

INQUIRY INTO CHILD PROTECTION

Organisation: CatholicCare Sydney

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CatholicCare Sydney **NSW Legislative Council –** **Inquiry into Child Protection**

Response from CatholicCare Sydney

Contents

Contents	2
1. Introduction	3
2. Domestic and Family Violence	4
Case 1	4
Case 2	5
Case 3	5
Case 4	6
3. Gaps between Family Law and Child Protection Systems	7
Case 5	9
4. Safe Home for Life reforms	10
5. Recommendations	11
6. Conclusion	12

Report Title: Inquiry into Child Protection: Response from CatholicCare Sydney

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1. Introduction

CatholicCare Sydney is the official welfare agency of the Catholic Church in the Archdiocese of Sydney, delivering more than 140 services in the areas of disability; ageing and dementia; employment, education and training; and children, youth and family support.

The work of CatholicCare is guided by the Catholic tradition of compassion and concern for social justice. Our role is to facilitate the development of individuals, families and communities most in need, through quality services, research and advocacy.

CatholicCare Sydney provides services that seek to prioritise and promote the wellbeing of children, through our out-of-home care and adoption services; intensive family support; restoration and preservation; and family support services. The agency also has specific expertise in safeguarding the wellbeing of children under the federally-funded Families and Communities Program (F&CP) through our counselling, parent education, men & family relationships, family dispute resolution, family relationship centre and children's contact service programs.

CatholicCare welcomes the opportunity to address our experience of working within the child protection system. In this submission, we do not attempt to address all the issues in the terms-of-reference, but rather to respond with respect to only those issues where we believe we have some experience and insight in the hope we can assist in the important work of this Inquiry.

2.Domestic and Family Violence

CatholicCare's Parent Education program receives referrals for parents whose children have been removed into statutory care. Parents are referred to Parent Education programs to increase their parenting capacity. Many of these referrals are for parents where domestic violence has been a precursor to the removal of the children.

It is our view that situations where a child or children have been removed from care in circumstances where family violence is an ongoing concern are the most demanding and complex of cases. They raise difficult and unique challenges which can only be safely managed if caseworkers are appropriately trained, resourced and supported to ensure they have the skills, knowledge and resilience to manage situations involving trauma and ongoing risk arising from family violence.

Whilst we do not underestimate either the complexity of such cases nor the dedication and hard work of FaCS caseworkers, several recent cases suggest to us that there is an opportunity (and need) for urgent investment to enhance the skills, knowledge and resources of caseworkers in order to better equip them to deal with the trauma and risks specific to ongoing family violence. This investment is, we respectfully suggest, urgently needed and is essential to ensuring the safety and wellbeing of children.

CatholicCare believes that the need for this investment is reflected in multiple recent referrals whereby a child or children have been removed from the care of both parents in circumstances where the mother has escaped the violence and there are no longer immediate risk of harm concerns but no attempt is made to return the child or children to the care of the mother..

We also believe that further investment to enhance the skills, knowledge and resources of caseworkers would reduce the frequency of the use of kinship placements, where the child is placed with the family of the perpetrator of the violence. We are aware of several recent cases where kinship placements have been used in situations of family violence with the risk that the placement inhibits the non-violent parent's contact with the child and jeopardises their relationship. Further, many mothers are often aware that the perpetrator has been raised within a family dynamic where domestic violence is present, leaving them highly fearful for the welfare of their child in the kinship placement.

The following are recent cases for the Legislative Council to consider as examples of these concerns. All identifying details have been removed, though CatholicCare is willing to provide additional information if needed:

Case 1

July 2014: Following family breakdown due to domestic violence, a mother was locked out of the family home by the father. The father changed the locks and refused the mother access to her primary school aged children. In the months that followed a child protection report by a third party was made about educational neglect of the children by the father. FaCS did not remove the children but entered into undertakings with the father to ensure the children attended school. FaCS also provided the mother with advice about Family Court proceedings. The mother began proceedings in the Family Court, and organised a Notice of

Proceedings to be served on the father in December 2014. The Process Server discovered the father had left the premises (with the children) and left no forwarding details. The mother reported the children missing to the police. She was contacted two months later by the police to say the children had been found unattended in a car over 700 km from their Sydney home. The children were then placed in Out of Home Care in the area where they were found. Despite no previous child protection concerns related to the mother the children were not restored to her care. Due to the distances involved, contact between mother and children was difficult, resulting in the mother travelling on a fortnightly basis (a 1500km round trip) to see the children. This has continued for the last 15 months. The mother has been assessed by a Children's Court Clinician, and on three separate occasions by a Legal Aid Social Worker. All reports have assessed the mother as suitable to care for her children. Despite this, we understand that there is no present plan to reunite the children and mother and, to the contrary, FaCS have indicated they are intending to apply to the Children's Court for a Permanent Care order until the children are aged 18.

Case 2

April 2016: Police were called to a domestic violence incident involving injury to an infant. The mother of the child reported that during the incident the door flung back and the infant child was hit by the door accidentally. The father blamed the mother for the attack and the five month old child was removed into Out of Home Care. The mother immediately found a place in a Women and Children's Refuge. The matter went to court 2 weeks later and the father confessed to the domestic violence. The mother is safe, in the care of specialist workers who have indicated that she can spend at least 12 months in their service. FaCS have not restored the infant to her mother and have indicated that they would consider restoration to the father; the perpetrator of the violence. This appears to be due to the father's confession of violence, while the mother has maintained the incident involving the child was an accident, in the context of a domestic violence incident – therefore not demonstrating responsibility for the incident. The mother does not speak English. FaCS have required that the mother give extensive undertakings prior to considering the restoration of her child including attending parenting courses, English classes and Domestic Violence counselling, all of which can be carried out with the infant in her care. The age of this child means that any length of time spent out of the mother's care is significantly impacting her bonding and attachment.

Case 3

March 2015: A mother of an infant child was so badly assaulted by the child's father that she required surgery and now suffers from an anxiety disorder and other trauma related mental illness. The assault was caught on CCTV and resulted in the father being charged, found guilty and imprisoned. The infant child was placed with the perpetrator's parents and Permanent Care orders were made in July 2015. The ongoing issues with the mother are such that it is necessary for the child to remain in care. The mother finds it very difficult to have contact with her child. The grandparents and the father are not Australian citizens, and the Court's decision about the length of the sentence will result in the father's deportation from Australia. Simultaneously, the grandparents have requested a passport for the infant. The mother is extremely concerned that the grandparents are planning to leave Australia with the infant. The mother has said that she would not sign the passport application form

however we understand that FaCS intends to authorise the passport application as they do not agree that the mother's concerns are warranted. Contact between mother and child is fraught due to the mother's fears regarding the child's care; should the child be removed from the country, the mother will be denied all access to the child.

Case 4

A mother with a diagnosed cognitive processing disorder was the victim of domestic violence. After one incident, the perpetrator of violence and father of the youngest child (an infant) threatened to kill the mother and attempted to choke her. After this incident, the mother contacted FaCS for support and agreed for her two children to be placed in a voluntary short term placement. The children remain in care some two years later and FaCS are recommending permanent orders be made for the children on the basis that the mother may reconcile with the father. The mother has had no contact with the father since this last incident. The mother is fearful of the father, she has moved house and is afraid that he will find out where she lives. FaCS have also been in contact with the father to ascertain whether anyone in his family might be able to care for the children. The mother has significant concerns that this will cause the father to re-engage with her and the children, once again putting them all at risk.

3. Gaps between Family Law and Child Protection Systems

CatholicCare Sydney offers Post Separation services through our Family Dispute Resolution, Children's Contact Service, Counselling, and Family Relationship Centre. Practitioners routinely identify ongoing family violence, mental health issues, and addictions in parents accessing these services. When parenting arrangements change after separation, children can be at increased risk of harm without the presence of a protective parent.

Again, we consider these cases to be the most complex and challenging care arrangements to manage. Effective communication and prompt, thorough sharing of knowledge between the different state and federal authorities involved in managing cases of this kind is essential to ensure the safety and wellbeing of children caught in these traumatic and often dangerous situations. However, we are concerned that communication and knowledge sharing is often neither effective nor prompt with the consequence that risks to children are escalated.

Our experience suggests that the state child protection and federal family law systems tend to operate in silos. The concerning consequence is that to the vulnerability of children to family violence, neglect and other risk factors as parents' conflict and stressors escalate through the process of separation is not appropriately communicated or addressed. Ongoing violence post-separation (with increased risk of lethality) is regularly identified by family dispute resolution practitioners. Practitioners are concerned that the state child protection system urgently needs far greater resources. Most critically, investment directed to appropriate skills, training and support for case workers regarding the risks, trauma and management of family violence and investment in measures to provide support and safety for children impacted by separation and parenting proceedings in the federal family law system.

CatholicCare's Children's Contact Service works with high-conflict separated families who are going through Family Court proceedings. The service provides supervised contact visits between children and their non-resident parent. Domestic violence has been a factor in almost 100% of the families the program works with. After separation, the risk of harm from domestic violence remains and often increases. However, parent victims of domestic violence are often compelled by court orders to continue to come into contact with their perpetrator when handing children over for contact, or to continue to facilitate contact with the abusive parent, even when the children are expressing fear or showing signs of trauma.

We accept that we do not have full visibility of the interactions and communications between state authorities and the federal family law system. It may be that communication and knowledge sharing is comprehensive and timely and we are hopeful that is the case in the majority of situations. However, based on our experience and observations, we are concerned that the ability of the federal Family Court system to manage situations where domestic and family violence is present is significantly hampered by two factors:

1. Our observation is that there is an opportunity to enhance the skills and knowledge of decision makers to assist them to better understand and manage situations where domestic and family violence is ongoing, including to better understand the impact and trauma on children exposed to violence (whether or not as victims); and

2. A lack of timely and comprehensive information from state child protection authorities about the presence, frequency, severity and impact of domestic and family violence affecting families interacting with the family law system.

Where there are concerns regarding the non-resident parent, many victims of domestic violence are fearful that if they prevent their child from having contact with the abusive parent, they can be construed by the Family Court as unfairly withholding contact. We believe that in these cases, children need an independent advocate (ideally FaCS) to represent their best interests by recommending reduced contact (or no contact) with an abusive parent. Unfortunately this often does not occur, as highlighted in the following case study:

Case 5

In 2015 a family with final Family Court orders were referred for supervised contact between the father and two children aged 8 and 6. There was a history of domestic violence by the father against the mother, and unsubstantiated allegations of sexual abuse by the father against both children. The Family Court orders stated that after 2 years of supervised contact, the parents should participate in mediation to determine future contact arrangements. The father had previously threatened to murder the mother, bringing into question the mother's ability to freely participate in mediation and be protective of the children in this process. During provision of supervised visits, CatholicCare practitioners became concerned that the children were at risk of harm from sexual abuse by their father, as staff observed grooming behaviours from the father, and concerning responses and sexualised behaviour in the children. CatholicCare staff made two reports of Risk of Significant Harm to FaCS. As we understand it, no action was taken in response to these reports and (to the best of our knowledge) no attempt was made to alter the care and access arrangements or to otherwise communicate the concerns to the federal family law system.

CatholicCare is part of the Greater Sydney Family Law Pathway Network (GSFLPN). For some years GSFLPN has repeatedly invited representatives of NSW FaCS to attend events and meetings of this network, which is a forum for communication and training across the family court, legal services and NGO providers of separation services. GSFLPN been proactive in providing opportunities for genuine dialogue across our sectors to improve collaborative practice – for example the “Child Safety is Everyone’s Business” forum, attended by several hundred people in 2014, the Aboriginal Family Law Conferences and Road Shows organised by GSFLPN over several years to educate indigenous communities and leaders about the best use of both systems. Last year, two of CatholicCare’s post-separation staff spoke to Western Sydney Area FaCS Managers and Caseworkers at a Parramatta Family Court event organised by Rick Welsh of The Shed/GSFLPN. This forum was designed to inform FaCS staff about the nature of family courts and NGO family law services such as specialist counselling for children, Children’s Contact Services, and Family Dispute Resolution - all of which might be preferable alternatives for indigenous families instead of the Children’s Court pathway. Whilst these events are a step in the right direction, we sincerely believe that urgent investment of time and resources is required to ensure that there is timely and effective communication and information sharing between the state and federal systems so that separated families and children do not “fall through the cracks”.

4. Safe Home for Life reforms

The Safe Home for Life placement hierarchy places restoration to family as the preferred option of care, where possible. As outlined in the case studies provided, in some instances the reforms are not being reflected in current practice. In our experience, we believe that the previous philosophy of long term foster care is still sometimes prioritised over restoration to family. We are extremely supportive of the Safe Home for Life principles and consider that compliance with these principles in ongoing practice is essential as the ongoing impact of removal on children (particularly infants) can be profound and long term.

When children have been in a traumatic situation, such as domestic violence, the primary focus should be on relieving the trauma. The trauma is exacerbated when they are removed from their primary attachment figure, usually the mother. In our opinion, (while generalisations can be fraught) in almost all cases the interests of children are best served by removal of the perpetrator, not removal of the children. If the perpetrator cannot be removed and the safety of the victims maintained, then the mother and the children should be removed together to a safe refuge. We believe that there continue to be too many cases where the mother is treated as responsible for the violence and the perpetrator's actions.

5.Recommendations

CatholicCare Sydney would like to make the following recommendations:

1. Increased and/or improved training for FaCS caseworkers regarding attachment and the impact of trauma;
2. Increased and/or improved training for FaCS caseworkers regarding domestic violence;
3. Increased communication and protocols between the State Child Protection System and Federal Family Law System, demonstrated through greater input of child protection experts (FaCS) in Family Law matters.

6. Conclusion

CatholicCare appreciates the challenges inherent in any child protection system, and acknowledges the improvements to the system brought about through the *Keep them Safe* Reforms, particularly in opening up communication between the array of services involved in protecting any given child. The *Safe Home for Life* reforms have been well received through the sector and provide a pathway for decision making that is in children's best interests.

The recommendations above are suggested in relation to gaps that, when closed, will lead to a strengthened capacity of the sector to respond to the complex needs of individual children and families.

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