

INQUIRY INTO CHILD PROTECTION

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Partially
Confidential

Purpose

I am writing to make a submission into the inquiry of FACs, I became involved with 12 parents who have, over the last three years, had their children removed by the department

I am somebody who has always supported the system and over the last 30 years have volunteered working with children, the majority of whom have come out of disadvantaged backgrounds a lot of these children sponsored by the department and NGOs.

I have been approached by many other parents but the 10 that I have worked with I have taken on board because I kept hearing the same caseworker names, the same procedure of deceit, and the same statements being made by FACs. Threats of never being able to see their children threats of not having the children restored, threats of no visitation and many more all before the case has even gone to court. FACs staff have taken the place of judge and jury with a presumption of guilt.

My main reason for making this submission is the modus operandi of FACs staff and their treatment of the parents who have had their children removed. It is really a breakdown of a system where stand over tactics, lies, threats, unhelpful attitudes and presumption of guilt are shown by staff.

These parents and families have no voice, this has been proven in each of these cases. Legal representatives should be their voice, but they have a defeatist attitude regarding FACs cases.

I have been voluntarily advocating for these families, and below you will find my Recommendations, Observations, information on the families and an explanation of who I am.

Recommendations

Accountability

- a. All reports on contact visits and meetings with parents to be signed by both parties on page 2
- b. All communication with parents to be in writing or confirmed in writing what was discussed if telephone communication takes place on page 2
- c. Complaint procedures to be available on page 3
- d. Parent advocate service available to aid parents in the correct process and procedures on page 3
- e. Evidence collected by Police to be followed up and charges laid on page 3
- f. Consent without admission process to be reviewed on page 3

Transparency

- g. All reports on contact visits and meetings with parents to be signed by both parties on page 2
- h. All communication with parents to be in writing or confirmed in writing what was discussed if telephone communication takes place on page 2
- i. An easy to understand information pamphlet handed to parents regarding the process of removal eg. Their right to legal representation, what they can do if they don't have legal representation etc on page 4
- j. FACs allegations to be supported by trained experts on page 4

Ethical

- k. Legal representatives to be surveyed on page 4
- l. Ex employees of FAC's interviewed by the committee on page 6
- m. Exit interview process to be reviewed on page 6
- n. Complaints process to be reviewed on page 7
- o. Statistics collected on evidence based removal of children vs Consent without admission removals on page 7

- p. A review of “reasonable time” for service of summons and documents for court
Error! Bookmark not defined.
- q. Evidence AND Impact should be presented in an easy to understand format for all parties on page 7

Procedural

- r. A review of “reasonable time” for service of summons and documents for court on page 7
- s. All reports on contact visits and meetings with parents to be signed by both parties below
- t. All communication with parents to be in writing or confirmed in writing what was discussed if telephone communication takes place below
- u. An easy to understand information pamphlet handed to parents regarding the process of removal. Eg. Their right to legal representation, what they can do if they don’t have legal representation etc. on page 4
- v. Complaint procedures to be readily available on page 3
- w. Parent advocate service available to aid parents in the correct process and procedures on page 3
- x. Evidence collected by Police to be followed up and charges laid on page 3
- y. Evidence and observations to be admissible in court, opinions should not on page 7
- z. Early Intervention to be used/offered on page 8
- aa. Evidence AND Impact should be presented in an easy to understand format for all parties on page 7
- bb. Interagency coordination and communication introduced on page 8

Reasoning/Observations/Evidence

All reports on contact visits and meetings with parents to be signed by both parties

Parents are unaware that they are able to get copies of these reports, they are refused by staff and management therefore, parents have no feedback on areas for improvement and are then held accountable in court for their actions.

When presented in court reports do not reflect the parents understanding of what was said or discussed, there is not opportunity for the parent to give their view on the meeting/visit outcome.

What has been said in meetings is not reflected in the reports. False information to gain the outcome required.

Parents should be given the opportunity of giving feedback

- eg. What was your understanding of the outcome?
- What actions do you have to take before the next meeting?

All communication with parents to be in writing or confirmed in writing what was discussed if telephone communication takes place.

In over 20 families that have spoken to me the same threats, cajoling, abuse, misinformation and lies have been said. These families do not know each other, yet their words reflect the same story.

Eg: If you sign the Consent without Admission you will get your children back

If you make a complaint we will have you arrested

Just sign the care/case plan, it doesn’t mean you agree, it means that you’ve read it

If you don’t sign this you will be lucky to see your child twice a year until they are 18

You can’t fight it in court, you need to sign this form

We’ve told your child that you don’t want them anymore

There is nothing you can do to get your child back, just get used to it

You would be better to move away and come back when your child is 18
If you have another child, it will also be taken
And many more, each of these families have had varying reasons for becoming involved with
FACs, yet a blanket approach is taken.

Complaint procedures to be available.

I believe that an easy to understand information pack should be put together, including timelines of when things should happen. This pack should include the complaints procedure. I have had two families who have asked for the procedure and they have been refused, yet phoned under an alias and received the information.

When following the complaints procedure, the answer from Regional Manager is that the decision was made through the court process, therefore nothing can happen. The majority of times, this is untrue and parents have been cajoled into signing a Consent without Admission, therefore no evidence or proof has been needed, therefore no defence of the allegations. So, no, parents do not get to have their say in court.

Parent advocate service available to aid parents in the correct process and procedures.

This is naturally a very hard time for families, and getting information about the process and procedures is impossible. I am an educated, successful woman, yet it took me 6.5 hours to find out the timing for presentation of summons and appearance at court! Even the Children's court at could not tell me.

I have been approached by over 20 families, and have advocated for 12. I am not in a paid capacity, therefore have had to be selective. I have explained to each of these families that I am not here to say they should or should not have had their children removed, but am able to help them with the process and their rights. A lot of my time has been explaining that they need to ask for things in writing as what is said face to face or on the telephone, is not necessarily true. I muddled my way through this with the first five families, but now understand the modus operandi of FACs staff in NSW.

Evidence collected by Police to be followed up and charges laid.

It appears that if Consent without Admission is signed, there is no follow up on Police reports. One family had a parent admit to Police and in court that he had inflicted injuries to the child. However, the video walk through and explanation did not match the injuries inflicted. The Police and medical report said that further investigation was needed, yet no further investigation happened.

Consent without admission process to be reviewed

In this risk averse, blanket approach ALL of the families I have been approached by have been encouraged (strongly, and with threats) to sign a Consent without Admission. The families are not told of the consequences of doing so, and therefore no evidence is required or gathered, and the families are left wondering why they never presented their side of the story, and why all court cases from then were about care of the child rather than who actually harmed their child. I am not stating that all cases needed the children restored to their families, however of the 12 families I have assisted, there were definitely better outcomes available.

One of my latest families refused to sign the Consent without Admission, the Department originally submitted 35 allegations. Upon refusing to sign they have been threatened, treated abhorrently and lied too. Their 12 year old daughter has been told that she needs to get used to not living with her parents as she never will again, the family have been told that they will never have their daughter back, yet the court case has not even been heard. Even the solicitor tried to get them to

sign the Consent without Admission, I was present so I asked the solicitor what the consequences would be, he suggested that the client would need evidence (I believe this is a "given"), the parent was able to get evidence and impact statements, the Department now only has 5 allegations, and the parent is able to provide evidence regarding each of them.

What is frustrating in the above case is that FACs don't seem to know what to do with the child and family whilst awaiting the hearing. They have banned all contact, and are pushing ahead as if the decision of the child being in the care of the minister has already been decided.

It appears that this would be easier on FACs staff, however, how many children are now in the ministers care until the age of 18 that do not need to be.

I have had dealings with a family where a young man signed a Consent without admission, the child was removed, therefore no charges needed to be laid. The man then moved to another state with his new, pregnant partner. When their new baby was 3 weeks old, she was presented to hospital with a broken thigh bone, no charges had been laid so no "flags" went off. That child was dead at six weeks old. Another note on this case is that the mother ("*family 6*") of that baby was under the care of the minister when she left the state with this man.

An easy to understand information pamphlet handed to parents regarding the process of removal.
Eg. Their right to legal representation, what they can do if they don't have legal representation etc.

This is naturally a very hard time for families, and getting information about the process and procedures is impossible. I am an educated, successful woman, yet it took me 6.5 hours to find out the timing for presentation of summons and appearance at court! Even the Children's court at _____ could not tell me. When I questioned the Office of Legal Service Commissioner I was told that parents can get all the information they need online. I believe that this is an unfair system when they usually receive a summons near close of business the day before they are to appear at 10am.

If parents are given easy to understand information including timelines, consequences, rights and terminology explanations at the same time they received the removal order, it would make their understanding of the process fairer. This pamphlet does not need to contain all the information, but a brief overview with webpages and phone numbers for further information.

I have been approached by over 20 families, and have advocated for 12. I am not in a paid capacity, therefore have had to be selective. I have explained to each of these families that I am not here to say they should or should not have had their children removed, but am able to help them with the process and their rights. A lot of my time has been explaining that they need to ask for things in writing as what is said face to face or on the telephone, is not necessarily true.

FACs allegations to be supported by trained experts

I have read many court transcripts, affidavits and reports where allegations are made by opinion of the FACs staff member. These allegations include psychological and medical diagnoses. Surely if these were questioned in court with expert witnesses being called upon there would often be different outcomes.

Again a blanket approach to families has arisen. I have copies of affidavits that say exactly the same thing about different parents, and in fact one of the affidavits the FACs staff has forgotten to cut the previous parents name when going through the cut and paste process of adding a new parents name.

Legal representatives to be surveyed

This is one of the most disappointing aspects. I have heard, and been told by the majority of people I have advocated, for that legal representatives say:

“you will never win, no one beats them”

“you have to understand we still have to work with these people, in fact I’m in another case with (FACs staff member) now”

“just admit you’ve done something, then you can go for a classes and apply for a Section 90”

“all of your evidence is irrelevant”

“move away and come back when your child is 18”

“if you fight this you will go to jail” (said without looking for evidence)

In one of the families the legal representatives were getting the mother to check on the father and call to see why he hadn’t appeared at court... yet her ex partner had admitted to harming her child and she didn’t want to have contact. This same case FACs and legal representatives suggested that it would be better for the mother and father to continue their relationship, it would apparently be better for the child. Such is the emotional and mental hold that FACs demand the mother reinstated a farcical relationship with the father for over 12 months in the hope of having her child restored.

These are just some of the attitudes I have seen and heard about. There appears to be a system that allows FACs to “win”, no matter what. It also appears that removal of children, into the care of the minister until 18 years of age is the first reaction, and is acceptable close to 100% of the time.

This culture suggests that the system is flawed. Legal representatives consider FACs opinions and allegations to be indisputable, legal representatives don’t sit with the parents and say “are these allegations true, and how can we disprove them”.

Mediation – this is also a disappointing process, parents and potential carers are told that they cannot use anything in mediation for court. They are told not to say anything and let the legal representatives handle it. In one case the mediator openly spoke of their friendship with FACs workers, and stated that there was no chance of the child being restored to the parent. This leaves parents frustrated and having no voice.

I would think that the legal representatives of the parents should be their voice in the process. I have only one parent who feels that they had a voice, that parent pushed through the process and had a restoration plan, she had a Drug and Alcohol counsellor, Family Support Counsellor, Mental Health Advocate, and myself to work through the process with her before approaching the solicitor. Not many parents have those resources available, or even know that there is a chance of restoration.

One family has spent over \$70,000 fighting in court. They have been left totally bewildered. They asked me to read all of their documentation including affidavits, court transcripts, case notes, care and case plan meetings, contact meetings etc., which I did. It shows that:

- a. Although the parent had not signed a consent it was never fought in court giving opportunity for evidence.
- b. FACs decided before anything had been presented that the mother would never have the child again.
- c. FACs pushed straight into Care proceedings therefore the case was not heard in court. No court case was about who hurt the child.
- d. The father admitted to harming the child 3 times
- e. The birth records of the nine week old baby were not subpoenaed, even though requested by the family. They were told they were irrelevant.
- f. Police were not subpoenaed
- g. Medical experts were not subpoenaed
- h. Apart from a video walk through, no investigation was undertaken into the father harming the child as he signed a Consent without admission

- i. The mother did not sign a consent until 18 months of fighting in court, and this was only because there was no more money, and she was never represented, as mentioned before they did not understand, and were not told that these were care proceedings only and that it was not about who harmed the child.
- j. Legal counsel stated that the grandparents of the baby MUST have a relationship with the child's father (I have this encouragement in writing) and must be willing to supervise him having contact with the baby at their house. FACs would not give them care of the child unless they did this.

Frequently the duty lawyer is unavailable, as are every law firm, to represent parents and family as they are "representing another party to the matter". I think it should be investigated, particularly in NSW, whether FACs book all the solicitors so that parents cannot get legal representation. Remembering that the defendants are receiving their summons near to close of business the prior night, this means it is impossible for them to have legal representation, and unless they are legally trained, or have been involved in the legal system, they do not realise that they can apply for an adjournment. It is my understanding that every Australian has the right to legal representation.

In the case of the above mentioned family they received the summons at 4.45pm to attend court at 10am the next morning. The grandfather of the child questioned how they were to get legal representation. Upon arriving at court the duty lawyer informed them that he couldn't represent them, so the mother went into court unrepresented. She was asked by the judge if her child needed care and protection to which she responded "Yes", meaning all children need care and protection, that was the entirety of her involvement, every court case from then on was about care proceedings. I am quite appalled that this can happen in Australia. As a side note, the duty lawyer was not a representative for any other party to that court case, and the family have a letter stating that although his firm could not represent them on that day, they could represent them from then on. I find this perplexing to say the least.

Ex employees of FAC's interviewed by the committee

There is a high turnover of staff at FACs, I understand the industry would be one with a high turnover, yet when speaking to ex employees there is a constant message – the culture of the place is not one that cares for the child. In fact long term OOHC children often do not have caseworkers as they get older because "they have our phone number if they need anything". This was the case with the previously mentioned mother ("family 6") she was a OOHC child who had been in the system for a long time, her worker was removed from her case, "family 6" then moved to another state with a man that had children removed, her child was killed at 6 weeks old.

Exit interview process to be reviewed

I know of many ex employees who have made complaints, many of these complaints mirroring others. Yet nothing has changed. Some questions that need to be asked:

Who conducts exit interviews?

If an employee refuses to be interviewed by their direct manager, is there an alternative offered?

Who flags the common complaints or reasons for leaving?

How many staff have left and not made complaints because of futility?

What is the complaints handling process for employees?

How is the handover of cases handled particularly children and parents, plus NGO's?

What are the statistics of children in OOHC to workers by area?

Is the line management system effective?

What are the KPI's concerning Consent without Admission vs Court hearing with evidence?

What KPI's are in place regarding early intervention?

Are families and parents ever asked about their dealings with Case workers? I understand that they are often seen as "the enemy", but feedback would be good.

What system is available for employees to ensure that they are covered involving communication with clients?

Complaints process to be reviewed

Part of the initial information package given to clients should be a clear and concise complaint process.

Each of the parents that I have dealt with, that have made complaints have had the response “the decision was heard in court”. As explained above this doesn’t happen, what happens is a consent without admission is signed, or legal representatives don’t give the client the full representation because there is a defeatist attitude amongst them.

Again, the complaints process comes down to FACs word against the client. If the complaint is about the treatment of the client, then just stating that “the court made a decision” is not addressing the culture of bullying and adverse risk management to the point of harm.

Statistics collected on evidence based removal of children vs Consent without admission removals

I believe that proof that the current system is not working would be in gathering statistics on how many children have been removed via consent without admission. Also looking at how many cases have been evidence/hearing driven.

Statistics on families being offered early intervention.

Statistics on how many charges have been laid for harm of children having been removed from their families.

Statistics for time of presentation of summons and appearance at court, also the number of parents/families represented by legal counsel at the initial hearing.

A review of “reasonable time” for service of summons and documents for court

“Reasonable time” is stated as the time between summons and court, this is of particular interest in rural district court areas including NSW. How is “reasonable time” measured?

Evidence AND Impact should be presented in an easy to understand format for all parties

I know of a case where the mother had depression, FACs had decided to remove her child. It was through one ex FACs caseworker arguing for impact that the child was not removed.

From what I have seen, read and heard the majority of decisions are made by FACs staff opinions of the parents and families, totally neglecting the impact on the child.

One family I am currently dealing with had their 12 year old daughter removed because the mother has some mental health issues. FACs have decided that this MUST mean that the child be removed. The child’s school has given glowing reports about the child, the extra curricula activities of the child are also reported on glowingly. I have personally spent time with this child, and her resilience and understanding is far beyond her years, yet they have removed her.

I suggest that FACs need to state what the concerns are but then prove the impact of the concerns.

Evidence and observations to be admissible in court, opinions should not

Opinions of FACs workers should not be admissible as evidence. They are not expert witnesses, they are not doctors or psychologists. It is unfair to families and to FACs workers.

It is very evident from what I have read, observed and heard that FACs workers (NSW) take their opinion to be law, and this is very, very dangerous. Without investigation it can come down to a simple personality clash.

The opinion of FACs workers should not be enough to remove a child from a family, yet it is very often the case.

Early Intervention to be used/offered

There is a system in place for early intervention, I don't believe that it is utilized often enough. One parent I know was offered a place at QE2, a short term assisted living program. The mother asked for more information. FACs removed the child the next day and are now stating in court documents that the offer of assistance was rejected. This is untrue, but again, it comes down to FACs word against the mother.

PPP programs are available in NSW, but they are so infrequently run and only available at night, this shows that this early intervention program is totally undervalued by FACs staff. The number of children in OOH in the region should demand availability 2 times per week, plus should be suggested to all first time parents as a valuable learning tool.

One of the websites states that the early intervention program in NSW, run by , is only available if referred by FACs, I have in the past referred people to this program. When asking people to consider undertaking this helpful program, most have never heard of it. Some have been greatly helped, whereas others can be given no assistance at all. There is a real need for the early intervention program to be revamped and clearer in its objectives.

There used to be a tough love program for parents of tweens and teens. This was another valuable program that was so underutilized it closed. Parents need to be able to get help before their child is removed. I know many, many parents who are screaming for help, yet running scared of FACs "taking" their child, because they don't have the tools and resources to deal with behaviours.

Interagency coordination and communication introduced

In one of the cases I have been dealing with the mother was a real driving force in getting as much help as possible. She had Family Support, Drug and Alcohol, Mental Health Advocate, personal Counsellor and myself all assisting her in her campaign to get her children restored. An interagency meeting was coordinated with all of the above attending as well as the kinship carer of the children, an NGO caseworker and FACs worker.

It was great to be able to coordinate with each representative to move forward to restoration. This held the caseworkers accountable too on several issues:

Why was the mother having to share contact with her abusive ex partner?

Why was no DV advocate assigned to the mother when the FACs worker knew about the DV, and had in fact witnessed it?

Why were FACs stating that the mother could not apply for a Section 90?

I believe that parents are currently scared of working with other agencies because anything they say, or do, will be twisted and held against them.

The Families

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I have been approached by many other parents but the 10 that I have worked with I have taken on board because I kept hearing the same caseworker names, the same procedure of deceit, and the same statements being made by FACs. Threats of never being able to see their children threats of not having the children restored, threats of no visitation and many more all before the case has even gone to court. FACs staff have taken the place of judge and jury with a presumption of guilt.

My main reason for making this submission is the modus operandi of FACs staff and their treatment of the parents who have had their children removed. It is really a breakdown of a system where stand over tactics, lies, threats, unhelpful attitudes and presumption of guilt are shown by staff.

I have been told by ICAC that whilst there is proof of dishonesty, the motive must be proven to be fraud for them to investigate, the department have replied with "the court has made a judgement", yet the system of these parents going to court has not given them opportunity to prove their innocence. I will expand on this statement after giving an overview of the individual circumstances.

I will give you a very brief overview of a few of the people I have been advocating for. I will make my recommendations and my observations after listing these stories, please be aware that whilst some of this is heresay by the parents, the things that I'm telling you have been repeated by many parents with the same wording by the same staff members yet none of the parents actually know each other I am the central point of these relationships, hence why I not only decided to advocate for them but to make the submission to you.