

**Submission
No 2**

CHILD PROTECTION AND SOCIAL SERVICES SYSTEM

Organisation: The Smith Family

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everyone's family

Inquiry into the child protection and social services system

Parliament of New South Wales: Committee on Children and Young People

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Overview of The Smith Family

The Smith Family is a national charity founded in 1922 to improve the lives of disadvantaged children in Australia. Our vision is a better future for young Australians in need. Our mission is to create opportunities for them by providing long-term support for their participation in education. This mission is founded on the belief that every child deserves a chance to thrive and create a better future for themselves.

Our mission guides every element of our work, including program development and delivery, research, advocacy and fundraising. The Smith Family delivers programs in each state and territory in Australia, in over 90 communities, including many regional and rural communities.

In 2019-20, The Smith Family supported over 209,000 children, young people, parents, carers and community professionals across Australia. Over 170,000 children and young people in 91 communities participated in our programs, including over 57,000 financially disadvantaged children in our *Learning for Life* educational scholarship.

Learning for Life has three integrated components:

- A modest biannual payment made to families to help them cover core education related expenses such as books, uniforms and excursions.
- A Program Coordinator (a staff member with The Smith Family) who works with the family and their school to support the young person's long-term participation in education.
- A range of short programs that help ensure the young person is engaged in education. Programs include literacy and numeracy, learning clubs, mentoring and career activities, as well as digital and financial literacy initiatives for parents.

As part of our leadership and collaborative work in the sector, The Smith Family is a member of a number of organisations and represented on a number of advisory groups and boards.

1. Introduction

The Smith Family welcomes the opportunity to contribute to the Parliamentary Committee Inquiry into the child protection and social services system (the Inquiry). It is positive that in recent years, the numbers of children entering out-of-home care (OOHC) in NSW have started to reduce¹, although Aboriginal and Torres Strait Islander children remain significantly over-represented in the system. Further reducing the numbers of children in OOHC should remain one of the NSW Government's policy priorities. Major reform is still required to ensure that all children and young people are safe and protected in their daily lives, and that all relevant service agencies and non-government providers can address child protection matters in the most efficient, responsive and timely manner.

The Smith Family provides programs and services to over 40,000 students in New South Wales. We work with schools in 32 communities to deliver education support programs to students from disadvantaged backgrounds. Over 16,000 students in NSW participate in our *Learning for Life* scholarship program. Given our work, The Smith Family is a mandatory reporter of child protection matters and maintains rigorous child protection procedures. As an organisation, we continuously strive to improve our responses and ensure all staff remain fully aware of their roles and responsibilities in protecting children. Engaging with the NSW Department of Communities and Justice (DCJ) is crucial for us to fulfil our child protection obligations.

The Smith Family works with an especially vulnerable cohort of children, who experience multiple and compounding challenges in their lives. For example, of those children and young people supported through *Learning for Life*:²

- all live in low-income families
- more than half live in single-parent families
- around 40 per cent have health or disability issues
- more than half have a parent or carer who did not complete Year 12
- more than 70 per cent of students have a parent or carer not in paid employment
- one in five students in Years 5 to 12 has attended four or more schools
- one in five students live in families who do not have a computer, or tablet connected to the internet.

Children and young people in OOHC experience significant educational challenges and disruptions to their education, with the school environment often struggling to manage, support and effectively engage them in their learning. They tend to have poorer educational outcomes as a result. There are also intergenerational links in child protection. Some children entering OOHC have a parent who was

¹ Roberts, Jason, '[Number of NSW children and young people in out-of-home care declining](#)', The Sector, 24 January 2019.

² The Smith Family, [Annual Report 2019/20](#), p 5.

reported at risk of harm as a child, or was in OOHC themselves.³ We hope this Inquiry is successful at finding solutions to the longstanding issues inherent in the current child protection system, including breaking the intergenerational cycle of OOHC that children and young people can experience.

It is worth acknowledging that the NSW child protection system has been the subject of extensive review and examination in recent years, notably the Independent Review of Out-of-Home Care in New South Wales led by David Tune AO PSM completed in 2018, the Independent Review of Aboriginal Children and Young People in OOHC completed in 2019, and the NSW Auditor-General's review of governance and reporting arrangements for Their Futures Matter program in 2020. The findings and recommendations from these reviews are important frameworks relevant to the Inquiry's deliberations on the future of child protection in NSW. These reviews clearly acknowledge the structural failings with the present system, including the need to improve the quality of the interventions made, and the need to position vulnerable children and families at the centre of the service response, rather than designing reform around pre-existing programs with limited impact. We strongly encourage the Committee to leverage the knowledge from these reviews and to lay out a roadmap on how best to implement their recommendations.

The Smith Family makes the following points in relation to this Inquiry:

- To strengthen the connection between social services and the child protection system, any relevant service agency should be resourced, capable and confident to identify and address child protection matters proactively without needing to refer all matters to DCJ.
- The child protection system needs to shift to a genuinely whole-of-government approach, with a collaborative investment approach prioritising early intervention measures within all relevant agencies, including the Department of Education.
- The connections between the child protection system and Commonwealth-funded legal services including the Family Court must also be strengthened to ensure relevant and timely information relating to vulnerable children can be shared with state-based authorities for ongoing observation and potential action.
- The child protection system must monitor and respond to material changes of circumstance for vulnerable families such as sickness, unemployment, loss of income or change in housing conditions, including the lingering risk of COVID-19 related lockdowns, in addition to major transitions points for children.

³ NSW Department of Family & Community Services, 'The prevalence of intergenerational links in child protection and out-of-home care in NSW', August 2017.

- DCJ should be empowered to work more collaboratively and engage more regularly with non-government service providers regarding child protection referrals, in order to strengthen the decision-making capability and institutional knowledge of providers.
- Given the over-representation of Aboriginal and Torres Strait Islander children in the child protection system and OOHC, an update from the NSW Government should be sought on its planned implementation of key recommendations from the *Family is Culture* Review Final Report released 2019, which creates a framework for improved child protection services for Aboriginal children.

We expand on these points below.

2. Improving the connection between social services and child protection means strengthening capabilities

To ensure vulnerable children across NSW are protected in the most effective and efficient way possible requires significantly strengthening the connections between child protection and the social services that vulnerable families and children use in their everyday lives. This is a challenge already acknowledged by key stakeholders in this area and has been the subject of recent independent reviews. For example, the Independent Review of Out-of-Home Care in New South Wales led by David Tune AO PSM in 2018 (Tune Review) identified the fact that vulnerable children and families have needs that cross boundaries of government agencies. Despite efforts to align services to work together on shared outcomes for children and families, it found there was little systemic impact and agencies remained responsible for discrete activities.⁴ Recent reform efforts have not greatly improved the connectedness of child protection to social services⁵, nor has reform substantively improved the effectiveness of the system in protecting vulnerable children and preventing them from entering OOHC. As a result, we still do not see sufficiently early interventions before a problem with child safety becomes a crisis requiring drastic action by the NSW Government in potentially removing children from primary carers.

If the connections between child protection and social services are to be genuinely strengthened and made deep and durable, The Smith Family believes that child protection needs to be embedded in the routine operations of all relevant government service agencies. We believe that any relevant service agency should be sufficiently resourced, capable and willing to proactively identify a child protection matter and attend to the issue themselves. At present, service agencies still tend to refer each matter to DCJ for action, reinforcing the siloed system where responsibility for child protection is neither shared or integrated into service delivery.

⁴ Tune, David AO PSM, *Independent Review of Out of Home Care in New South Wales: Final Report*, 2018, p 21.

⁵ Audit Office of New South Wales, *Their Futures Matter: Performance Audit*, 24 July 2020, p 2.

the Tune Review remains a valuable framework to guide and direct all efforts to this end. It sets out a vision for reform that includes vulnerable families receiving help specific to their needs, aimed at improving their life outcomes whilst keeping children safe.⁶ The Tune Review also acknowledged that delivering on its vision requires systemic reform from the whole of government, not incremental change to the existing system.⁷ We expand on what such an approach should entail in the next section.

3. Shifting to a whole-of-government approach to child protection with a focus on early intervention

Greater reductions in the number of children entering OOHC will prove elusive unless there is a serious commitment to developing and delivering a whole-of-government approach, supported by appropriate machinery of government adjustments and suitable financial investment. The implementation of the Their Futures Matter program (TFM) was intended to produce such an approach. However, the NSW Auditor-General's review of governance and reporting arrangements for the Their Futures Matter program in 2020 (NSW Audit) found that while some progress was made, important foundations established and new programs trialled, the key objective of establishing an evidence-based whole-of-government early intervention approach for vulnerable children and families in NSW was not achieved.⁸ After four years of TFM, DCJ remains the primary department with ownership and responsibilities for child protection across the state. Both the Tune Review and the NSW Audit highlighted the fact that the child protection system remains focused on a crisis response, without an effective integration of social services in a whole-of-government approach.⁹

Both the Tune Review and the NSW Audit offer a clear strategic framework to guide the creation of a genuinely whole-of-government response to child protection, especially regarding policy leadership, cross-agency buy-in and program funding. The Tune Review found that the overarching logic to guide program development, investment and interventions was geared towards siloed work by agencies that focused on outputs rather than improving life outcomes.¹⁰ The NSW Audit highlighted that cross-portfolio leadership and cross-agency still needs to be embedded in policy development and program delivery.¹¹ TFM lacked the strong, central coordinating role regularly performed by the Premier's Implementation Unit for the Premier's Priorities.¹² This Unit tends to

⁶ Tune, David AO PSM, *Independent Review of Out of Home Care in New South Wales: Final Report*, 2018, p 25.

⁷ Tune, David AO PSM, *Independent Review of Out of Home Care in New South Wales: Final Report*, 2018, p 21.

⁸ Audit Office of New South Wales, *Their Futures Matter: Performance Audit*, 24 July 2020, p 2-3, 12-13.

⁹ Tune, David AO PSM, *Independent Review of Out of Home Care in New South Wales: Final Report*, 2018, p 22.

¹⁰ Tune, David AO PSM, *Independent Review of Out of Home Care in New South Wales: Final Report*, 2018, p 21.

¹¹ Audit Office of New South Wales, *Their Futures Matter: Performance Audit*, 24 July 2020, p 5.

¹² Audit Office of New South Wales, *Their Futures Matter: Performance Audit*, 24 July 2020, p 15.

produce better collaboration and can more effectively draw together different government agencies to drive a whole-of-government response, including investment in collaborative problem-solving.

Implementing a whole-of-government approach to child protection also requires making increased levels of funding available for early intervention and prevention measures in agencies delivering essential services to vulnerable families, including the Department of Education. The Smith Family sees the crucial role schools in low-income and disadvantaged areas play in the identification of potential child protection issues. These schools have strong relationships with their student community and tend to be one of the first services to detect a material change in the circumstances of a family or child. Schools are well-placed within the child protection system but require additional resources to perform their early intervention role more effectively. For example, even though the Department of Education sat on the TFM Implementation Board, in 2019-20 only 3 programs worth \$8 million in total were allocated to the Department as part of TFM.¹³

Increased investment in educational support for children in OOHC is one of the most effective approaches for breaking the intergenerational cycle of OOHC that exists for some families in NSW. Sustained and targeted assistance for the education of children in OOHC would have a powerful and positive impact on a range of their longer-term life outcomes, whilst also making it less likely that their sons and daughters will in turn enter OOHC. This Inquiry provides an opportunity to consider how best to invest in education support programs to achieve these outcomes.

The NSW Audit makes it apparent why more investment has not thus far been made in early intervention. In appraising funding arrangements under TFM, it concluded that the program lacked the mechanisms to drive reprioritisation of government investment in earlier intervention supports across different agencies.¹⁴ By the end of TFM, the majority of investment remained tied to existing programs with limited comparative evidence of their effectiveness.¹⁵ TFM also struggled to secure collective decisions on decommissioning existing programs and reprioritising funding in line with the reform's intent.

The NSW Audit also sets out a strategic framework for improving the way that relevant programs are funded by the government - by taking an 'investment approach' where funding is focused on providing services with the greatest social return, including:¹⁶

- creating a whole-of-government investment approach driven by cross-portfolio leadership,
- redirecting funding to earlier interventions with a better evidence-base about what works to respond to needs of vulnerable children and families, and

¹³ Audit Office of New South Wales, *Their Futures Matter: Performance Audit*, 24 July 2020, p 20.

¹⁴ Audit Office of New South Wales, *Their Futures Matter: Performance Audit*, 24 July 2020, p 16.

¹⁵ Audit Office of New South Wales, *Their Futures Matter: Performance Audit*, 24 July 2020, p 16.

¹⁶ Audit Office of New South Wales, *Their Futures Matter: Performance Audit*, 24 July 2020, p 5.

- repurposing or decommissioning programs and services that are comparably less effective.

The Smith Family agrees with the solutions put forward by the NSW Audit, and sees the implementation of its proposals as the best way to ensure a whole-of-government approach to child protection that would also prioritise the involvement of the Department of Education and the role of local schools specifically in early intervention programs. We do also appreciate that repurposing or decommissioning existing programs or services is a challenging matter within government with existing programs and competing priorities in delivering essential services to vulnerable communities. The Smith Family recommends the Inquiry consider providing interim funding to help crisis-oriented support agencies to transition to less funding and recalibrated service delivery. This may also help with agency buy-in to a collaborative investment approach. We believe that this would be consistent with the NSW Audit when it stated that agencies be assisted with the repurposing of any programs identified as comparatively less effective within TFM.

4. Relationship between services funded by the Commonwealth and the NSW child protection system

Crucial to systemic reform of the NSW child protection system is strengthening its connections with relevant services funded by the Commonwealth. Vulnerable families and children in NSW are often involved in legal processes administered by the Commonwealth, such as family dispute resolution or matters before the Family Court of Australia. The nature and content of such proceedings are materially relevant to child protection services. Similarly, protection orders from the Family Court can at times not mitigate the risk to children, and can even exacerbate it in the wrong scenarios, meaning that strong connections to social services is vital for ongoing detection and monitoring of potential safety and protection issues.¹⁷

In the experience of The Smith Family, sharing information between Commonwealth legal services and state-based government agencies or non-government service providers, regarding the safety and protection of vulnerable children, is consistently inadequate. Despite family law reform in 2012 aiding the flow of information between Commonwealth legal services and state entities regarding personal protection orders,¹⁸ the ongoing challenge of communication, and its effect on child protection, remains a barrier in reality. Communication tends to not be timely and does not sufficiently aid the making of suitable child protection decisions. Inconsistent and fragmented information sharing is highly problematic because, as acknowledged by the Australian Institute of

¹⁷ Women's Safety NSW, *Child Contact, Shared Care and Family Law in the Context of Domestic and Family Violence and COVID-19: Briefing Paper*, 13 April 2020, p 4.

¹⁸ Australian Institute of Family Studies, *Submission to the Joint Select Committee on Australia's Family Law System*, January 2020, p 26 ; Chisolm AM, Richard, *Information-Sharing in Family Law & Child Protection: Enhancing Collaboration*, March 2013 p 2.

Family Studies (AIFS), where significant fragmentation exists between related but separate systems, the risk of harm increases to the children of separating families.¹⁹

We acknowledge that the NSW Government has sought to improve links with its counterpart state and territory jurisdictions regarding the safety and wellbeing of children.²⁰ Similar efforts are required with the Commonwealth. We acknowledge that there has been progress. The Commonwealth is currently piloting an \$11 million initiative to co-locate 22 state and territory child protection practitioners and policing officials in family law court locations across Australia, running until 30 June 2022. These officials will facilitate more timely access to relevant information and records held by state authorities and other courts, in order to support more effectively respond to safety risks.²¹

Whilst these are promising steps, the recent experience of The Smith Family still points to serious structural difficulties with the sharing of information. We encourage the Committee to closely examine the co-location pilot to determine its effectiveness in NSW and whether its operations need to be expanded and deepened.

5. Responding to transition points for families and children more holistically in child protection

In shifting the child protection system towards an early intervention approach, where any government service is able to identify and respond to a child protection matter, it is important that agencies and providers focus on transition points for the entire family as well as individual transition points for children. A range of different scenarios can emerge where a major change in circumstances for a family can give rise to potential child safety and protection problems. These include when families have unstable housing arrangements, experience sickness, long-term health issues or death of a family member, or the loss of employment or income of a parent or carer. Any of these scenarios, or any combination of them, can lead to an unsafe environment and trigger family conflict where children are at risk. As mentioned earlier in this submission, The Smith Family work with a particularly vulnerable cohort who daily experience multiple and compounding challenges in their family lives as listed above. These challenges are in addition to major life transitions with school, such as finishing primary school, starting secondary school and progressing to senior studies in Year 11 and 12.

In 2020, child protection services were profoundly challenged by COVID-19 and unprecedented lockdowns and social distancing. The extended lockdown and period of remote learning, when all family members were at home with limited movement and social support, placed significant stress

¹⁹ Australian Institute of Family Studies, Submission to the Joint Select Committee on Australia's Family Law System, January 2020, p 4, 9.

²⁰ NSW Department of Communities & Justice, 'Exchanging information related to child protection and wellbeing'.

²¹ Australian Government, 'Co-location of State and Territory child protection and other officials in Family Law Court Registries', National Plan to Reduce Violence against Women and their Children, 10 August 2020.

on many families supported by The Smith Family.²² Across the country, we saw heightened concerns over the physical safety and wellbeing of students at home all the time, with tensions existing within certain families during the crisis. Previous safe places for children like community centres were closed temporarily, and it was difficult to find safe places that offered respite from home life.²³ Women's Safety NSW raised concerns this year that child protection reports dropped by 70 per cent in NSW during the pandemic-related lockdown.²⁴ It is conceivable that similar lockdowns may be required at intervals during 2021, raising similar challenges and concerns over how to safeguard vulnerable children and families during a similar public health crisis.

The Tune Review acknowledged that few interventions are designed to address the multiple vulnerabilities facing families, which in turn prevents families receiving targeted, integrated and tailored responses.²⁵ A move to a genuinely whole-of-government response, with a collaborative investment approach as outlined earlier in this submission, would shift child protection to being more integrated, targeted and tailored. Similarly, where families present to the social services system with a material change of circumstances that indicates heightened risk of harm, the relevant agency should be able to identify potential concerns and monitor or act accordingly. This would in turn help to de-escalate the risk of harm to the child and allow more preventative actions to be undertaken to support the family through a period of heightened stress or trauma.

Given the lingering risk of COVID-19 on our communities, we would also recommend that the Committee look at how the child protection system can be better prepared and ready for potential future lockdowns next year, including how to use digital and online tools. Whilst a reliance on digital interaction can never be a sufficient substitute, given vulnerable families can often struggle with reliable access to the internet and devices, we acknowledge this must play a supplemental role in these types of scenarios.

6. Greater collaboration with non-government service providers

Part of improving the competency and responsiveness of the child protection system, and shifting towards an early intervention approach, is improving how DCJ engages with non-government service providers. Given the nature of the work of The Smith Family, we routinely must decide whether to refer matters to DCJ using the appropriate Decision Tree. There are two issues with the current process. Firstly, once a non-government provider has decided to refer a child protection matter to DCJ, the provider receives no update on how or whether the issue has been successfully resolved by

²² The Smith Family, *COVID-19 Insights Snapshot: The challenges of surviving COVID-19 in Australia's hardest hit communities*, May 2020, p 3.

²³ The Smith Family, *COVID-19 Insights Snapshot: The challenges of surviving COVID-19 in Australia's hardest hit communities*, May 2020, p 3.

²⁴ Women's Safety NSW, *Child Contact, Shared Care and Family Law in the Context of Domestic and Family Violence and COVID-19: Briefing Paper*, 13 April 2020, p 3.

²⁵ Tune, David AO PSM, *Independent Review of Out of Home Care in New South Wales: Final Report*, 2018, p 21-22.

DCJ. This lack of visibility over outcomes, or feedback on the nature of the referral does not help providers improve their decision-making processes or experience for considering future referral decisions.

Secondly, when The Smith Family uses a Decision Tree to determine whether an incident needs to be reported to DCJ, problematic scenarios can arise where an issue does not need to be referred according to the Decision Tree, but where an active response is still required in reality in order to protect a vulnerable child. Whilst due process has been followed in such an instance, the actual problem remains unresolved with the risk of harm to the child, and the non-government provider can be left in a challenging position without additional assistance or guidance from DCJ, and the level of risk to the child undiminished.

DCJ should be empowered to work more collaboratively with non-government service providers on an ongoing basis, both in examining the outcomes of referrals, and to also advise on suitable responses to a child protection issues deemed particularly difficult by a service provider, and when a referral is not deemed necessary under the Decision Tree. More regular collaboration and engagement will over time strengthen decision making capabilities of service providers.

7. Over-representation of Aboriginal and Torres Strait Islander children in child protection

The Smith Family acknowledges the significant and deeply concerning over-representation of Aboriginal and Torres Strait Islander children in the child protection system. According to the NSW Child, Family and Community Peak Aboriginal Corporation (AbSec), 40 per cent of kids in out-of-home care in NSW identify as Aboriginal despite only making up 5 per cent of the children in the state; Aboriginal children are 11 times more likely to be taken from their families than non-Aboriginal children, and 50 per cent of kids in the juvenile justice system being Aboriginal.²⁶ Equally troubling statistics have been widely acknowledged over the years, and there is a long history of government inquiries into the over-representation of Aboriginal children in the system, most recently culminating with the Independent Review into Aboriginal Children and Young People in OOHC (*Family is Culture* Review), whose Final Report was published in 2019.²⁷

Whilst The Smith Family is not an Aboriginal-controlled or led organisation we work with Aboriginal and Torres Strait Islander students across the country through our Aboriginal and Torres Strait Islander staff network. In 2019-20, a total of 12,417 students on our *Learning for Life* program identified as Aboriginal and Torres Strait Islander, about 21.5 per cent of the entire cohort. We acknowledge that the child protection system does not treat Aboriginal and Torres Strait Islander families and children with dignity, equality and respect under the law. The present structural failings in the NSW child protection system have been clearly articulated in the *Family is Culture* Review

²⁶ NSW Child, Family and Community Peak Aboriginal Corporation, '[The growing link between child protection and incarceration](#)', 22 June 2020.

²⁷ Independent Review of Aboriginal Children and Young People in OOHC, *Family is Culture: Review Report*, 2019.

Report. Similar to the ongoing value of the Tune Review and the NSW Audit, the *Family is Culture* Review offers a detailed framework for reforming the child protection system to address the over-representation of Aboriginal and Torres Strait Islander children in OOHC, including the need to develop an agreed understanding on the right to genuine 'self-determination' for Aboriginal peoples within the NSW system and the central role that Aboriginal Community Controlled Organisations must play in the delivery of early intervention and prevention services for Aboriginal children.²⁸ The importance of Aboriginal-led programs that build on cultural connections within Aboriginal communities was also supported by the NSW Audit.²⁹

The Smith Family recommends that the Inquiry seek an update from the NSW Government on its plans to implement key recommendations from the Final Report, including better upholding the Aboriginal and Torres Strait Islander Child Placement Principle, establishing an Aboriginal Outcomes Taskforce within DCJ, and recommissioning the \$160.2 million targeted early intervention program to provide better evidence-based services and supports to families with a child at risk of entering care.³⁰ Whilst it may still be early to see progress on these commitments, it is timely that an update is provided so that the Inquiry can make a holistic appraisal of the state of the NSW child protection system and efforts underway to deliver systemic change in key areas.

8. Conclusion

Building and maintaining an effective child protection system that responds successfully and in real time to potential harm faced by vulnerable children is a stubborn, longstanding social policy dilemma. This Inquiry also occurs during a year of significant disruption and uncertainty to families everywhere, where there has been unprecedented risk to vulnerable children and families. On a positive note, significant institutional knowledge has been developed via the several reviews noted in this submission such that the chief problems have been clearly identified, and a detailed, rigorous roadmap for reform exists for the Inquiry's use. Ultimately, improving child protection will take not only a whole-of-government approach, but a sustained collaborative approach involving community-led organisations and service providers. Now that the building blocks for a better system are available, it is paramount that we get the design and implementation right.

²⁸ Independent Review of Aboriginal Children and Young People in OOHC, *Family is Culture: Review Report*, 2019, Chapter 7.

²⁹ Audit Office of New South Wales, *Their Futures Matter: Performance Audit*, 24 July 2020, p 30.

³⁰ Independent Review of Aboriginal Children and Young People in OOHC, *Family is Culture: Review Report*, 2019, p 3-5.