

INQUIRY INTO CHILD PROTECTION

Name: Ms Tania Mihailuk MP

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Tania Mihailuk MP

Member for Bankstown

The Hon Greg Donnelly MLC

Chairperson

General Purpose Standing Committee No. 2

Legislative Council of NSW Parliament

29 July 2016

Dear Mr Donnelly,

I write in regard to the recently established Inquiry into Child Protection by General Purpose Standing Committee No. 2 of the NSW Legislative Council.

I welcome the establishment of the committee and the opportunity it presents to examine the role of the Department of Family and Community Services and related non-government organisations in protecting children and young people at risk of harm.

Few issues arouse public passion more than the issue of child protection. Protecting the lives of our most vulnerable children is one of the primary roles of government.

The community counts on the government to step in where no one else can, which is why it's so important for the government to be held to held accountable for children in out of home care. We must leave no stone

unturned in our efforts to improve the care and protection of our most vulnerable children.

I have attached a brief submission to the Inquiry, highlighting issues that have been raised with me in my capacity as the Shadow Minister for Family and Community Services.

Yours Sincerely,

Tania Mihailuk

Member for Bankstown

Shadow Minister for Family and Community Services

Shadow Minister for Social Housing

Shadow Minister for Mental Health

Shadow Minister for Medical Research

Tania Mihailuk
Shadow Minister for Family and
Community Services

Submission to the
Inquiry Into Child Protection

1. INADEQUACY OF CASEWORKER DASHBOARD STATISTICS

Child protection statistics reveal that as few as 1 in 4 children at risk of significant harm are being seen by a caseworker¹. The 29% state-wide assessment rate² has barely improved since the caseworker dashboard was first implemented to help fill caseworker vacancies³.

The latest release of the quarterly Caseworker Dashboard has again revealed the percentage of children at risk of serious harm in receipt of a face-to-face caseworker assessment remains frozen at 29%.

Since the first caseworker dashboard was published in June 2013, this percentage has remained stagnant – with just 26-29% of at risk children receiving a face-to-face assessment in this period.

However, the quarterly dashboard does not reveal the nature of face to face assessment offered to at risk children and the precise roles undertaken by full time staff members who may not be undertaking casework.

The Wood Special Commission of Inquiry recommended that only children who are at risk of significant harm should be reported to FACS, yet it is particularly alarming that less than 30% of these children are receiving a face to face visit from a FACS caseworker.

In recent years the Department of Family and Community Services (FACS) has transferred 57%⁴ of all children in out of home care (OOHC) to placements managed by an NGO, yet the statistical data disclosed by the FACS quarterly dashboard does not include any information on the

¹ FACS Caseworker Dashboard – March 2016 Quarter, District Summary, Children Assessed

² FACS Caseworker Dashboard – March 2016 Quarter, District Summary, Children Assessed, Total

³ FACS Caseworker Dashboard – June 2013 Quarter, Caseworker Vacancies and Performances, Annual 2012/13 Total

⁴ NSW Budget Papers, Budget Paper No. 3, 3 - 11

amount of caseworkers funded by NGOs, nor the number of face-to-face assessments these children are receiving from those caseworkers.

Essentially over half of all children in OOHC are going unreported under the current system. It cannot be acceptable that there is no way of knowing how many caseworkers are operating within each NGO and how often the children under their care are being assessed.

If face-to-face assessment between caseworkers and vulnerable children is to be monitored, then it is imperative to monitor the entire sector, not just the 43% of children being cared for by the Department. The Government cannot absolve its responsibility to provide oversight of the non-government sector, which is effectively delivering services for more than half of at risk children.

2. LACK OF MONITORING OF NGO PROVIDERS OF OUT OF HOME CARE SERVICES

Since 2012, more than 7000⁵ children have been transferred from the Department of Family and Community Services to the care of an NGO out of home care provider, which represents approximately 57% of all children in out of home care⁶.

Despite the significant number of children receiving care by an NGO provider, there is no measurable way to assess the adequacy of care being provided, or outcomes to be achieved with respect to the welfare and wellbeing of children.

⁵ NSW Auditor General's Report, Performance Audit, "Transferring out-of-home care to non-government organisations" 2015, pg. 3

⁶ NSW Budget Papers, Budget Paper No. 3, 3 - 11

The Department must have a role in monitoring the number of caseworkers providing care in the NGO sector, the nature of the care being provided, and an assessable measurement of welfare goals to meet the complex needs of a child.

The Government has a fundamental role in providing oversight into the operations of NGO out of home care providers to ensure better scrutiny of the performance of NGO providers.

Scope of oversight should include the proper monitoring and screening of the carers themselves to ensure that the safety of children remains the paramount consideration with respect to their care and the adequacy of such care.

3. EARLY INTERVENTION SHORTCOMINGS

The Auditor General's report into transferring out-of-home care to the non-government sector identified the need for better targeted early intervention to prevent children escalating through the risk spectrum and entering the statutory child protection system⁷. At present, early intervention consists of the *Brighter Futures* program and the *Early Intervention & Placement Prevention Program*.

Brighter Futures is delivered through partnership with non-government agencies. Significant concerns have been raised with me regarding the funding agreements between the Department and the NGO providers, and the risk level at which early intervention programs are targeted.

⁷ NSW Auditor General's Report, Performance Audit, "Transferring out-of-home care to non-government organisations" 2015, pg. 5

The primary concern is that early intervention programs are simply not intervening “early” enough. While the stated purpose of early intervention is to prevent children escalating into statutory child protection, the concern is that the actual implementation of these programs results in a bureaucratic duplication, where higher risk cases are passed from the Department to NGO partners to be addressed, and are then passed back to the Department as the child enters the statutory child protection system.

I am advised that this duplication causes far more children to enter the statutory child protection system than need be, and results in unnecessary pressures put upon the resources for statutory child protection.

As I understand, funding agreements set out by the Department require NGO’s to take on early intervention cases higher on the risk spectrum. Better targeted earlier intervention, beginning much lower on the risk spectrum, may be needed in order to reduce the number of children entering the statutory child protection system, and to increase the percentage of children at risk of significant harm who receive a face to face assessment from a caseworker.

4. OVERLOADED CASEWORKERS

The *Practice First* model introduced in 2011 was intended to change the culture and manner in which FACS caseworkers undertook their work with vulnerable children, moving from a merely compliance based approach, to one which focusses on achieving the safety of children and

families through shared management of risk and building relationships with families, children and the community⁸.

However, concerns have been raised with me in my capacity as the Shadow Minister for Family and Community Services that performance targets imposed in recent years by senior management in the Department have had the effect of shifting the focus away from the *Practice First* principals to a mere outcomes based approach to increase caseworker productivity – this can be showcased by the introduction of the Child Protection and OOHC League table which ranks each Community Services District and Centre.

This has placed an even greater burden on the pressures faced by caseworkers, who may have to prioritise meeting certain targets e.g. a set number of risk assessments in a month, rather than building long lasting relationships with children and families to ensure their safety.

A short term focus on the statistical performance of various FACS child protection offices throughout the state in meeting performance based targets places at risk the quality of assessment provided by caseworkers to vulnerable children.

Furthermore, a reduction in the number of administrative staff across Community Services has greatly increased the workload of caseworkers, who face growing pressures to undertake an increased number of risk assessments, while also performing increased administrative duties as administrative staff are removed from offices.

The objective under *Practice First* was to ensure that caseworkers were more directly involved in providing support to children and their families, with less focus on administrative work. This is a clear shift away from the

⁸ FACS, Practice First, <http://www.facs.nsw.gov.au/reforms/children,-young-people-and-families/practice-first>

Practice First principals and leading to significantly overworked and overloaded caseworkers.

5. CUTS TO CHILD PROTECTION RESOURCING AND STAFF

The 2016/17 and 2015/16 NSW budgets revealed the Baird Government's apathy towards keeping the state's most vulnerable children safe. Total cuts in these two budgets amount to \$22 million and 219 full time positions cut from statutory child protection, out of home care, and early intervention programs^{9 10}. This is despite the number of children in out of home care to hit a record 22 000 in 2016¹¹.

2015 Budget

SERVICE	NO. EMPLOYEES CUT
Statutory Child Protection ¹²	82
Out of Home Care ¹³	26
Office of the Children's Guardian ¹⁴	11

SERVICE	BUDGET CUT
Statutory Child Protection	\$3m ¹⁵
Office of the Children's Guardian	\$2m ¹⁶

2016 Budget

⁹ NSW Budget Papers 2015-16, Budget Paper No. 3, 3-1, 3-10, 3-11, 3-32

¹⁰ NSW Budget Papers 2016-17, Budget Paper No. 3, 3-9, 3-10, 3-11

¹¹ NSW Budget Papers 2016-17, Budget Paper No. 3, 3 - 11

¹² NSW Budget Papers 2015-16, Budget Paper No. 3, p3-10

¹³ NSW Budget Papers 2015-16, Budget Paper No. 3, p3-11

¹⁴ NSW Budget Papers 2015-16, Budget Paper No. 3, p3-32

¹⁵ NSW Budget Papers 2015-16, Budget Paper. 3, p3 - 1

¹⁶ Ibid.,

SERVICE	NO. OF EMPLOYEES CUT
Statutory Child Protection	56
Out of Home Care	35
Early Intervention	9

SERVICE	BUDGET CUT
Statutory Child Protection	\$10.8m ¹⁷
Out of Home Care	\$4.133m ¹⁸
Early Intervention	\$1.92m ¹⁹

The 2015/16 budget saw \$2 million and 11 jobs cut from the Office of the Children's Guardian²⁰, the agency tasked with overseeing Working With Children Checks. The Guardian received over 420,000 applications in 2013-14²¹ and could not afford to lose almost 10 per cent of its total workforce.

This is despite the NSW Ombudsman's Report of Reviewable Deaths in 2012 and 2013 finding that 'the statutory child protection system is struggling to meet the demands placed on it', and raising 'questions about the adequacy and quality of the casework provided.'²²

The Ombudsman's report also emphasised the need for statutory child protection staff to:

¹⁷ NSW Budget Papers 2016/17, Budget Paper No. 3, pg. 3 – 10

¹⁸ NSW Budget Papers 2016/17, Budget Paper No. 3, pg. 3 - 11

¹⁹ NSW Budget Papers 2016/17, Budget Paper No. 3, pg. 3 - 9

²⁰ NSW Budget Papers 2015-16 , Budget Paper No. 3, 3 - 32

²¹ Ibid.,

²² Ombudsman of NSW, Report of Reviewable Deaths in 2012 and 2013, Volume 1: Child Deaths, pg 6, 56.

- conduct comprehensive and timely safety and risk assessments that lead to action being taken commensurate with the level of risk;
- Undertake regular reviews to assess progress, the effectiveness of the intervention, and the potential need for alternative courses of action;
- Receive sufficient supervision and support, and seek and obtain expert advice when required.

It is important that statutory child protection is maintained as the purview of the Department of Family and Community Services, and that core responsibility is appropriately resourced. Any changes to current arrangements that would allow the Government to outsource the Department's statutory child protection roles must be resisted.

6. PHYSICAL AND SEXUAL ABUSE DATA GAPS

A recent Departmental response to a GIPA request by the NSW Opposition revealed that the Government is making decisions about the welfare of at risk children without the full knowledge of the extent of physical and sexual abuse of at-risk children in their care.

As reported in Fairfax media, the child protection database used by the Department of Family and Community Services is unable to produce statistics that answer the simple question of how many children are physically and sexually abused in the care of the Minister every year.

An application under the Government Information Public Access Act was refused by the Department, as the Key Information Directory System (KiDS) records the date the allegations were made, rather than when they occurred.

The system cannot distinguish between abuse that relates to a child or young person in the care of the department, or in a period of time prior.

7. YOUTH REFUGES AS AN ALTERNATIVE TO OUT OF HOME CARE

In 2014, the Baird Government's Going Home Staying Home program defunded 80 homeless refuges in 2014, and 18 youth refuges state-wide.

Yet under funding arrangements announced by Minister Hazzard, youth crisis refuges will be required to provide 24-hour support and supervision of young people in their care, including children aged between 12 and 15.

It is of great concern that homeless shelters could be used as a substitute to foster care in providing much needed assistance to vulnerable children. There are a growing number of children in the 12-15 age groups that are presenting to homeless shelters that accommodate older teenagers and young adults.

Children as young as 12 have specific needs and are dependent on many specialist services which homeless shelters and youth refuges simply do not have the resources to provide.

Further questions must be asked as to whether the funding allocations announced in April 2016 are sufficient to appropriately resource youth refuges to run 24 hours a day. What assessments have been made by

the Minister to determine that the funding is sufficient to cover the expenses incurred by shelters?

Given that the package only lasts for two years, there is the potential for a lack of certainty in ongoing operations. Eligible organisations need certainty to encourage them to tender and undertake these operations, certainty which is not provided by a two year funding agreement.

Housing children aged between 12 and 15 years in a homeless shelter or youth refuge should be only considered as an absolutely last resort option, but recent policy decisions have are looking toward refuges as a default option in some circumstances.

Homelessness and youth shelters must not become a substitute for an adequately resourced out-of-home care system.