

13 September 2016

The Director
General Purpose Standing Committee No 2
Parliament House
Macquarie Street
Sydney NSW 2000

By email: gpsc2@parliament.nsw.gov.au

Dear Director,

Supplementary submission to the inquiry into child protection

1. Women's Legal Service NSW (WLS NSW) thanks the General Purpose Standing Committee No 2 for the opportunity to respond to questions on notice and supplementary questions relating to the inquiry into child protection.

Can you elaborate on what good early intervention would look like and what you consider is needed across NSW to deliver it and support family preservation and restoration?

2. To be effective good early intervention needs to be client centred, strength based, trauma informed, domestic violence informed and culturally responsive.
3. Services need to be available when families need them, rather than long waiting lists or no services at all, especially in rural and remote areas.
4. A workforce development strategy is also required to ensure high quality services are provided, including adequate debriefing mechanisms and support for workers.
5. We also recommend a multidisciplinary approach – in particular a social worker, legal practitioner and a parent advocate who has successfully being through the process. In our submission dated 2 August 2016 we refer to the Cornerstone Advocacy model in New York.
6. Another example is the Family Drug Treatment Court which operates in the Unites States and the United Kingdom and is being piloted in the Children's Court of Victoria for 3 years, commencing in May 2014 to be evaluated by Deakin University.¹

¹ Konrad Marshall, 'Revolutionary new drug court reuniting parents with children, and saving cash,' *The Age*, 7 June 2015 accessed on 12 September 2016 at: <http://www.theage.com.au/victoria/revolutionary-new-drug-court-reuniting-parents-with-children-and-saving-cash-20150528-ghbojl.html>

7. Victorian Magistrate Levine undertook a Churchill fellowship in the United States and United Kingdom in 2011 to explore the Family Drug Treatment Court.²
8. The United States 12 month voluntary program includes a lawyer who represents the parent throughout the proceedings, a social worker, access to drug and alcohol, parenting and employment programs and housing support and a parent advocate who has successfully graduated from the program and can mentor parents entering the program. Due to funding restrictions there is only funding for 4 appearances by a lawyer. The lawyer receives the minutes of other meetings attended by their client and the Family Drug Treatment Court.³ Children are also supported throughout the process.
9. The Victorian model is described as a *"multidisciplinary team"* including *"drug and alcohol clinicians and a dedicated social worker"* with links to *"agencies providing services for the participants in the program that include residential treatment, drug, alcohol and mental health counselling, parenting programs and housing programs"*.⁴
10. The stated aims include to: *"help parents stop using drugs/alcohol; and promote family reunification"*.⁵ The program is voluntary and includes intensive support over a 12 month period with regular court attendance to check on progress. Eligibility criteria includes parents having at least one child aged 0-3 years in out-of-home-care; applicants being committed to stopping drug taking; parents are working towards restoration of their child to their care.⁶
11. We recommend the NSW Government monitor this pilot and consider any evaluation findings. In the NSW context, "care partners", that is, legal assistance services described at paragraph 175 of our submissions dated 2 August 2016 would be well placed to assist parents.
12. We note the NSW Government commissioned the Tune Review which has resulted in increased investment in work to support family preservation and restoration.⁷ We note the Tune Review report has not yet been publically released. We recommend the report be publically released since it may be instructive on this question.

If we're looking at reducing the numbers in residential care it seems that foster care placement breakdowns are a key factor. What would you suggest can be done to try to address this area and improve placement stability in the out-of-home (OOHC) system?

13. We submit that much greater support should be offered to parents and children prior to

² Gregory Levine, *A Study of Family Drug Treatment Courts in the United States and the United Kingdom: Giving Parents and Children the Best Chance of Reunification* (Churchill Fellowship) (2012) accessed on 9 September 2016 at:

https://www.churchilltrust.com.au/media/fellows/2011_Levine_Greg.pdf

³ Ibid at 28.

⁴ Children's Court Victoria, *Media Release*, 16 May 2014 accessed on 12 September 2016 at:

<http://www.childrenscourt.vic.gov.au/sites/default/files/Media%20Release%20-%20Launch%20of%20Family%20Drug%20Treatment%20Court%20-%202016%20May%202014.pdf>

⁵ Family Drug Treatment Court, accessed on 9 September 2016 at:

<http://www.childrenscourt.vic.gov.au/jurisdictions/child-protection/family-drug-treatment-court>

⁶ Ibid.

⁷ NSW Government, 'NSW budget - reforms for kids needing care' (media release), 18 June 2016 accessed on 9 September at: https://www.facs.nsw.gov.au/about_us/media_releases/nsw-budget-reforms-for-kids-needing-care

the removal of children from their families in this way preventing some children from entering OOHC in the first place.

14. Studies indicate that approximately 85% of children in out-of-home-care self-place back with their parents at some time.⁸ We suggest that this highlights the need to work collaboratively with families; to better support parents to improve parenting; and the importance of listening to children. It is argued that because "*return is the norm*", working in partnership with parents leads to better outcomes for children, because parents are important to children "*even if their family experience is not entirely positive*".⁹
15. We refer to the *Guiding principles for strengthening the participation of local Aboriginal community in child protection decision making* prepared by the Grandmothers Against Removals, the New England FACS District Office and the NSW Ombudsman. We submit that adhering to these guiding principles would help to reduce the numbers of Aboriginal children in OOHC.
16. We refer to paragraphs 181-189 of our submission dated 2 August 2016 which outlines the importance of early free legal advice.
17. Where it is not safe to return children to the care of their parents, greater steps need to be taken to assess other family members as carers. In such circumstances parents should routinely be asked if there are other family members they would like to see assessed as carers.
18. Consideration could also be made to the professionalising of foster care, including minimum qualifications. We refer to a 2014 report about professionalising foster care prepared for the Commissioner for Children and Young People in Victoria.¹⁰
19. There needs to be greater documentation of good practice in early intervention and out of home care. We acknowledge that for the last few years FACS has published a report entitled *Shining a light on good practice in NSW*. We recommend a greater focus on documenting good practice in early intervention, including with Aboriginal and Torres Strait Islander families.

Do you have any information or views about ensuring/addressing the availability and appropriateness (including cultural appropriateness) of the services and programs that are likely to be involved with parents and families under PRCs and PCOs?

20. We support minimum standards and accreditation for all domestic and family violence services. Similarly we support minimum standards and accreditation for all child protection services, including early intervention services.

⁸ Bullock et al cited in C Tilbury and J Osmond, 'Permanency planning in foster care: A research review and guidelines for practitioners', *Australian Social Work*, 2006, 59(3) at 273

⁹ Ibid at 273-274.

¹⁰ Professor Brett Inder & Kathryn Gor (Monash University), *Professional Foster Care as an Alternative to Residential Care: It makes economic sense, A report for Commission for Children and Young People, (Victoria)*, December 2014, accessed on 12 September 2016 at: <http://www.cyp.vic.gov.au/downloads/inquiry/report-professional-foster-care-costing-professor-b-inder.pdf>

21. We also support the resourcing and training of community controlled Aboriginal and Torres Strait Islander services to provide child protection services where possible and refer to our earlier submission at paragraphs 26-35 in which we called for the implementation of the *Bringing them home* recommendations.
22. We also refer to the work of Professor Judy Atkinson on the Indigenous Healing Framework which can help provide a sense of belonging for Aboriginal and Torres Strait Islander people and a culturally responsive framework in which to address trauma.¹¹
23. We refer to the Tune Review discussed at paragraph 12 above and repeat our recommendation that the report be publically available.
24. We also refer to paragraphs 3-4 and 108-120 of our earlier submission dated 2 August 2016 in which we outlined the important work of our Indigenous Women's Legal Program and other factors impacting on access to and engagement with support services.

During another session of the hearing concerns were raised about a tendency in cases where children have been removed relating to domestic violence for a failure or delay in reviewing changes in the family circumstances to address the domestic violence issues and that this means restoration may not be adequately considered as an option. Do you have any comments and recommendations to add from your perspective in response to these concerns?

25. We refer to the work of David Mandel discussed in our earlier submission which focuses on making perpetrators of domestic violence visible and holding them accountable for their violence as well as acknowledging the protective actions of adult victims of violence.
26. The participatory action component of the ANROWS funded PATRICIA Project: PATHways in Research In Collaborative Inter-Agency working involved the use of Mandel's Safe and Together model. This project is due to publish a paper soon which is relevant to this question.
27. We believe that greater efforts are required to support restoration of children and young people to their birth family where it is safe to do so. This should include the review of decisions where circumstances have changed as outlined by CatholicCare Sydney in their evidence on 16 August 2016.
28. In the alternative a greater focus on family assessment as outlined at paragraph 17 above is required.
29. We refer to the Cornerstone Advocacy Model in New York discussed in our earlier submission dated 2 August 2016 at paragraphs 167-172.

¹¹ Judy Atkinson, *Trauma-informed services and trauma-specific care for Indigenous Australian children*, Resource sheet no. 21 produced for the Closing the Gap Clearinghouse, Australian Institute for Health and Welfare and Australian Institute for Family Studies, July 2013 accessed on 13 September 2016 at: <http://www.aihw.gov.au/uploadedFiles/ClosingTheGap/Content/Publications/2013/ctg-rs21.pdf> See also: <http://www.wealli.com.au/index.php/we-al-li-story>

Further information about Parent Responsibility Contracts

30. Our service has seen very few parent responsibility contracts. We refer to the Legal Aid NSW submission to this inquiry dated 29 July 2016 at page 28 which states *"Legal Aid NSW is aware of only two PCOs and less than sixty PRCs negotiated with parents across NSW since October 2014"*.
31. We have raised this issue with FACS and are now meeting regularly with FACS, the Aboriginal Legal Service NSW/ACT, other CLCs and Legal Aid to discuss the implementation of the Safe Home for Life Reforms. This model of collaborative engagement is a positive one.
32. A concrete action to come out of these meetings is FACS agreeing to attach a list of all legal assistance services available in each FACS local district to each parent responsibility contract. We hope this will increase awareness of parents/primary caregivers being able to access free legal advice so as to better understand the reason for the contact with the child protection service, identify issues that need to be addressed and discuss what the parent/primary caregiver can reasonably do to address these issues – including ensuring the service(s) with whom they engage are accessible, available and affordable.
33. Intensive use of the PRCs is being piloted in a couple of FACS local district areas.
34. The NSW Government announced in its 2016-17 budget *"\$190 million over four years to reform the [child protection] system"* including *"evidence-based intensive preservation and restoration programs for more than a thousand additional families and children"* and *"dedicating 50 per cent of the new intensive family preservation places for Aboriginal children and families"*.
35. We hope this investment will go some way to addressing our fears that one possible reason for the low numbers of PRCs to date is due to a lack of corresponding support services and programs.

If you would like to discuss any aspect of this submission, please contact Liz Snell, Law Reform and Policy Coordinator or Dixie Link-Gordon, Senior Community Access Officer on

Yours faithfully,

Women's Legal Services NSW

Janet Loughman
Principal Solicitor