

**Submission  
No 23**

## **CHILD PROTECTION AND SOCIAL SERVICES SYSTEM**

**Organisation:** Public Interest Advocacy Centre (PIAC)

**Date Received:** 11 December 2020



**public interest**  
ADVOCACY CENTRE

## **Submission to NSW Parliamentary Committee on Children and Young People Inquiry into the child protection and social services system**

**11 December 2020**

## About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in Sydney.

Established in 1982, PIAC tackles barriers to justice and fairness experienced by people who are vulnerable or facing disadvantage. We ensure basic rights are enjoyed across the community through legal assistance and strategic litigation, public policy development, communication and training.

As part of our work in the area of Aboriginal and Torres Strait Islander justice, PIAC has sought to advance a strategy developed in partnership with the Aboriginal Legal Service NSW/ACT (ALS) through our Indigenous Child Protection Project (ICPP), to improve outcomes for Aboriginal and Torres Strait Islander children and families in the NSW child protection system.

Through consultation with state-wide and regional Aboriginal organisations, PIAC and the ALS identified several priority areas requiring systemic change including:

- Early support for families – strengthening the obligation on the Department to support families and prevent the removal of children.
- Permanency of culture – ensuring that connection to culture is recognised as integral to the wellbeing and best interest of Aboriginal children, particularly in court proceedings.
- Adoption and guardianship – increasing transparency around the NSW government’s approach to adoption and guardianship of Aboriginal children, and advocating for the implementation of the Family Is Culture Review recommendations.
- Housing – improving consistency between housing and child protection policies to ensure that families at risk can access appropriate housing.

PIAC’s work is focused on making change in these priority areas, in collaboration with Aboriginal community-controlled organisations.

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Public Interest Advocacy Centre



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The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

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### ***Recommendations in response to Inquiry TOR 1 – 3: Early Intervention***

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- 1. The child protection system and Children and Young Persons (Care and Protection) Act 1998 (Care Act) is re-oriented to prioritise early supports for family and prevent removals wherever possible.*
- 2. The Department of Communities and Justice (DCJ) amend their policies and procedures to ensure lawyers are able to effectively advocate for support and services to be provided to clients to prevent removal.*
- 3. The Care Act is amended to ensure that removals that are unwarranted or that do no occur as a measure of last resort can be effectively challenged.*
- 4. DCJ amend their policies and procedures to ensure that child removal only occurs as a measure of last resort, and where there is reliable evidence of harm. This should be accompanied by repeal of section 106A(1)(a) of the Care Act, which reverses the evidentiary burden on families who have previous children in care.*
- 5. The principle of supporting families to care for their children is better embedded in DCJ policies, decreasing the number of removals in NSW. This should include amendment of the Care Act to require DCJ to take active efforts to prevent children from entering out of home care (OOHC).*

### ***Recommendations in response to Inquiry TOR 4 – 8: Permanency of Culture, Adoption and Guardianship and Housing***

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- 6. The child protection system and Care Act is re-oriented to recognise permanency of culture as integral to the wellbeing and best interests of Aboriginal children. This should include DCJ developing guidance for caseworkers, in consultation with Aboriginal controlled organisations, on the purpose of the Aboriginal and Torres Strait Islander Child Placement Principles, its elements, and how to apply these elements during casework.*
- 7. The adoption and guardianship systems are re-oriented to reflect the best interests of Aboriginal children and are supported by a strong and unbiased research base. This should include amendment of the Adoption Act 2000 (Adoption Act), Guardianship Act 1987 (Guardianship Act) and Department of Communities and Justice policies and procedure to ensure full compliance with each of the five elements of the Aboriginal and Torres Strait Islander Child Placement Principles at each step of the child placement process.*
- 8. Applications for the adoption and guardianship of Aboriginal children accurately and robustly apply the Aboriginal and Torres Strait Islander Child Placement Principles.*
- 9. Greater transparency is provided by DCJ in relation to policies and approaches to adoption and guardianship, and the numbers of adoptions of Aboriginal children taking place in NSW. This should include the development of regulations and policy about identifying and 'de-identifying' children in contact with the child protection system as Aboriginal, as well as annual publication of numbers of children who are 'de-identified' as Aboriginal.*

10. *DCJ improve their policies and procedure consistency in relation to child protection and housing and prioritise access to housing services for families at risk of entering the child protection system or facing barriers to reunification.*
11. *The NSW Government ensures parents are able to access housing where homelessness or inadequate housing is a child protection concern, in order to prevent removal or enable restoration.*
12. *DCJ amend their policies and procedures to exempt families at risk or parents who have had their children recently removed from the requirement to reapply for temporary accommodation, move constantly between temporary accommodation providers in times of crisis, and provide families and parents in these situations with stable temporary accommodation for the full 28 days.*
13. *DCJ publish a list of crisis and transitional accommodation providers, including information about capacity and eligibility, that is easily accessible to families and support services.*
14. *The NSW Government increases investment in culturally appropriate, stable and secure crisis accommodation for families at risk of involvement in the child protection system.*
15. *DCJ Housing amend their policies and procedures to ensure that families at risk of intervention by child protection are supported to stay together and care for their children by placing them on the priority waitlist for social housing. This should occur prior to removal.*
16. *The NSW Government increase supply of new, fit for purpose social housing, making such social housing available to families at risk, particularly Aboriginal families in regional areas.*
17. *The NSW Government, in consultation with Aboriginal and community stakeholders, develop and publish guidelines to improve coordination between housing officers and child protection caseworkers working with families that have intersecting housing and child protection issues.*
18. *The NSW Government implement Recommendations 32 – 34 of the Family Is Culture Review, which call for the state-wide roll out of the Staying Home Leaving Violence resource, as well as increasing the availability of short-term refuges and longer-term social housing stock suitable to the needs of Aboriginal women escaping violence.*

# 1. Introduction

## 1.1 Implementation of the Family is Culture Review

Released late last year, the landmark Family Is Culture report made damning findings about the NSW child protection system, including widespread non-compliance with legislation and policy among Departmental caseworkers, failures of accountability, misleading evidence provided to the Children's Court and higher rates of harm experienced by Aboriginal children in care.

PIAC alongside the Aboriginal Legal Service NSW/ACT (ALS), AbSec, SNAICC and 18 other civil society organisations, have previously called for the implementation of all 125 recommendations of the Family is Culture report, in an open letter sent to the Premier on 2 March 2020.

In their response to the Family is Culture report, the NSW Government has declined to consider over a third of the report's recommendations relating to changing child protection legislation, court processes and mandated early intervention, until a review in 2024.

PIAC again urges the NSW Government to implement the recommendations of the Family is Culture report in full. The recommendations set out a clear pathway for reforming the NSW child protection system, emphasising the need for Aboriginal self-determination and early support for families.

While PIAC urges full implementation of the Family is Culture report, the content of this submission is limited to areas of PIAC's knowledge through our work on Aboriginal Child Protection, including in the areas of early support, permanency of culture, adoption and guardianship and housing. PIAC does not have direct casework experience in these areas but instead works in close collaboration with Aboriginal controlled organisations. We do not attempt to cover all aspects of the Committee's inquiry, or repeat the many previous recommendations that have been made by earlier inquiries.

In addition, our work in this space has involved consultation and collaboration with Aboriginal controlled organisations, and so predominantly our recommendations relate to Aboriginal and Torres Strait Islander families and children. Many of the recommendations could also equally be relevant to non-Aboriginal families and children involved in the NSW child protection system.

## 2. Response to Inquiry Terms of Reference 1 – 3

### 2.1 Early Support

The Aboriginal Legal Service NSW/ACT (ALS) and other Aboriginal organisations have consistently called for a re-orientation of the child protection system away from crisis driven approaches towards earlier support to enable families to stay together and prevent removals.<sup>1</sup>

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<sup>1</sup> Aboriginal Legal Service (NSW/ACT) Limited, Submission No 100 to House of Representatives Standing Committee on Social Policy and Legal Affairs, *Inquiry into local adoption* (1 June 2018); AbSec (Aboriginal Child, Family and Community Care State Secretariat), Submission No 46 to House of Representatives Standing Committee on Social Policy and Legal Affairs, *Inquiry into local adoption* (11 May 2018); AbSec (Aboriginal Child, Family and Community Care State Secretariat), 'Delivering Better Outcomes for Aboriginal Children and Families in NSW' (Election Platform, May 2018); Grandmothers Against Removals, Submission No 40 to the House of Representatives Standing Committee on Social Policy and Legal Affairs, *Inquiry into*

PIAC's research and consultation demonstrates that many families do not receive the support they need to care safely for their children and prevent the escalation of child protection concerns resulting in removals. This has been confirmed by the Family is Culture Review, which highlighted a lack of effective and consistent early support provided to Aboriginal children and families.<sup>2</sup>

The imbalance in current child protection systems is starkly reflected in statistics. As the Family is Culture Review identified, the proportion of NSW spending on family support services in relation to total child protection spending has declined from 16.6% in 2015-26 to just 14% in 2017-18.<sup>3</sup> Funding for Aboriginal-controlled services is not proportionate to the higher numbers of Aboriginal children entering care. We acknowledge that additional early intervention services have been funded by the NSW government following the Tune review and as part of the 'Their Futures Matter' reforms. There continue to be barriers, however, to Aboriginal and Torres Strait Islander families accessing the services, the majority of which are provided through non-Aboriginal controlled organisations and require a referral from the Department of Communities and Justice (DCJ).

In NSW there is currently no legal obligation on DCJ to support families before removing children,<sup>4</sup> and it is difficult for lawyers to advocate for clients to be provided with the supports and services they need to address child protection concerns. Once a removal occurs, the Courts rarely interrogate the nature of casework with a family prior to removal.

There are a number of legal barriers which prevent parents from challenging the evidentiary basis of a removal in cases where it appears that removal was not warranted. Once an application is made to the Children's Court, parents have limited ability to challenge DCJ's evidence, given the rules of evidence do not apply to care proceedings<sup>5</sup> and the evidentiary threshold for upholding protection concerns is low. The Family is Culture Review confirmed that DCJ provided the Children's Court with misleading or untrue evidence in a significant proportion of case files that were reviewed.<sup>6</sup> Issues were identified around the quality of casework prior to children entering care or early intervention and prevention work with families in 84% of the cases reviewed.<sup>7</sup>

### ***Recommendations in response to TOR 1 – 3: Early Intervention***

1. *The child protection system and Children and Young Persons (Care and Protection) Act 1998 (Care Act) is re-oriented to prioritise early supports for family and prevent removals wherever possible.*
2. *DCJ amend their policies and procedures to ensure lawyers are able to effectively advocate for support and services to be provided to clients to prevent removal.*

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<sup>2</sup> *local adoption* (May 2018); SNAICC - National Voice for our Children, Submission No 72 to House of Representatives Standing Committee on Social Policy and Legal Affairs, *Inquiry into local adoption* (May 2018); SNAICC - National Voice for our Children, Submission No 5 to Professor Megan Davies, *Family is Culture – Independent Review of Aboriginal Children and Young People in OOHC in NSW* (December 2017).  
<sup>3</sup> Professor Megan Davis, *Family is Culture Final Report – Independent Review of Aboriginal Children in OOHC*, 2019, 153.  
<sup>4</sup> *Ibid*, 151.  
<sup>5</sup> *Ibid*, 159.  
<sup>6</sup> *Ibid*, 68.  
<sup>7</sup> *Ibid*, 384.  
<sup>7</sup> *Ibid*, 156.



3. *The Care Act is amended to ensure that removals that are unwarranted or that do not occur as a measure of last resort can be effectively challenged.*
4. *DCJ amend their policies and procedures to ensure that child removal only occurs as a measure of last resort, and where there is reliable evidence of harm. This should be accompanied by repeal of section 106A(1)(a) of the Care Act, which reverses the evidentiary burden on families who have previous children in care.*
5. *The principle of supporting families to care for their children is better embedded in DCJ policies, decreasing the number of removals in NSW. This should include amendment of the Care Act to require DCJ to take active efforts to prevent children from entering out of home care.*

### **3. Response to Inquiry Terms of Reference 4 – 8**

#### **3.1 Permanency of Culture**

Finding a permanent home for children removed from their parents within two years is a priority of DCJ, supported by recent amendments to the Care Act. There are concerns regarding the way in which ‘permanency’ is conceptualised for Aboriginal children. In particular, ‘permanency’ or ‘stability’ of placement is sometimes prioritised over ensuring a child’s connection to culture, which fails to recognise the role that a strong connection to culture plays in ensuring stability and the ongoing wellbeing of an Aboriginal child.<sup>8</sup>

Notions of what constitutes ‘permanency’ may differ in the context of Aboriginal child rearing practices, where it is common for children to be cared for by a number of different extended family members.<sup>9</sup>

Further, where children have to be removed from their families, the ability to maintain a connection to culture through family contact is limited by the current contact guidelines which provide minimal guidance to the Court on how to weigh issues of culture.<sup>10</sup>

For example, the Family is Culture review described the Aboriginal Child Placement Principle (ACPP) as ‘one broad principal made up of five elements [prevention, partnership, placement, participation and connection] that are aimed at enhancing and preserving Aboriginal children’s sense of identity, as well as their connection to their culture, heritage, family and community’.<sup>11</sup> However, the review noted the popular misconception that the ACPP is ‘simply a hierarchy of options for the physical placement of an Aboriginal child in OOHC’ and noted that, for example, although section 13 of the Care Act is titled *Aboriginal and Torres Strait Islander Child and Young Person Placement Principles* the provision only deals with the placement and connection elements of the ACPP without providing meaningful guidance about the overall scope of the ACPP or guidance about how to apply its other elements (prevention, partnership, participation), potentially contributing to the belief the ACPP is ‘simply a sliding placement hierarchy’.<sup>12</sup>

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<sup>8</sup> Ibid, 380.

<sup>9</sup> Ibid, 321.

<sup>10</sup> Ibid, 250.

<sup>11</sup> Ibid, 250.

<sup>12</sup> Ibid, 250.

The Family is Culture Review also highlighted the fundamental importance of connection to culture for Aboriginal children and specifically identified lack of contact between Aboriginal children and their extended family and siblings as a concern.<sup>13</sup> Key findings of the Review included:

- Only about half of children who remained in care at the time of the Review were placed with an Aboriginal carer (53.1%).<sup>14</sup>
- In over half the cases studied (58.5%) issues were expressly identified with the application of the Aboriginal child placement hierarchy in s 13 of the Care Act.<sup>15</sup>
- Of the cases reviewed, 39% of children were identified as not having any contact with one or both sides of their extended families.<sup>16</sup>
- 32.3% of the children whose cases were reviewed did not have a cultural plan at the time of the review.<sup>17</sup>
- Issues with cultural planning were identified in 81.5% of the cases reviewed.<sup>18</sup>
- In 47%, the cultural plans developed for Aboriginal children were assessed as not meeting the cultural needs of the child, commonly because they were not extensive or specific enough and did not adequately map the child's cultural identity.<sup>19</sup>

### ***Recommendations in response to TOR 4 – 8: Permanency of Culture***

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6. *The child protection system and Care Act is re-oriented to recognise permanency of culture as integral to the wellbeing and best interests of Aboriginal children. This should include DCJ developing guidance for caseworkers, in consultation with Aboriginal community organisations, on the purpose of the Aboriginal and Torres Strait Islander Child Placement Principles, its elements, and how to apply these elements during casework.*

## **3.2 Adoption and Guardianship**

There is widespread concern amongst Aboriginal communities and organisations that the NSW government is moving towards permanent placements such as adoption and guardianship as a preferred solution for children in out-of-home care, including Aboriginal children.<sup>20</sup> Concerns regarding these orders include the lack of safeguards and oversight to ensure ongoing connection to family and culture, particularly where the proposed adoptive parents or guardians are non-Aboriginal.<sup>21</sup> Many Aboriginal organisations have expressed opposition to adoption and guardianship for Aboriginal children.<sup>22</sup> This opposition was reflected in the Family is Culture

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<sup>13</sup> Ibid, 326.

<sup>14</sup> Ibid, 276.

<sup>15</sup> Ibid, 276.

<sup>16</sup> Ibid, 327.

<sup>17</sup> Ibid, 333, 338.

<sup>18</sup> Ibid, 338.

<sup>19</sup> Ibid, 339.

<sup>20</sup> Ibid, 376.

<sup>21</sup> Ibid, 378.

<sup>22</sup> See, e.g., Aboriginal Legal Service (NSW/ACT) Limited, Submission No 100 to House of Representatives Standing Committee on Social Policy and Legal Affairs, *Inquiry into local adoption* (1 June 2018); AbSec (Aboriginal Child, Family and Community Care State Secretariat), Submission No 46 to House of

Review, which found that the concept of legal adoption is alien to Aboriginal philosophies and has never been recognised in Aboriginal communities.<sup>23</sup>

In November 2018, amendments were made to the Care Act and *Adoption Act 2000* (Adoption Act) to enable guardianship orders to be made by consent and to enable the Supreme Court to dispense with parental consent to adoption where an application is made by a guardian.<sup>24</sup> The Care Act still preferences restoration and lists adoption as the placement of last resort for Aboriginal children. The Adoption Act also contains some safeguards for Aboriginal children. Nevertheless, there is concern that the recent amendments and associated policy changes will see an increase in Aboriginal children subject to adoption and guardianship orders, contrary to what many Aboriginal organisations perceive as the best interests of Aboriginal children.<sup>25</sup> During 2019 Budget Estimates, Minister Ward confirmed that seven Aboriginal children were adopted in the preceding year, a significant increase from two the previous year. All seven of the children were adopted to non-Aboriginal carers.<sup>26</sup>

The Family is Culture Review found that the NSW Government failed to properly engage with Aboriginal community objection prior to implementation of the 2018 reforms and recommended that the Care and Adoption Acts be amended to ensure that adoption is not an option for Aboriginal children in out of home care (Recommendation 121). It also found significant issues around deidentification of Aboriginal children, including:

- A gap in DCJ data collection on the extent of de-identification of Aboriginal children in the child protection system.<sup>27</sup>
- The review of case files demonstrated that there are currently significant issues with how DCJ identifies and de-identifies Aboriginal children, including de-identification, late identification of Aboriginal cultural heritage and incorrect recording of information or details about cultural heritage.<sup>28</sup>

### ***Recommendations in response to TOR 4 – 8: Adoption and Guardianship***

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#### ***7. The adoption and guardianship systems are re-oriented to reflect the best interests of Aboriginal children and are supported by a strong and unbiased research base. This***

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Representatives Standing Committee on Social Policy and Legal Affairs, *Inquiry into local adoption* (11 May 2018); AbSec (Aboriginal Child, Family and Community Care State Secretariat), 'Delivering Better Outcomes for Aboriginal Children and Families in NSW' (Election Platform, May 2018); Grandmothers Against Removals, Submission No 40 to the House of Representatives Standing Committee on Social Policy and Legal Affairs, *Inquiry into local adoption* (May 2018); SNAICC - National Voice for our Children, Submission No 72 to House of Representatives Standing Committee on Social Policy and Legal Affairs, *Inquiry into local adoption* (May 2018).

<sup>23</sup> Professor Megan Davis, *Family is Culture Final Report – Independent Review of Aboriginal Children in OOHC*, 2019, 372.

<sup>24</sup> *Ibid*, 375-377.

<sup>25</sup> Community Legal Centres Delivering Access to Justice, 'NSW Forced Adoptions Open Letter' (online, 23 November 2018) <<https://www.clcnsw.org.au/nsw-forced-adoptions-open-letter>>; Lorena Allam, 'More than 800 Aboriginal children could be adopted under NSW law change' (online, 7 November 2018) <<https://www.theguardian.com/australia-news/2018/nov/07/more-than-800-aboriginal-children-could-be-adopted-under-nsw-law-change>>.

<sup>26</sup> NSW Parliament, Legislative Council, *Minister Ward – Budget Estimates 2019-20 further hearings – Answers to questions on notice*, 13 April 2020, 11.

<sup>27</sup> Professor Megan Davis, *Family is Culture Final Report – Independent Review of Aboriginal Children in OOHC*, 2019, 259.

<sup>28</sup> *Ibid*, 259-264.

*should include amendment of the Adoption Act 2000 (Adoption Act), Guardianship Act 1987 (Guardianship Act) and DCJ policies and procedure to ensure full compliance with each of the five elements of the Aboriginal and Torres Strait Islander Child Placement Principles at each step of the child placement process.*

8. *Applications for the adoption and guardianship of Aboriginal children accurately and robustly apply the Aboriginal and Torres Strait Islander Child Placement Principles.*
9. *Greater transparency is provided by DCJ in relation to policies and approaches to adoption and guardianship, and the numbers of adoptions of Aboriginal children taking place in NSW. This should include the development of regulations and policy about identifying and 'de-identifying' children in contact with the child protection system as Aboriginal, as well as annual publication of numbers of children who are 'de-identified' as Aboriginal.*

### 3.3 Housing

Housing is a key issue for Aboriginal families in the child protection system. Homelessness, unsafe housing, and overcrowding can be factors in the removal of children, and difficulty resolving housing issues is often a significant barrier to family reunification. Conversely, stable and safe housing can enable a family to address child protection concerns and avoid removals. There is often a nexus between housing and domestic violence issues leading to the removal of children into out-of-home care.

There is a lack of coordination between DCJ Housing and DCJ Child Protection in addressing homelessness for Aboriginal and Torres Strait Islander families at risk of having children removed. Homelessness is a factor in the removal of children in an estimated 50% of cases handled by the ALS Care team. In some cases, the policies of the two arms of DCJ appear to work in contradictory ways. For example, Housing policy states that parents are not entitled to housing which can accommodate their children unless they have custody of those children for 3 or more days a week.<sup>29</sup> This policy presents a barrier for homeless parents who have to demonstrate that they have stable accommodation as a prerequisite for seeking the restoration of their children in the child protection system.

The Family is Culture Review found that housing continues to act as a key driver of child removal, as well as a barrier to restoration.<sup>30</sup> The Review also confirmed PIAC's understanding that silos within the Department and poor policy coordination compound the difficulties and put unnecessary strain on vulnerable families.<sup>31</sup>

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<sup>29</sup> NSW Government, Department of Communities and Justice, *Social Housing Eligibility and Allocations Policy Supplement*, October 2020, Table 2: Criteria for accommodating children in public housing.

<sup>30</sup> Professor Megan Davis, *Family is Culture Final Report – Independent Review of Aboriginal Children in OOHC*, 2019, 172.

<sup>31</sup> *Ibid*, 360.

## Case study – Imogen\*

### **Perspective:** Pregnant mother seeking housing

Imogen was an Aboriginal mother whose toddler, Lucy, was removed from her care due to several issues in the family, including domestic violence, homelessness and drug use. After Lucy's removal, Imogen became pregnant again. She took significant steps to address the protection concerns, including separating from her partner and moving in with family members.

Imogen ceased drug use, participated in drug and domestic violence counselling and returned clean urinalysis tests as requested by child protection caseworkers. As the birth of her child approached, she became concerned that the house she was staying would not be safe for her new-born due to drug use by other family members. She proactively raised these concerns with caseworkers and was informed that her baby would likely be removed after birth if she could not find somewhere else to live.

Imogen applied for public housing but her application was initially delayed because of an alleged debt from a previous tenancy with a Social Housing provider. The provider failed to provide details of the debt after repeated requests and Imogen's housing application stalled. Imogen struggled to find short-term accommodation with capacity to admit her and her unborn child. It was only after persistent advocacy from Imogen's PIAC's Homeless Person's Legal Service housing lawyer that Housing NSW agreed to progress her application and child protection caseworkers made efforts to secure her a place in crisis accommodation to avoid the removal of her unborn child.

## Case Study – Emily\*

### **Perspective:** Mother seeking restoration

Emily was an Aboriginal mother with a newborn baby, seeking restoration of her five-year old daughter. Emily and her baby were living in crisis accommodation and Emily was actively engaged with support services, successfully addressing many of the safety concerns raised by DCJ. She asked DCJ caseworkers to support her efforts to find longer-term accommodation, one of the DCJ requirements for restoration. DCJ caseworkers provided a basic support letter for Emily's housing application, which did not address the eligibility criteria for priority housing or suggest that she be considered for the priority waitlist. Emily's DCJ caseworkers also declined to use their power under s 17 of the Care Act to request prioritised access to transitional housing or social housing for Emily and her baby.

DCJ Housing did not place Emily on the priority housing list because they said she had to first demonstrate that she was unable to resolve her housing need in the private rental market, one of the criteria for the priority waitlist. In keeping with the advice from the DCJ Housing, Emily started looking for private rental homes. However, she struggled to find affordable homes close to the support services she needed to continue attending in order to avoid the removal of her baby and achieve restoration of her older child. She also struggled with a lack of transport to attend house inspections. Nonetheless, she identified several potential properties and made arrangements to inspect them.

## Case Study – Emily\* (continued)

**Perspective:** Mother seeking restoration

Before she attended the inspections, Emily was told by DCJ child protection caseworkers that they would not consider Emily safe in private rental accommodation. Instead, they urged Emily to enter a 3-month residential program for women and children. They expressly asked Emily to stop searching for private rental accommodation. DCJ caseworkers continued to decline to write to DCJ Housing to ask that she be placed on the priority waitlist for housing despite the advice not to continue her search for private rentals. Emily agreed to enter the residential program and did well, receiving positive feedback from the program staff.

Simultaneously, in court proceedings for Emily's older child, DCJ child protection caseworkers argued that restoration would not be possible because Emily only had short-term accommodation in the residential program and had not demonstrated her ability to obtain longer-term accommodation. They continued to argue against restoration on this basis despite the fact that Emily's efforts to seek priority social housing or find a private rental market had not been adequately supported by the Department and that she had faced inconsistent advice from the Housing and child protection caseworkers. Fortunately, shortly before the conclusion of the court proceedings, staff at the residential program were able to secure a place for Emily in one of their limited transitional accommodation houses. J was able to sign a lease for the transitional accommodation for 18 months. With this development, she was able to successfully argue for restoration of her elder child.

\*Names have been changed

### ***Recommendations in response to TOR 4 – 8: Housing***

- 10. DCJ improve their policy and procedure consistency in relation to child protection and housing and prioritise access to housing services for families at risk of entering the child protection system or facing barriers to reunification.*
- 11. The NSW Government ensures parents are able to access housing where homelessness or inadequate housing is a child protection concern, in order to prevent removal or enable restoration.*
- 12. DCJ amend their policy and procedures to exempt families at risk or parents who have had their children recently removed from the requirement to reapply for temporary accommodation, move constantly between temporary accommodation providers in times of crisis, and provide families and parents in these situations with stable temporary accommodation for the full 28 days.*
- 13. DCJ publish a list of crisis and transitional accommodation providers, including information about capacity and eligibility, that is easily accessible to families and support services.*
- 14. The NSW Government increase investment in culturally appropriate, stable and secure crisis accommodation for families at risk of involvement in the child protection system.*
- 15. DCJ Housing amend their policy and procedures to ensure that families at risk of intervention by child protection are supported to stay together and care for their children*

*by placing them on the priority waitlist for social housing. This should occur prior to removal.*

- 16. The NSW Government increase in supply of new, fit for purpose social housing, making such social housing available to families at risk, particularly Aboriginal families in regional areas.*
- 17. The NSW Government, in consultation with Aboriginal and community stakeholders, develop and publish guidelines to improve coordination between housing officers and child protection caseworkers working with families that have intersecting housing and child protection issues.*
- 18. The NSW Government implement Recommendations 32 – 34 of the Family Is Culture Review, which call for the state-wide roll out of the Staying Home Leaving Violence resource, as well as increasing the availability of short-term refuges and longer-term social housing stock suitable to the needs of Aboriginal women escaping violence.*