

Inquiry into Child Protection

Legal Aid NSW
Response to Questions on Notice
to the
General Purpose Standing Committee
No. 2

September 2016

Introduction

In July 2016, Legal Aid NSW provided a submission to the General Purpose Standing Committee No.2 in response to the terms of reference of the Inquiry into Child Protection. A number of Legal Aid NSW practitioners contributed to the submission.

On 16 August 2016 the primary authors of the submission, Katrina Wong of the Children's Civil Law Service and Nicola Callander of the Family Law Division, Legal Aid NSW appeared before the Committee and gave evidence. They were joined by Maria Le Breton, Director Women's Domestic Violence Court Advocacy Service NSW and Liz Snell, Law Reform and Policy Coordinator, Women's Legal Service NSW.

There were two outstanding Questions on Notice following the hearing. The first question, from the Hon. Paul Green concerns parental responsibility contracts. Nicola Callander has provided a response to this question.

The second question from The Chair concerns the definition of therapeutic care. Katrina Wong has provided a response to this question.

If there are any questions regarding this submission please contact Aideen McGarrigle, Manager, Legal Policy, Legal Aid NSW, by email at aideen.mcgarrigle@legalaid.nsw.gov.au or by telephone on 02 9231 3131.

Questions on Notice: Parental Responsibility Contracts

Transcript p.19

The Hon. Paul GREEN: Would you take on notice to provide additional information on parental care contracts which were a very big part of Minister Pru Goward's initiative and which we worked very closely on. If they are failing I would be very interested to know why because they were meant to give an opportunity for children to go home to be with their parents.

Ms CALLANDER: I may be able to assist. Legal Aid has been working very closely with the department to improve the responsibility contract. The document itself and the letter to organisations has been done. That contract has been pared right back to a much more workable document and a pilot is currently being run in Western Sydney and the Blue Mountains with a lot of resources being put in by the department to ensure more effective uptake of the parent responsibility contract.

The Hon. Paul GREEN: The Committee would appreciate receiving further information on that matter.

Ms SNELL: Recently we began meeting more regularly with Family and Community Services [FACS] as Nicola has been referring to. Now there are more regular meetings with the Department of Family and Community Services, with Legal Aid, with Community Legal Centres and Aboriginal Legal Service. We basically went to FACS saying "We are not seeing the PRCs, PCOs. Can we work together on this?" This is part of the work that is being developed but yet to see it play out further.

The Hon. Paul GREEN: You say you are now having more regular meetings, but for how long has this been going? Did you initiate that?

Ms SNELL: Yes, we initiated that. I would have to go back and check when it started.

Ms CALLANDER: I think there have been three monthly. I think about June.

Legal Aid NSW Response

In the experience of Legal Aid NSW no parent capacity orders (PCOs) have been used as an early intervention and discussions with Family and Community Services (FaCS) confirms this is the case. We are not aware of the reason for the lack of use of PCOs.

As given in evidence to the Committee, Legal Aid NSW confirms there have only been about two hundred parental responsibility contract (PRCS) since the reforms were introduced in October 2014.

On 25 August 2015, Legal Aid NSW was invited by FaCS to join a working group to redesign the PRC. The invitation read as follows:

Family and Community Services Western Sydney and Nepean Blue Mountains Districts along with other government sector agencies including Health, Education and Police are co-designing the Parental Responsibility Care Program.

The aim of the Program is for children from birth to 5 years of age, who are at risk of entering the out-of-home care system due to neglect issues, to instead remain with their primary carers with intensive multi-agency support focussing on individualising that support to address the family needs. The program is endeavouring to balance intensive practical supports in the family home while the primary carer giver takes responsibility for improvement or development of parenting skills.

An initiative of the Program is to use Parental Responsibility Contracts (PRCs) in a more meaningful way so that they are written in a manner reflecting a collaborative approach between the primary care giver and FACS with actions and targets set out in the PRC clearly establishing the responsibilities on all the parties in a family focussed manner.

Legal Aid NSW along with other stakeholders attended a number of Working Group meetings to co-design the Parental Responsibility Care Program and the new PRC template was released for use in May 2016.

Legal Aid NSW understands the Program including the new PRC is being piloted in Western Sydney and the Blue Mountains. We note that the Program is directed specifically to children five (5) years and under.

Legal Aid NSW understands that some of the factors contributing to the lack of take up of PRCS and PCOs were:

- A decision to prioritise other aspects of the significant package of reforms from a training and education point of view
- The design of the PRC form made it difficult to use
- The PRCs and PCOs were not a good fit with the case worker toolkit of early intervention strategies with families.

Legal Aid NSW understands that FaCS commenced an extensive program of Family Group Conferencing in March 2015.

Questions on Notice: Therapeutic Care

Transcript p.22

The CHAIR: A definition of therapeutic care?

Ms WONG: Of therapeutic care. That has been settled on recently.

The CHAIR: In fact, that was my next question. Was there an understanding of the meaning of that term?

Ms WONG: There is a defined meaning of it now, which I do not have, so I might take it on notice to provide that information.

Legal Aid NSW Response

The definition of 'therapeutic care' in NSW as agreed by the Association of Children's Welfare Agencies (ACWA) and FaCS is:

Therapeutic Care for a child or young person in statutory OoHC is a planned, team based and intensive approach to the complex impacts of abuse, neglect and separation from families and significant others. This is achieved through the provision of a care environment that is evidence driven, culturally responsive and provides positive, safe and healing relationships and experiences to address the complexities of trauma, attachment and developmental needs.

We note that the Senate Community Affairs References Committee report on Out of Home Care also made recommendations around the development and implementation of national therapeutic care standards (recommendation 7), as well as states and territories increasing resources to fund therapeutic models of care (recommendation 8).