Submission No 58

CHILD PROTECTION AND SOCIAL SERVICES SYSTEM

Organisation: Ability Rights Centre

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Ability Rights Centre
A SERVICE OF IDRS

Your Reference:

IDRS Reference:

Mr. Leon Last
Committee Manager
Joint Committee on Children and Young People
Parliament House
Macquarie St
SYDNEY 2000

By email: - childrenyoungpeople@parliament.nsw.gov.au>

3 February 2021

Dear Mr. Last,

The Ability Rights Centre (ARC) is a specialist NSW Community Legal Service assisting people who live with cognitive disabilities in NSW. ARC provides legal and non-legal support to parents with intellectual disability involved with or at risk of involvement with the child protection system. It is our pleasure to provide tis submission to the enquiry into Social Services System and the Child Protection System that is based upon our experience supporting parents.

Yours faithfully

[redacted]

Kenn Clift

Solicitor

Ability Rights Centre

Submission into NSW Parliamentary Committee on Children and Young People Enquiry into Services Available to Vulnerable Families and the Child Protection System

Introduction

The Intellectual Disability Rights Service (IDRS) is a NSW non-government organisation which provides rights advocacy, legal services and rights education services to people living with intellectual and other cognitive disabilities in NSW. The Ability Rights Centre (ARC) is a community legal service of IDRS. One of ARC's services is the Parents' Program which provides legal advice and representation as well as non-legal advocacy and support for parents with intellectual disabilities who are involved with, or at risk of involvement with, the NSW child protection system. IDRS is grateful for the opportunity to provide this brief submission which is based upon our experience in providing support to and advocating for parents living with intellectual disability.

Previous enquiries

ARC notes there have been numerous enquiries into the NSW child protection system, including most recently the 2015 *Independent Review into the Out of Home Care System in NSW* (The Tune Review) which produced a report summarised in the NSW government document "*Their Futures Matter Report"* and the *Independent Review into Aboriginal Out of Home Care* which produced the *Family is Culture Report* in December 2019. ARC commends these two reports to the committee noting they both were comprehensive and made many recommendations for changes to improve the system, most of which are still to be responded to by the government.

Parents with intellectual disability

Two groups of parents are overrepresented in Care Applications filed in the Children's Court of NSW; First Nations parents and parents who have intellectual disabilities. Although the Parents' Program works with parents from the latter group we note that many of these parents are also First Nations people. In the past year, 10% of Parents' Program clients have been First Nations parents.

IDRS believes that a person's capacity to be an adequate parent is a state rather than a trait and will fluctuate in response to external influences including the environment in which a person parents, and internal influences such as the physical, mental, and emotional health of the parent. IDRS believes that mild intellectual disability of itself is not a barrier to being a responsible and loving parent and that myths about parents with disability and pessimistic attitudes held by child protection caseworkers and others are the greatest barriers faced by parents with intellectual disability. Capacity of parents with intellectual disability depends on the opportunity to learn the skills of parenting in a way that is adapted to their learning needs and the support provided to the parent. At present neither is reliably available to parents with intellectual disability.

Upon becoming pregnant parents may experience doubt about their capacity to parent expressed by disability support workers, health service workers and child protection case workers. If the pregnancy runs full term parents with intellectual disabilities often have a high-risk birth alert placed upon them, requiring DCJ caseworkers to attend the hospital and undertake a safety assessment, the outcome of which decides if the parents can take their child home with them or if it will be assumed in to DCJ care at or shortly after birth. If a child is assumed into care it can be very difficult to have the child restored to the care of its parents.

We note here that hospitals do not treat parents with consistency across the state, with wide variations in such things as a parent's contact with the child after it is assumed, with restrictions in some areas applied upon breastfeeding for non-medical reasons, with restrictions also placed upon skin-on-skin time and family and friends visiting. IDRS recommends that the NSW Government implements a consistent policy across the State that provides that mothers with intellectual disability subject to birth alerts the chance to breast feed, have skin on skin time with newborns, and visits from friends and family. The only exceptions to this policy should be when breast feeding is not indicated for medical reasons, to ensure the safety of mother and child.

Hospitals are not the only institutions who have an overly pessimistic attitude to parents with intellectual disability. If a family headed by a parent with intellectual disability experiences a crisis, other workers in the social service system are quick to think that the parent is unable to cope. IDRS's experience is that all parents have challenges and crises but parents living with intellectual disability are judged more harshly than their counterparts who live without disability.

Lack of suitable services

There are few suitable support services to assist parents with intellectual disability. Keeping in mind that intellectual disability is a learning disability, service providers need to make reasonable adjustments for the disability so parents can use mainstream services or else they need to provide special services for parents with intellectual disability. The types of adjustments that need to be made include –

- If using texts to teach these should be in simple English and a large clear font

- Hands on learning is best, where skills can be modelled by a trainer and practised by the parent
- Skills should be taught in the home if possible as that is where the parent will be using what they've learnt
- Parents need to be connected to services that can provide them with ongoing support as children grow and develop. Engagement with a service could assist the parent to troubleshoot problems that arise, adapt skills as children grow and learn how to transfer skills acquired in one environment to a different environment e.g., from home to the community; from a class or group setting to home.

Parents with intellectual disability would also benefit from being able to access specialist disability parenting support. This type of support could be provided by disability support organisations with established relations with parents through the provision of NDIS services. Specialist disability support organisations could provide the troubleshooting and ongoing support envisaged above and could also be trained to provide parenting courses specifically designed for parents with intellectual disability such as the Healthy Start Program or the Step-by-Step program.

Services need to be aware that parents with intellectual disability will often have a background of trauma arising from their experiences as young people especially if they have been raised in Out of Home Care themselves. Where parents are First Nations people services will also need to be respectful of indigenous culture and alive to the ongoing effect of past government policies towards First Nations people, especially the effect of past child removal practises.

Recommendations to improve outcomes for vulnerable families

Need for Parent Advocates

ARC recommends that funding be directed towards the provision of Parent Advocates. ARC employs a specialist solicitor and a specialist non legal Parent Advocate. The role of the advocate is to stand side by side with the parents and assist them to advocate their position to child protection caseworkers and others. The role is essential because the deficits in communication experienced by people with intellectual disability mean that they will have immense difficulty advocating on their own behalf. As well, if a parent has experienced Out Of home Care as a child it is likely that they will carry trauma from their childhood which will make them defensive and suspicious of child protection caseworkers. The advocate can help bridge the gap between caseworkers and parent and assist the parties to identify real safety issues and to develop workable and realistic plans to mitigate safety concerns.

ARC's Parents' Program employees a specialist solicitor, and a non-legal parent advocate whose role is to advocate for parents in the way described in the previous paragraph. This model has had some success in assisting parents to advocate to either keep their children or to have children who have been removed restored to their care.

Need for DCJ Housing and DCJ Community Services to work together

In IDRS's experience the majority of parents with whom we work are public or social housing tenants. A situation we often face is that of the parent who is experiencing domestic violence and who needs a safe place as a matter of urgency. It is usually women who are escaping from violence. It is appalling that safe accommodation can not be made available, especially where the parent needs safe accommodation to protect their children. If a parent chooses to stay in a home where they suffer domestic violence they risk losing their children because they failed to protect them from exposure to the violence. If they leave with the children they risk losing the children because they are homeless. If there were one thing that could be easily done by the NSW government to protect children it would be for DCJ Housing and DCJ Community Services to collaborate to prioritise the housing needs of parents with children who are fleeing violence so that children are not removed into care due to lack of suitable housing.

Need to separate child protection investigations from the provision of support services to parents

The *Family Is Culture* Report noted that there is an inherent conflict of intertest in the body that investigates reports of child mistreatment or neglect being the same body that delivers or arranges the delivery of services to parents involved in the child protection system.

Families who are the subject of child protection investigations are often suspicious of and defensive towards child protection caseworkers. Parents in these families, especially those with intellectual disabilities, have often experienced trauma and disadvantage growing up. To them child protection authorities represent a threat, much as police do. When child protection authorities attempt to do positive work with these families there is in the background always the risk and fear that at any time their children could be taken from them. This fear and the suspicion that authorities may just be trying to gather more evidence to remove children undermines attempts to do positive work. To avoid this there should be a clear distinction between those who are investigating harm to children and those who try to support and preserve families. A better system would allow child protection caseworkers to refer families to external organisations for ongoing support, and for those organisations to be clear that they are there to support not police the family. This would establish a better foundation for working on improving parenting while in no way diminishing the ability of Community Services to undertake investigations of abuse. The services who support parents will still be mandatory reports of abuse and neglect and will still be subject to Community Services ability to gather information under Chapter 16 of the *Children and Young People (Care and Protection) Act 1998*.

Need for parenting programs tailored to parents with intellectual disability

As noted above mainstream parenting programs are not especially accessible to parents who live with the literacy and communication deficits experienced by parents with intellectual disabilities. IDRS recommends that service providers who deliver these programs be required to ensure that the programs they deliver are capable of being engaged in by parents with intellectual disabilities. This would mean simplifying text content and increasing practical content and hands-on learning.

Also as noted above the NSW government could provide funding to train disability organisations to provide the Healthy Start program, the Step-by-Step program to families headed by parents with intellectual disabilities.

Need for state-wide policy on humane treatment of mother’s with intellectual disability subject to high-risk birth alerts

As noted above, despite general community acceptance and understanding that breast feeding is generally best for babies each hospital or health district seems to follow its own practices, leading to inconsistencies across the State. IDRS recommends that hospitals be required to allow all mothers, including those on high-risk birth alerts, to breast feed, enjoy skin on skin time and family visits. The only exceptions to this should be if breast feeding is not indicated for medical reasons, or if the child’s safety is placed at risk by a parent or a parent’s family and friends.