

Public hearing - Inquiry into child protection and the social services system
Supplementary questions for Sisters in Law Project

What are the impacts on children when they are the subject of hearings in multiple jurisdictions?

In my experience, when children are interviewed by child protection authorities they are encouraged to tell the truth about what they have experienced. When a child's experiences of violence and abuse are minimised and ignored by professional agencies, the impact on a child's psychological development, specifically self-worth, can be devastating. VOCAL assists young adults who, as children, went through the child protection system and Family Law system, and who remain traumatised, hurt and disillusioned as to why their disclosures of harm were not validated, acknowledged or acted upon.

Children interviewed in both jurisdictions are continually being failed by systems that do not work together. This ultimately puts children in more danger. The bias against mothers and the assumption that mothers report allegations of child sexual abuse and family violence in order to "win" custody matters is extremely dangerous. Equally damaging is the assumption that mothers "coach" children on what to say in interviews, as this immediately diminishes any disclosure a child makes.

Can you outline some specific decisions in the Federal Circuit and Family Court relating to families in New South Wales, where parental responsibility or unsupervised contact has been given to child abusers?

Due to Section 121 of the Family Law Act, I am not prepared to list specific details. However, a general overview of matters includes:

Example 1:

- The Judge ordered the child to live with the alleged perpetrating father, deeming the mother to be fixated on the sexual abuse of her child. The Judge stated that the parents should not expose the child to masturbation.

Example 2:

- After a child protection interview, (that substantiated that the child was at risk of harm relating to sexual abuse) a mother was recommended by NSW Department of Communities and Justice (DCJ) to engage the child in sexual assault counselling via NSW Health. The mother did this, and the counsellor recorded and reported the child's disclosures of sexual abuse.

- The Judge gave full custody to the father, and while the Judge made reference to some disclosures of abuse that the child made, the Judge placed higher weight on believing the mother “psychologically abusive” by talking to the child about the abuse, and by taking the children to see a sexual assault counsellor.

Have your members and the women they support encountered challenges with the use of professional evidence in the Family Court?

Yes. VOCAL has had matters where a private psychologist (i.e., not a court-appointed expert) has submitted evidence in a report of a child’s disclosure of sexual assault. The information was redacted by the ICL before being submitted to the court.

VOCAL has had matters where child protection case files have been heavily redacted. Information about a child’s disclosure of abuse and who they named as the perpetrator were redacted. When VOCAL raised this with DCJ caseworkers, it was said to be done for the protection of the children and what they have disclosed

It is our experience that expert witnesses in the Family Court largely dismiss protective parent’s claims of abuse. It is our experience that court-appointed experts often falsely diagnose women (after one appointment) with mental health disorders (e.g. factitious disorder) as opposed to looking holistically at their experience of domestic and sexual abuse. It is our opinion that many of the longstanding court-appointed experts do not have the required training or skills to adequately address matters of family violence and sexual abuse. For example, in one matter – where the husband had several domestic violence charges occurring in the State’s Local Court - the court-appointed expert interviewed the children about domestic violence in the home while the father was sitting in the interview room. The children did not disclose anything, and the report stated the mother was fabricating examples of abuse.

In another matter, the Judgment made reference to the Court placing higher weight on the Court-Appointed Expert’s opinion, who deemed that sexual abuse of the child did not occur. This conclusion came despite only having one appointment with the child. In contrast, the child’s ongoing treating psychologist’s report referenced trauma behaviours indicative of sexual abuse, but this was dismissed by the court because the psychologist had “less years of practice” than the court appointed expert.