	1	401	289
Adult	0	0	0	0	113	86	0	0	113	86
Total	0	0	498	261	1397	972	0	14	1895	1247

Note: No data are available for 1988/89.

Source: Welstat Data Collection

Table 7.4: Children Placed Under Guardianship or Control Orders in South Australia for the First Time During 1990-91

	Male	Female	Total	Per cent of total
<i>From the Children's Court:</i>				
Guardianship of the Minister of Family & Community Services*	105	100	205	81.03
Control of the Director-General of Family & Community Services	16	12	28	11.07
Guardianship of suitable person	5	1	6	2.37
<i>Admitted under the Community Welfare Act:</i>				
Guardianship of the Minister of Family and Community Services	-	-	-	-
Transfer of control from interstate	<u>7</u>	<u>7</u>	<u>14</u>	<u>5.53</u>
	133	120	253	100.00
Totals for previous year	90	92	182	
Notes: In addition to the above, there were 228 children (152 boys and 76 girls) admitted to the temporary Guardianship of the Minister of Family and Community Services. During the year, 232 children (154 boys and 78 girls) were released when the short term need for assistance has ceased.				
* Includes short term guardianship during periods of adjournment of Court proceedings.				
Source: <i>Annual Report 1990-91:</i> South Australia, Department for Family and Community Services.				

Table 7.5: Children Discharged from Guardianship/Other Orders by Age of Child 1989/1990 - South Australia

Discharges from Orders					
Age of child as at 30 June	Guardianship		Other Orders		Total Discharges
	Offence	Care/ Protection	Offence	Care/ Protection	
0 - 12	0	104	6	28	138
13	0	6	82	4	92
14	0	35	121	3	159
15	0	20	174	1	195
16	0	18	241	9	268
17	0	18	228	4	250
Adult	0	123	55	7	185
Total	0	324	907	56	1287

Note: No data are available for 1987/88 and 1988/89.

Source: Welstat Data Collection.

Table 7.6: Distribution of Children Under Guardianship, Detention or Control Orders as at June 30, 1991 - South Australia

	Non-Offenders			Offenders			Number of Children			Percent of total
	M	F	Total	M	F	Total	M	F	Total	
<i>Departmental residential care: -</i>										
Establishments for handicapped children:										
- Lochiel Park	8	-	8	-	-	-	8	-	8	0.61
- Brookway Unit	1	-	1	-	-	-	1	-	1	0.07
- Blair Athol Unit	1	-	1	-	-	-	1	-	1	0.67
Establishments for other children:										
Family Group Homes:										
- Gilles Plains Assessment Unit	5	-	5	-	-	-	5	-	5	0.37
- Clarence Park Assessment Unit	1	1	2	-	-	-	1	1	2	0.16
- Woodville Assessment Unit	5	-	5	-	-	-	5	-	5	0.37
- Glandore Community Unit	4	-	4	-	-	-	4	-	4	0.31
- Enfield Community Unit	2	3	5	-	-	-	2	3	5	0.37
Hostels:										
- Independent Living Skills Unit	8	-	8	-	-	-	8	-	8	0.61
- Sturt Community Unit	-	3	3	-	-	-	0	3	3	0.23
Secure Care Centres:										
- SAYTC	-	-	-	39	-	39	39	-	39	2.93
- SAYRAC	-	-	-	8	3	11	8	3	11	0.82
Total (Departmental residential care)	35	7	42	47	3	50	82	10	92	6.92
<i>Non-Departmental residential care: -</i>										
Establishments for handicapped children	7	7	14	-	-	-	7	7	14	1.05
Hostels	13	7	20	-	-	-	13	7	20	1.50
Other homes for children	8	7	15	-	-	-	8	7	15	1.13
Total	28	21	49	-	-	-	28	21	49	3.68
INC	33	16	49	-	-	-	33	16	49	3.68
Foster care	448	435	883	-	-	-	448	435	883	66.40
Total	481	451	932	-	-	-	481	451	932	70.08
<i>Residential health, education, adult care:-</i>										
Hospitals	-	1	1	-	-	-	-	1	1	0.07
Boarding schools	1	-	1	-	-	-	1	-	1	0.07
Prison	-	-	-	-	-	-	-	-	-	-
Living with parents	67	49	116	-	-	-	67	49	116	8.73
Living with relatives	17	23	40	-	-	-	17	23	40	3.00
Other adult care	40	44	84	-	-	-	40	44	84	6.32
Living independently	5	3	8	2	-	2	7	3	10	0.76
Unauthorised absences	-	2	2	2	1	3	2	3	5	0.37
Total	130	122	252	4	1	5	134	123	257	19.32
No. in non-Departmental residential care	639	594	1233	4	1	5	643	595	1238	93.08
Total no. in care	674	601	1275	51	4	55	725	605	1300	100.00

Source: Annual Report 1990-91: South Australia, Department for Family and Community Services.

Table 7.7: New Rates of Payment for Foster Care, South Australia - (\$ per week)

Payment	<4	5-7	Age of child 8-11	12-14	15-17
Basic subsidy	40.00	45.00	50.00	60.00	80.00
Additional payment	20.00	29.00	29.70	36.60	38.30
Total payment	69.00	74.00	79.70	96.60	118.30
Current system ^a	68.40	68.40	69.10	85.70	86.90
AIFS estimate ^b	40.91	45.90	59.24	74.78- 112.43	112.43

Notes: (a) Payment before introduction of new payments system.

(b) Estimates provided by Australian Institute of Family Studies are for middle income families and include the cost of food, clothing, fuel, household provisions, cost of schooling excluding fees, pocket money and entertainments.

Source: Working document titled 'Payments System' (n.d.) provided by Financial Services Section, Department for Family and Community Services

8 Youth Homelessness, Wardship and Commonwealth-State Relations

The Burdekin Inquiry (HREOC, 1989) connected youth homelessness with failures in the exercise of their responsibilities for wardship by State welfare departments. The policy reviews currently being undertaken by a number of States are in part a response to this criticism. The Inquiry also indicted Commonwealth programs for income support and crisis accommodation as insensitive to the realities of youth homelessness, and the Commonwealth too has attempted to respond. The present Report attempts to assess the new fit between the Commonwealth and State that is emerging.

The decline in the use of care and protection orders by State welfare authorities appears to suggest that State welfare authorities are retreating from the responsibilities of care *in loco parentis*. It is important to recognise that this decline is longstanding, having been clearly underway before State welfare resources began to be cut back and youth homelessness a visible social problem. Rather the decline is also associated with broad changes in legal philosophy and welfare practice. It is nevertheless relevant that the pace of decline is accelerating in the contemporary fiscal climate. In the last two years the rate of orders for guardianship for care and protection per thousand young people under 18 in the nation as a whole has fallen from 2.7 to 2.1. Much sharper falls have occurred in Queensland, South Australia and, to some extent, New South Wales.

The case studies of child welfare policy in Queensland and South Australia allow exploration of common patterns and differences underlying this trend. In both States the basic premise of child welfare policy is regard for the fundamental rights and responsibilities of the family and the preservation of its integrity to the maximum consistent with the safety and well-being of the child. Principles of intervention planning (Queensland) and permanency planning (South Australia) derive from this premise. Placement policies are also similar in emphasising foster care in a family setting. There are, nevertheless, significant differences in the way in which the policy is interpreted in child protection. Queensland policy treats guardianship as a stigma, whereas South Australia conceives of guardianship as embodying rights of the child. This difference in legal philosophy is reflected in important differences in practice, most marked in their programs for young people leaving care. Queensland's Transition from Care program has a strong therapeutic focus, while South Australia's Independent Living Skills Teams emphasise the practical dimension associated with establishing residence and budgeting income.

Ultimately, however, the effect of philosophical differences is limited. In principle the South Australian interpretation supports intervention in a wider range of circumstances. In actuality the rate of intervention through the use of orders is much higher in Queensland than in South Australia. The implication is that the use of orders is motivated by issues concerning resource adequacy as well as by ideas about

the proper role of the State. Policy directions expressed in Queensland's forthcoming *Green Paper* and the South Australian policy statement on *Guardianship, Long-Term Legal Status and Related Issues* (Le Sueur, 1990) suggest continuing trends both to less frequent resort to protective orders and to their application for shorter and more clearly defined terms. Both States plan to introduce new forms of order with finer gradations in severity and more defined terms. Both also propose forms of order in which guardianship is only partially removed from parents to the State.

In Queensland there is also a move underway to replace the 'welfare model' in juvenile justice with a clearer emphasis on justice corrections. Legislation is planned to increase the number and range of non-custodial sentencing options. These options may reduce the number of young people placed under orders for care and control. Guardianship orders will not apply to offenders unless required on separate grounds of care and protection.

In both States the use of orders for protection and control is acquiring targeting functions with respect to the allocation of financial and other assistance to adolescents. Both States restrict the payment of support for the expenses of caring for children outside the hopes of the parents to those subject to orders for protection and control. This is a new policy in South Australia, where it implies a reduction in support previously available to children in the care of relatives on a consensual basis or thought to be more generally at risk.

Without a fuller examination of resources applied to child welfare, the research was unable to establish whether there has also been a reduction in services with a more broadly preventive or at-risk emphasis. Nevertheless it is likely that the balance of provision has been tipped toward a concentration on remedial services and that this shift is occurring at the expense of services important for the prevention of homelessness of young people in the future.

Whatever the policies concerning the use of guardianship, it is clear that at least some young people need support through the process of leaving care. In the two States examined such programs consist of intensive individual assistance for a relatively short period. Assistance is intended to cover a broad range of needs, including education or employment, income support, accommodation and personal advice and support. Both schemes target young people aged between 16 and 18 years but include also a small number aged below 16. An important function in both schemes is assisting young people to utilise the full range of services to which they are entitled. Many of these are Commonwealth services, including some financed in conjunction with the States. Important among these are education and social security benefits, primarily Austudy and JSA. Both schemes are small in scale and still in their developmental phases. The six-month review of the Queensland scheme appears to suggest that programs of this kind are needed and effective. Working on a one-to-one basis they require intensive staffing resources from the State for a limited period, but transfer costs for the support of wards to the Commonwealth

thereafter. They have not provided the continuing support to ex-wards that is the hallmark of the South Australian 'good parent' (Le Sueur, 1990).

8.1 Interactions of Commonwealth and State in Adolescent Welfare

This Report has examined four specific areas of interaction between Commonwealth and State Governments in the provision of income support and other services to young people subject to orders for guardianship or control.

Income Support from the Department of Social Security

State policies for alternative care are shaped by the contemporary context of de-institutionalisation and the policy preference for family models of care. Foster care is the favoured form for adolescents as well as younger children and is the most common type of placement. This preference extends also to adolescents requiring intensive support, for whom a number of special foster care programs operate.

Policy preference for foster care of children on orders is supported by Commonwealth payments in respect of dependent children such as FA, FAS and allowances for the children of pensioners and beneficiaries. Means tests for such benefits apply to the income of the foster family. There is a lack of parallelism in Commonwealth treatment of children in care in residential and foster care, in that payment of FA is automatic in the case of children in residential care. In practice, this difference does not appear to have the effect of creating a disincentive to placement in foster care.

An age standard of 16 years marks the working boundary between State and Commonwealth responsibility for social security income support to young people. DSS guidelines define children subject to orders under this age as the responsibility of the State and therefore preclude them from eligibility for benefits. From the age of 16 their eligibility is unaffected by the order.

It has been suggested that State welfare departments are unwilling to support young people under 16, and are shifting the burden to DSS. There is indeed a clear reluctance to take young people into care: the role of de-institutionalization and changing legal philosophies in the use of orders have already been mentioned, as has the emergence of partial wardship orders. In the result, State welfare authorities stand *in loco parentis* to fewer children than in the past. Additionally, State authorities are unwilling or unable to provide support to adolescents not in care, and the use of wardship as a basis for targeting child welfare expenditure has inevitably meant declining availability of resources to non-wards lacking parental support and potentially at risk of homelessness. The consequence is an enlarging a gap in provision for young people in an area the traditional and Constitutional responsibility of State Governments.

DSS field staff believe that State welfare authorities are directing young people under 16 towards seeking income support from the Commonwealth by way of SB. However our research found no clear evidence of State policies or practices aimed at making young people under 16 eligible for Commonwealth benefits. There appears to be no selective decline in the use of wardship order in the adolescent age group, nor a marked pattern of discharge from order at ages below 16. It is likely that the perceptions of DSS field staff stem from the general decline in the use of orders, but are sharpened by a certain number of specific cases homeless young people referred to them.

In both Queensland and South Australia we met widespread misconceptions among State welfare workers fieldworkers concerning the treatment of wards aged 16 and over in eligibility for Commonwealth benefits. Many of these workers believed that wards were ineligible for benefits as long as they were subject to an order. It was also believed that income tests were applied to the income of foster parents. The Commonwealth was wrongly held to be discriminating against children in care on both counts. More generally, however, interaction between field staff of Commonwealth and State departments in the administration of YHA appears be satisfactory and access to this rate of benefit to have improved significantly with the assignment of this responsibility to DSS social work staff.

Income Support from the Department of Employment, Education and Training

Austudy living allowances are claimed by student children in foster and residential care and by students living independently. In the case of Austudy a different age criterion marks the boundaries of Commonwealth and State responsibility. Eligibility for Austudy depends on having reached the age of 16, or in the case of homeless students, 15 and above the school leaving age in the State concerned. Eligibility is not affected by orders for guardianship or non-custodial control, even where the child is aged below 16 years. Being or having been subject to an order does not in itself qualify an applicant for the higher independent rate. Where foster parents receive a fostering allowance the student is eligible for the maximum standard rate. In South Australia an Austudy benefit is deducted from the payment to foster parents, but in Queensland it is not. Where such a payment is not made, the student receives the maximum rate for a student living away from home, free of any means test on the income of the foster parents.

There appears to be the same established interaction between State welfare staff and DEET officers in the administration of SHR as has developed with DSS.

Youth Supported Accommodation Program Services

In an historical period of de-institutionalisation, short-term and crisis accommodation is forced to fill broad functions. Thus the same type of facility, and sometimes the same facilities, are dealing with both emergency accommodation and care and recurring instances of what are longer term needs for housing, employment

or education and life skills. In the same way shelters are perforce required to serve young people differing significantly in their levels of maturity and street experience.

It is clear that in both Queensland and South Australia young people under the age of 16 are to be found using SAAP funded services. An unknown number of these are subject to orders for guardianship or control, and it is probable that on occasion they have been referred there by the staff of the State welfare department. The lack of alternatives faced by case-laden field staff make this inevitable. In Queensland a game of push-me-pull-you seems to occur at times, with shelter and DFS workers each trying to compel the responsibility of the other on behalf of a child in care.

YSAP services are wedged between shortfalls in appropriate support and placement options, especially for children under 16, and a dearth of medium and long-term accommodation for independent living for these and older age groups. SAAP guidelines preclude the development of specialist accommodation services for children under 16, while State policies are unsympathetic to residential alternatives for young people unsuited to or unwilling to accept family care. In Queensland an attempt is to be made to adapt the family group homes as independent group homes supported by rostered youth workers, but the acceptance of the funding initiative by non-government providers is as yet unknown. South Australian initiatives, mainly for young people 16 and over, depend heavily on the resources of the South Australian Housing Trust.

In the result, the functions of the YSAP program are stretched between crisis and long-term accommodation functions and between the differing needs of young and older age groups. These pressures are in addition to those arising from the diverse needs of young men, young women including those pregnant or caring for children, and for young people of Aboriginal and ethnic cultural backgrounds.

The Role of Aboriginal and Islander Child Care Agencies

The Aboriginal and Islander Child Care Agencies (AICCA) have their historical origins in the assumption of Commonwealth responsibility for the needs of indigenous peoples during the 1970s and the expansion of Commonwealth support for child care in the same period. The significant role these organisations play in the support and placement of Aboriginal and Islander children under orders for guardianship and control is anomalous with respect to the division of responsibility between Commonwealth and State Governments for child welfare. It is much less anomalous in consideration of the role of the Commonwealth in Aboriginal affairs.

Aboriginal children are in care in numbers varyingly but everywhere vastly disproportionate to their numbers in the population. The role of AICCA workers is vital to the work of State welfare departments in placement and supervision of these children, and the substantial share of Commonwealth funding is a significant resource in their child welfare role. At the same time, implementation of the Aboriginal Child Placement Principle is barely begun.

Atkinson (1991: 91-5) has recommended a co-ordinated funding relation in which the States would be responsible for funding, program support and advice to AICCAs for services related to the Aboriginal Child Placement Principle. This would require significant increases in State Government contributions. Aboriginal and Islander responses are currently being sought, but early indication from the Secretariat for National Aboriginal and Islander Child Care (SNAICC) has not been favourable. Distrust of the commitment of State Governments and anxieties about any transfer of funding responsibility were also expressed to the investigators for this Report.

8.2 The Lack of Adequate Child Welfare Data

Adequate monitoring and evaluation of child welfare and the use of orders for guardianship and control require much better data than exist at the present time. Welstat data are fragmentary, inconsistent and even where they appear to represent all States, they are of doubtful reliability. Nor was either department in the two States where case studies were undertaken able to supply systematic data on the admission, discharge and duration of orders for children of different ages. The material these departments have supplied to Welstat does not correspond to that presented in their own annual reports.

Cole (1989: 17) described South Australian data on children under orders for guardianship or control in 1988 as 'at best fragmented, lacking in continuity or irrelevant, or at worst non-existent.' Given the quality of Welstat data it is likely that the same description applies more generally. South Australia is now developing a comprehensive data system across a number of departments with welfare and justice functions. The new system promises much for the future, but at the present time is failing to achieve full and consistent reporting. Behind this weakness lies a deeper conflict between staff commitment to data generation and that to case demands and the pressing needs of Departmental clients.

The use of orders for care, protection and control is only one area in which meaningful and reliable data are required. Indeed all the dimensions of this study are largely unmeasured, including the numbers and characteristics of homeless young people, the management of child welfare responsibilities and the effective contributions of Commonwealth and State Governments to meeting the needs of children in care.

References and Documents Consulted

- 'Alternative Care Trends/Issues' (n.d.), notes provided by Department of Family Services, Queensland.
- Atkinson, Graham (1991), *Report on the Joint National Review of Aboriginal and Islander Child Care Agencies [AICCAs]*, Atkinson Consultants, Ivanhoe.
- Australian Bureau of Statistics (1992), *The Labour Force Australia*, April, Cat. No. 6203.0.
- Australian Bureau of Statistics (1990), *Income Distribution Survey*, Unit Record File, Australian Bureau of Statistics.
- Carter, Jan (1983), *Protection to Prevention: Child Welfare Policies*, SWRC Reports and Proceedings No. 29, Social Welfare Research Centre, University of New South Wales.
- Castell-McGregor, Sally (1987). 'Seeking Justice for Children - The Role and Objectives of the South Australian Children's Interest Bureau', *Australian Journal of Family Law*, 1(2): 181-5.
- Chesterman, C. (1988), *Homes Away From Home*, Final Report of the National Review of the Supported Accommodation Assistance Program, Prepared for the Commonwealth, State and Territory Welfare Ministers.
- Cole, Rita (1989), 'Guardianship: the Nature of the Department's Responsibility', Draft Paper, Department for Family and Community Services, South Australia.
- Commonwealth of Australia (1991), *Social Justice for Indigenous Australians 1991-92*, Budget Related Paper No. 7.
- Department of Community Services and Health (1990), *Annual Report 1989-90*, AGPS, Canberra.
- Department of Community Services, Western Australia (1990), *Substitute Care Review*. Department for Community Services, Perth.
- Department of Community Services, Western Australia (1991), *Laws For People: The Report of the Legislative Review 1991*. Department for Community Services, Perth.
- Department of Employment, Education and Training, Commonwealth of Australia (1991), *Austudy Regulations 74*, (Student Homeless Rate); *Regulation 75* (Refugees); *Regulation 76* (Wards).
- Department of Employment, Education and Training (1990), *Austudy Information Booklet 1991*, AGPS, Canberra.
- Department for Family and Community Services South Australia (1991), 'Leaving Care'. Unpublished document.
- Department for Family and Community Services South Australia (1991), 'Independent Living Support Team'. Unpublished document.
- Department for Family and Community Services South Australia (1991), 'Intensive Neighbourhood Care - INC'. Unpublished document.
- Department for Family and Community Services South Australia (1991), 'Payment System'. Unpublished document.
-

- Department for Family and Community Services South Australia (1990), *Annual Report 1989-90*.
- Department for Family and Community Services South Australia (1990), *Strategies for 1990/91*.
- Department for Family and Community Services South Australia (1991), *Strategies for 1991/92*.
- Department for Family Services and Aboriginal and Islander Affairs (1991), 'Definition of the Alternative Care System'. Unpublished document.
- Department for Family Services and Aboriginal and Islander Affairs (1991), 'Proposal for expansion of entry criteria to the community-based adolescent support scheme (CASS). Unpublished document.
- Department of Family Services and Aboriginal and Islander Affairs, Queensland (1991), 'Proctor Program'. Extract from Department Manual.
- Department of Family Services and Aboriginal and Islander Affairs Queensland (1990), *Annual Report 1989-1990*, Queensland.
- Department of Family Services and Aboriginal and Islander Affairs, Queensland (n.d.), 'Juvenile Justice Strategy'. Unpublished document.
- Department of Family Services and Aboriginal and Islander Affairs, Queensland (n.d.), 'Proctor Program'. Extract from Department Manual.
- Department of Health, Housing and Community Services Commonwealth of Australia (1991), *Annual Report 1990-91*, AGPS, Canberra.
- Department of Social Security, Commonwealth of Australia (1991), 'Department guidelines on the payment of special benefit to under 16 year olds: Young Homeless Allowance'.
- Division of Community Services Development, Queensland (1991), *Alternative Care and Intervention*, State Plan 1991-92, Department of Family Services and Aboriginal and Islander Affairs.
- Dunstan, J. (1985), *A Study of the Use of Section 12 Orders 1979-85*, Research Services Branch, Department for Community Welfare, South Australia, Adelaide.
- Green Paper on Child Protection Legislation*, Queensland [1991], Department of Family Services and Aboriginal and Islander Affairs, Draft.
- Human Rights and Equal Opportunity Commission (HREOC) (1989), *Our Homeless Children* (Burdekin Inquiry). AGPS, Canberra.
- Le Sueur, Eddie (1991), 'Poor After Care', in E. Le Sueur, ed., *Policy and Practice Papers: Issues in Public Welfare*, Vol. II, Department for Family and Community Services, South Australia, Adelaide.
- Le Sueur, Eddie (1990), 'Guardianship, Long-Term Legal Status and Related Issues', Policy Statement, Department for Family and Community Services, South Australia.
- Maas, F. and R. Hartley (1988), *On the Outside, The needs of unsupported, homeless youth*. Australian Institute of Family Studies, Melbourne.
- Quixley, S. (1990), *Whose 'Children'? Responding to homeless under 16 year olds*, South Australian Youth Housing Network Inc., Adelaide.
- 'Report, Transition from Care Program' (n.d.). Department of Family Services and Aboriginal and Islander Affairs, Queensland.
-

- Royal Commission into Aboriginal Deaths in Custody (RCIADC) (1991), *National Report*, Commissioner E. Johnston, QC. AGPS, Canberra.
- Senate Standing Committee on Social Welfare (1985), *Children in Institutional and Other Forms of Care*, PP 324/1985.
- Supported Accommodation Assistance Act 1989.*
- Supported Accommodation Assistance Program (1989), *Home for a Night*, National Client Census, November.
- Supported Accommodation Assistance Program (1990), *Home for a Night*, National Client Census, November.
- Taylor, Janet (1990), *Leaving Care and Homelessness*. Child Poverty Policy Review 5, Brotherhood of St Laurence, Melbourne.
- Thorpe, D. (1991), *Patterns of Child Protection Intervention and Service Delivery: Report of Pilot Project*, Research Report No. 4., Crime Research Centre, University of Western Australia, Perth.
- Welstat National Data Collection (1989), *Children in Care: Section One - Nationally Aggregated Data July 1987 - June 1988*.
- Welstat National Data Collection (1989), *Children in Care: Section Two - State/Territory Data July 1987 - June 1988*.
- Welstat National Data Collection (1991), 'State/Territory Data July 1989 - June 1990'. Unpublished material.
- Wilson, P. and J. Arnold (1986), *Street Kids, Australia's alienated young*, Collins Dove, Blackburn, Vic.
-

Individuals and Organizations Providing Information for this Report

Department of Family Services and Aboriginal and Islander Affairs, Queensland

Carol Peltola,
Assistant Divisional Head
Protective Services

Sue Trembath
Policy-Co-ordinator
Alternative Care Section

Mike Williams
Aboriginal Liaison Officer
Alternative Care Section

Lyndall Holz
Policy Officer
Alternative Care

Terry Macdermott
Regional Manager
Brisbane South Region

Jenny Gear
Area Manager
Logan City Area Office

David James
Assistant Divisional Head
Community and Youth Branch
Division of Community Services
Development

Ian McIntyre
Manager
John Oxley Youth Centre

Anne Nilsson
Acting Manager
Crisis Care

Anne Elliott
Anne-Maree Roche
Policy Resource Officers
Child Protection Section

Garry Thompson
Acting Policy Co-ordinator, Program
Development
Juvenile Justice Branch

Non-government Organisations, Queensland

Ken Cassidy,
Co-ordinator
Kids Help Line

Val Jear, President
Helen Coffey, Member
Foster Parents' Association of
Queensland

Eric Moss
Karen Healy
Louise Villanova
Brisbane Youth Service

Margaret Darwin
Uniting Church of Queensland
Queensland Council of Social Service

Department for Family and Community Services, South Australia

Zofia Nowak Cremer
Project Officer
Program Planning Division

Ron Layton
Director, Executive Projects

Eddie Le Sueur,
Chief Policy Officer
Program Planning Division

Ted Tarleton
Acting Manager
Financial Services

Helen Foster
Project Officer, JAD
Placements and Payments System,
Substitute Care

Liz Kunst
Senior Planner
Child Protection Unit

Andrew Hall,
Director
Family and Community Development
Unit

Linda Hurley
Supervisor
Adolescent and Family Team, Marion

John Wright
Senior Residential Care Worker
Independent Living Skills Support
Program

Kim Thorpe
Manager, Juvenile Justice Unit

Allan March
Juvenile Justice Unit

Sandy Miller
Manager,
Aboriginal and Islander Co-ordinating
Unit

Dave Akbar
Manager,
Adolescent Services, Aboriginal

Brian Butler
Aboriginal Child Care Agency

Michael Szwarcborg
Manager
Placement and Support Services

Barry Kennedy
Manager
Community Residential Care

Sheenagh Watkins
Senior Planner
Youth Services

Sue Vardon
Chief Executive Officer

Matthew Woodward
Project Officer
Youth Supported Accommodation
Program

Patrick Bradley
Welstat

Non-government Organisations, South Australia

Tom Easling
Co-ordinator
Trace-a-Place

Angie Laussel
Joyce Shultz House
Young Women's Refuge

Karen Zolu
Social Studies Department
University of South Australia

Department of Social Security, Canberra

Monica McMahon
Shirley Douglas
Gina McKinley
Social Policy Division

Department of Social Security, Queensland Area Offices

Mr John O'Brien
Central Area Manager

Mr Pat O'Leary
South Area Manager

Gwen Chatwood
Lindsay Kranz
Katrina Gleeson
Vicki Cox
Sue Perrott
Sue Cumming
John Maxwell
Di Andrews
Warren Locke
Dion Taton
Michael Wragge
Robert Williams
Helen Jelica Lack
Julie Rudd
Greg Caldwell

Department of Social Security, South Australia Area Offices

Mr John R Browne
North Area Manager

**Department of Social Security,
South Australia Area Offices (cont.)**

Mr Geoff Wright
South Area Manager

Joan Harrland
Diane Mundy
Charlie Wickins
John Dunn

**Department of Employment,
Education and Training, Canberra**

Graham Carters
Jo Caldwell
Helen Matthews
Policy and Legislation Services

**Department of Health, Housing and
Community Services**

Doug Limbrick
Crisis Accommodation

Peter Fraser
Crisis Accommodation

Alison Stanford
Administration and Development,
Child Care

Alan Randall
Administration and Development,
Child Care

**State Ministers Responsible for
Wardship**

The Hon J P Hannaford MLC
Minister for Health and Community
Services, NSW

The Hon K P Setches MLA
Minister for Community Services, VIC

The Hon A M Warner MLA
Minister for Family Services,
Aboriginal and Islander Affairs, QLD

The Hon E Ripper MLA
Minister for Community Services, WA

The Hon D J Hopgood MHA
Minister of Family and Community
Services, SA

The Hon J L Jackson MHA
Minister for Community Services,
TAS

The Hon D W Manzie MLA
Minister for Health and Community
Services, NT

Mr T Connolly MLA
Minister for Housing and Community
Services, ACT

State Government Contact Persons

Mr Terry Samways
Director of Operations
Department for Health and Community
Services, NSW

Mr Noel McNamara
Special Projects Unit
Department for Community Services,
VIC

Ms Penny Lipscombe
Senior Policy Officer
Legislative Review
Department of Community Services,
WA

Ms Barbara Lypka
Department of Community Services,
TAS

Mr Colin Dyer
Welfare Support Consultant
Department of Health and Community
Services, NT

Ms Barbara Spence
Director
Policy and Co-ordination
Family and Services Branch
ACT Housing and Community
Services Bureau, ACT

