

Submission  
No 114

## INQUIRY INTO CHILD PROTECTION

**Name:** Name suppressed

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Partially  
Confidential

## Submission to the Inquiry into Child Protection in NSW

I am grateful for the opportunity to submit to this Inquiry, and even though some of the claims herein may seem unbelievable, I have a collection of well documented case histories, original documents and witnesses to support everything I have written here. I have included a variety of examples to illustrate the extent of the problems in FaCS and Out of Home Care, and can provide many more. I am bound to protect the identities of the children in my care and other families for whom I voluntarily advocate and I would be honoured to provide more specific evidence in person or in writing to a more confidential forum.

1. FaCS distributed a 162 page book called "Caring for Kids" - A Guide for foster, relative and kinship carers.

But the policies are not enforced by FaCS (I have numerous examples) and are sometimes breached by FaCS themselves. Even the section titled "Legals" doesn't reflect the law at all e.g. in relation to changing the names of Aboriginal children in care. The Manual states a series of conditions that need to be met to change the names, with further conditions added for Aboriginal children, including the consent of their Aboriginal families. Yet I know of an Aboriginal family who sent multiple written protests, and FaCS still authorised the carers to change the children's names without meeting *any* of the conditions, and told the family "we can do it without your consent". The Dept of Births, Deaths and Marriages confirmed that any carer who can prove they have cared for a child for 2 years can change the name of the child, even an Aboriginal child, and even against the protests of their Aboriginal families. And in the absence of Aboriginal Consultation, the family were told that their children's names and birth certificates would be changed "because children like to have the same name as their carers". Even the Placement Principle legislated in the Child Care and Protection Act is often considered "a guideline" both by case workers and by Legal Aid solicitors. It is also wilfully misinterpreted and I have a letter in my possession from a MCW (Manager Casework), stating that a placement is appropriate if the relative is "biological" although not aboriginal even though a far less detrimental placement could have been made in the child's Aboriginal kinship group.

2. FaCS published an "Aboriginal Consultation Guide" detailing the Placement Principle for Aboriginal children, and other policies including self-determination, participation in decision making, record keeping and information exchange and confidentiality. I know of an Aboriginal Family who have been denied all of these and when they lodged objections, were referred to FaCS Legal Dept who defeated them by fighting against FaCS own policies. The family were long denied an Aboriginal Consultation at important junctures in their children's lives, and were refused input at an Aboriginal Consultation whose finding returned that family contact could be replaced by "a couple of videos" (when the children were moved hundreds of kilometres from their Aboriginal family and community because the non-indigenous carer did not agree with Aboriginal family contact).
3. FaCS has phenomenal powers to remove and "place" children, sometimes ignoring or misinterpreting legislation and policy in doing so, and yet invariably claims to be constrained

by the law when it comes to restoring them, even when admitting that mistakes have been made. Children can be taken into care without due cause and with very flimsy evidence. Restoration is almost impossible even when it is viable and even preferable. FaCS has a policy for removal but no clear path or policy for restoration, leaving many children in permanent care who do not need to be there. And Aboriginal families who are under-resourced and beaten down by a harsh and unsympathetic system they don't understand, have no hope of raising a Section 90.

In one instance where I advocated for a S90 which was preceded by a S65, I saw a teenage Aboriginal mother with a slight intellectual delay and without her legal representation, was not even permitted her support person (her mother who had travelled hundreds of kilometres to attend Court). She was not even permitted to sit with the family's only Advocate. And the fate of her two children was haggled over by around a dozen officials and professionals while the only Aboriginal person permitted in the room was a disadvantaged, intellectually delayed girl. According to another document that FaCS distributes called "The Charter of Human Rights for Indigenous Peoples", she should have been identified as a vulnerable person entitled to additional supports. And self-determination should have entitled the girl's mother to attend, not only as a support person to her daughter but as a valid participant in her own right as the Matriarch of her Aboriginal family and the Grandmother of the children in question.

4. In my family's case I was forced to sign some insulting and incriminating undertakings to the Court, on the basis that if I did not sign, the preceding 8 months of contact negotiations at Court would be "off the table" and my family would be back to square one with no contact at all with our Aboriginal children. The most disturbing clause of those undertakings was that we would never question our children about anything that happened in their foster home. This should have been a serious red flag for FaCS. It was against standard operating procedures, and FaCS had raised serious concerns about the placement. There had already been a serious injury to one of the children leading to an inconclusive JIRT investigation. I had also written many of my concerns about the potential for abuse in that home, with carers refusing family contact, medical assessments, and even preschool, effectively isolating the children from anyone who might keep a caring eye on them. We were also denied contact, photos, school reports, and medical information about our children. We were not even allowed to know where they lived because the carer had fabricated a damaging narrative about us and claimed he needed protection from us. For two years I wrote regularly to FaCS outlining all the text book signs of developmental delay I observed in our children, and have a letter from the MCW saying that "the children have been medically assessed and are progressing well." This was a blatant lie as I had been speaking regularly with a CW who told me that the carers had been resisting instructions to have the children medically assessed for more than 6 months and had stopped taking phone calls from FaCS. Therefore the children missed the most valuable period for early intervention. During a S90, it became necessary for the children to have a Griffiths Developmental Assessment. In FaCS solicitor's own words, the results were "catastrophic". One child scored 3% in the test and the other didn't even make it onto the scale. We were not permitted to see the actual reports and were made to hand back the summary at the S65. A report by a CW Specialist

raised some serious concerns about the placement during the S65 but these were not tabled at the S90 and we were not permitted to discuss anything but Family Contact.

5. The assessment process for carers is flawed and grossly inadequate e.g. I know of Aboriginal children being placed in a home with non-Indigenous carers who both have a history of FaCS “form” with their own children; and with a primary (foster) carer who has a full time carer themselves; and with non-Indigenous carers against the legislation when they could have stayed in a very satisfactory placement in their own Aboriginal community. There is a new Stolen Generation in the making with Aboriginal children being taken at approximately five times the rate of non-indigenous children and at least five times the number of Aboriginal children in care today than there were in 1997\*
6. There is no viable complaints process. At Branch Level, I have been asked to email the same complaints/concerns up to 3 times and have either received no answer at all, a promise of a response (which never came), or a reprisal. The Manager of FaCS Complaints Dept explained that FaCS has no mechanism for dealing with any complaint other than the physical or sexual abuse of a child. However the overwhelming majority of complaints are in relation to other forms of corruption, fraud, incompetence, and organisational bullying. The culture of reprisals in response to complaints is systemic, and I can provide specific evidence of this across four different branches of FaCS. Reprisals for complaining include cessation of contact with children in care; ostracism by FaCS (who refused to take an ostracised respite carer’s calls even when that carer was trying to obtain medical intervention for a sick foster child with no medicare number, no medical history, no address, and not even an accurate last name); and termination of funding (that was agreed in Court) for Aboriginal families to attend contact when their children are placed hundreds of kilometres away from them (e.g. when the Placement Principle for Aboriginal children has been ignored).

The Complaints Dept simply re-writes complaints and sends them straight back to the Branch that has already received them (and delivered penalties). And the “accused” CW’s and MCW’s are asked to investigate themselves with plenty of opportunity to tamper with files. I have evidence of a case where this happened and responses to an official complaint from two branches of FaCS included a) blatant lies and b) answers that didn’t address the complaint. The Manager of the Complaints Dept apologised to the complainant stating she couldn’t understand why two MCW’s had sent such inappropriate responses without running them by the Complaints Dept first. She then advised that the complaint be forwarded to the Ombudsman. But the Ombudsman had already responded to previous complaints from the same family about breach of the Placement Principle, and inappropriate carers, with “that’s what the Courts are for”.

7. Individual Case Workers have too much power with minimal checks and balances. There is widespread anecdotal evidence that preferred carers have children placed with them instead of with their own families to maintain the Carers’ “quotas”. I was told that foster

\* [https://www.thesaturdaypaper.com.au/news/society/2014/05/17/the-next-stolen-generation/1400248800#.VV0pl\\_mqqkq](https://www.thesaturdaypaper.com.au/news/society/2014/05/17/the-next-stolen-generation/1400248800#.VV0pl_mqqkq)).

carers are not allowed to work full time (another variable policy because many do) and so need a minimum number of children in their care to make the job viable. Caseworkers have been known to fabricate damaging narratives about family members (who are given no right of reply) to prevent the children being placed with them. This happened to me too. And the future of children in care is sometimes based on a caseworker's likes and dislikes of various family members rather than a true determination of the best interests (or even the least detrimental interests) of those children.

It is my experience that the Children's Court gives the greatest weight to opinions from FaCS and I have seen FaCS withhold really serious evidence presented by specialist caseworkers and psychologists to a S65 but not presented to the Magistrate in the subsequent S90.

8. There is also widespread anecdotal evidence that carers who fight hard for the rights of their fostered children are never allowed to foster another because they (the carers) are too much trouble. In Foster Carer Training, we are told we must be our foster children's first and most passionate advocate. But they don't tell you the only one you'll be up against is FaCS and if you advocate too hard, penalties apply. Kinship carers are manipulated by being told that all expenses for medical, psychological and developmental interventions will be paid for by FaCS if they foster a child who is P.R. to the Minister, but are refused when the time comes, and carers are then told the expenses are entirely their responsibility. These expenses can be considerable (thousands of dollars) and if unaffordable, then the children go without. I can provide clear evidence of this and it flies in the face of policies for "Closing The Gap" for Aboriginal children. When a CW told me that I would be responsible for these expenses myself even though I had agreed to the placement on the basis of this support, I asked her to put it in writing (hoping to gain either charitable assistance or a NILS loan). She went away to ask permission and returned with the response that I could not have it in writing "because we don't know what you'll do with it".
9. Minutes of meetings and phonecalls with FaCS can be grossly inaccurate or even withheld so no-one knows what they actually say.
10. I have seen Aboriginal families framed by caseworkers who pretend that the mothers, grandmothers and other family members have mistaken the time and date of contact to make them look incompetent or uncaring. I experienced this myself when I took a day off work and travelled 300kms to visit my Aboriginal nephew who had recently been taken into care. When I arrived the CW told me I had the wrong day. I can manage a diary. And my sister and niece had told me the same had already happened to them. So I arranged for my solicitor to arrange contact for us all. I again took a day off work and travelled (600km round trip) only to be given 5 minutes contact in a room full of strangers. The CW then told me that contact could not be arranged by the solicitor in future. So I asked for yet another day off work and requested that the CW have a different CW (who I was working with on another matter), ring me and confirm the date this time. But the duplicitous CW told the other one that I was very angry with her and had spoken badly of her. On the 4th day I took off work to make the long distance trip, we finally got contact with only family present. We went to the

park, where the duplicitous caseworker left the office to interrupt contact by pointedly handing my sister a letter (which I still have) stating that my sister was the only one permitted at contact (and subsequently at Court) and that none of the rest of the Aboriginal family was of any benefit to the child. This way she effectively eliminated the family's most effective (and only) advocate. In the same letter she also told a blatant lie which was that my sister was being considered as the sole carer of the child for the rest of his life. As it turned out she knew about some criminal history of my sister's husband that none of us knew about (from long before we met him), but the CW knew that would preclude her as the child's carer. Several months later, when I was able to attend contact once again because I had subsequently gained care of my nephew's cousin and was necessary at contact to facilitate my foster child's presence there, the duplicitous CW would randomly exclude various family members from *my* foster child's contact for no given reason, even though my CW was happy to include them. On one occasion the duplicitous one told the boy's mother she was not permitted to attend her son's birthday party. No reason was given. I advocated on her behalf and was told by the MCW that he could not override his CW's directive. The family requested that the CW not be present at the party because she was so hostile to the Aboriginal family and was intent on making us all look bad. We were assured she would not be there and we had a supervisor from Life without Barriers. The CW turned up anyway even though we were told she would not and tried to make trouble by saying to the LWB supervisor "I hope the mother can be bothered to show up" even though she had already forbidden it. But as the supervisor was an old school friend of my brother's, we had already discussed the fact that the mother was forbidden to attend for no reason. I asked the supervisor to detail the skulduggery in the contact report.

I made a complaint about the framing of the mother and the penalty for that was the cessation of all contact with two children for the entire family for almost a year, and which was only reinstated because case management was transferred to another branch.

The CW who inherited us at the new branch said that the file indicated that none of us were interested in contact with the two children and no attempts had been made to see them. Any kind of investigation would have proved that a lie as I had been making repeated attempts to gain contact for the whole family via the CW of the child in my care. In addition to which, all communications from me, the family's only advocate, had disappeared from the file.

At one point I had phoned my child's CW to add some family history to the file and that CW suggested it also go onto the file of the cousin. But when she looked at that file, she found that there was no reference at all to him being Aboriginal.

11. Reports of Abuse are not taken seriously. I know of a case where a respite carer has often reported disclosures of abuse from children who are regularly in her care. At one respite holiday the carer discovered wounds on a young child's bottom that were clearly from a beating and not a playground accident. When it was reported, a CW interviewed the developmentally delayed pre-schooler who was barely verbal at the time and advised the respite carer that the child didn't disclose anything. The respite carer asked if the CW had examined the child's bottom, to which the CW replied "no I can't do that". The respite carer

continues to report ongoing disclosures of abuse and another one of her foster children has talked about the disclosures of abuse in her presence to a psychologist. That psychologist also lodged a Risk of Harm notification about the children. It was never acknowledged.