

SUBMISSION TO SENATE STANDING COMMITTEE ON COMMUNITY AFFAIRS

OUT OF HOME CARE

2014

This submission is from the Family Inclusion Network of Western Australia Inc. (Fin WA). We are grateful for the opportunity to provide input into this inquiry and would be willing to contribute further information at your request.

Introduction:

The content of this submission is based on the unique experience gathered by our professionally qualified staff and membership of Fin WA drawing extensively on the experiences of families with whom we work alongside

The mission of Fin WA is *'to have a child protection system that is respectful and inclusive of parents, family and community as key stakeholders.'*

Fin WA provides services to parents and family members who are in crisis following the removal and placement of their children by the Department of Child Protection and Family Services (DCPFS) into out of home care (foster or kinship or residential care); Fin WA also works with families who have been identified as at risk of having their children removed. Fin WA services specifically include advocacy and information in a model of case management and crisis intervention. The strategic objectives of Fin WA are to:

- Empower parents and families to participate meaningfully in the child protection system
- Foster a collaborative and inclusive child protection system
- Enhance the valuable role and intrinsic value of parents and families within the child protection system
- Develop and sustain a viable, effective organisation based on best practice

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Alongside of providing individual advocacy to parents, families and communities, Fin WA also works systemically to promote a child protection system that is fair and equitable. We work collaboratively and respectfully with the DCPFS to advice and advocate for the delivery of more inclusive and respectful policies and practices.

Fin WA accepts there will be circumstances where some children will need to be removed from their families and placed into the ‘out of home’ care system. We also accept that there are times when families are not able to address statutory concerns and children will need to remain in permanent ‘out of home’ care. It is our position that regardless of whether a child is temporarily or permanently in care, the inclusion of parents, families and their communities in the assessment, decision making and ongoing relationship with their children, is integral to reaching the best possible outcomes for all concerned, particularly children.

Fin WA makes the following response to selected terms of reference to the inquiry into ‘Out of Home Care’.

Executive summary of key principles:

The current ‘Out of Home Care’ system nationally requires a number of significant changes to make a substantial impact on achieving best outcomes for children and young people in the system, their families and those who work to support them. Fin WA strongly recommends the following principles and recommendations be given full consideration:

1. Resourcing and support to families in early and ongoing interventions will have a noteworthy influence on reducing the numbers of children entering the care system; as opposed to resourcing being placed in the tertiary, forensic end of critical child protection intervention;
2. Recognition that the connection between children, young people, their families and communities are critical to the long term emotional and psychological wellbeing of all; as opposed to a system that ostracises and alienates parents breaking down any natural relationships for the future – often leaving children more vulnerable and disconnected;

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3. Promoting a system that acknowledges the critical role of all participants as valuable to do 'business with' and to establish meaningful and effective partnerships with and between children and young people, families, foster carers, statutory workers and legal representation.

Drivers of the increase in the number of children placed in out of home care

Nationally the numbers of children entering the care system continue to rise. The reasons are complex and multi-layered, including social and economic disadvantage and intergenerational trauma. For Aboriginal families the complexities of disadvantage and past policies and practices significantly influence the number of ATSI children in care. *'Western Australia has over 4,300 children and young people in care. Over 50% of children in care are Aboriginal children'* DCPFS annual report 2014.

With the promotion of a shared responsibility that *'child protection is everybody's business'* there is greater community awareness of child protection issues. There has also been a broadening of definitions of child abuse and neglect as well as the addition of changes in various jurisdictions in policies and practice, resulting in less children being returned to their families.

Typically the issues that lead to children entering care are in relation to family functioning and compounding issues of domestic violence, mental illness, drug, alcohol and substance abuse, neglect, poverty and homelessness. Having a child removed from a parent's full-time care is an extremely traumatic and devastating event for parents. While some parents may have received cautionary advice that they could lose their children if they do not attend to the reported issues of concern, many do not realise the full impact or authority of the law (that is, statutory authorities have the legal right to remove their children) until removal actually occurs. It is at this critical time of 'removal' when many parents experience anger, despair, crisis and shock.

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Anecdotally we see that when birth parents do not receive support and information at the time, and immediately following the removal of their children, they fall deeper into crisis. Feeling desperate, ashamed and unsupported there is often a period when parents are unable to address the concerns that lead to the removal and at times may even escalate. It is at this time that crucial support, information and advocacy can assist to bring about a more speedy return of the children thereby reducing numbers of children in care.

Recommendations:

- a. Universal national assessment criteria for need of children to be placed in 'out of home' care needs to be developed and adopted nationally, with clear definitions for “neglect”, “abuse”, “harm”, & “protection”;
- b. The removal of children from family of origin is a traumatic event with long term consequences for both children and families. Psychological support must be made available to all parties concerned; this will assist families to engage in the processes when they are supported emotionally;
- c. Training of statutory workers to understand, identify and respect the characteristics of post-traumatic stress syndrome that children and family members often suffer upon removal of children;
- d. Linking families with relevant, suitable and affordable non-government agencies who can work with families to overcome the challenges and potential risks of harm or neglect of their children, increasing likelihood of reunification of children with their own family as soon as practicable;
- e. Making available the necessary services and resources to families to help them address issues of concerns prior to removal; or after removal to reduce the length of time children need to be in care (currently there are extensive wait lists for drug rehabilitation, psychology services and reunification programmes);
- f. Legal representation to families prior to removal – and made available throughout any and all court processes (as opposed to currently in WA families can only get representation at trial if there is ‘merit’ in their case);

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- g. Where mental health issues are a concern for children in ‘out of home’ care (or their respective family members), affordable and independent mental health services must be made available in a timely manner.

The outcomes for children in ‘out of home care’ (including kinship care, foster care and residential care) versus staying in the home

There is no doubt for some children that being placed into permanent ‘out of home’ care has positive outcomes. For many the results are significantly different.

It is evidenced throughout research internationally that many children raised in the ‘out of home’ care system are negatively impacted. Leanne Dowse presented at the 2014 ACWA Conference, *‘Trajectories into the Criminal Justice System for Young People with Complex Needs’*. Dowse explored the experiences for young people in ‘out of home’ care stating young people in the care system are more likely to suffer with mental health disorders and cognitive disabilities; and there is an increase in offending behaviour resulting in incarceration over the entirety of a person’s life.

Similarly Mendes (2012) cites overseas studies that identify the link between inadequate support when young people leave care and their offending behaviours. This link is also made with young people leaving care having a high incidence of homelessness.

Anecdotally we know that some young women still in the care system become pregnant and subsequently their babies become subject to investigation processes, often being removed from birth.

Recommendations:

- a. Greater preparation for young people leaving the care system to independent living;
- b. Access to ongoing supports to young people when they have left care;

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- c. Relationships between young people, their families and communities to be encouraged, sustained and provided support for;
- d. Research and data collection into young women in the care system having babies.

Best practice in ‘out of home’ care in Australia and internationally

Currently the system operates in ‘silos’ with families, foster carers and children and young people’s interests not being considered within the broader context, with a focus on long term outcomes. Best practice in the ‘out of home’ care system must include that key stakeholders work in collaboration and genuine partnership to reach best possible outcomes for all concerned.

A system whereby foster families take on a mentoring role with the birth family i.e. the foster family that is connected to, and involved with the whole family, not just the children. Understandably, this may not be possible with all families (on either side of the situation), but there would be foster and birth families that would/could cope with such an arrangement.

Programmes such as ‘fostering a family’ have an underlying principle that all parties are working toward the best interest of the child rather than removing children and isolating parents.

Support to foster families has received attention and research in recent years. More and more it is understood that families caring for children removed from their birth family need ongoing support and skills training to help them maintain and provide healthy and stable placements for all concerned.

Much rhetoric is made about the ‘best interest of children’ yet it does not seem to be a well understood principle. There are various perspectives when trying to determine this position.

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Very often the voice of the child or young person is missing or even minimised and those representing a child can be compromised or carry prejudice about the family.

Recommendations:

- a. Intensive support and advocacy for the birth parents/family;
- b. Services to assist in the maintenance of the relationship between the child and birth family;
- c. Expectation that foster carers will work with the department and birth family to assist in maintaining a relationship with the birth family;
- d. Training for foster carers regarding the importance of the birth family; training to include strategies to work with the child regarding identity, culture etc.;
- e. Training for statutory workers re the importance and inclusion of the birth family in children's lives. Training to include strategies of how to maintain the birth family's relationship;
- f. Working in partnership between all key stakeholders.
- g. Agreement in defining '*in the best interests of the child*' and principles in its application and who decides.

Consultation with individuals, families and communities affected by the removal of children from the home

Removal of a child from the care of a parent is a devastating experience for parents and their families, regardless of the circumstances which lead to the removal. Most often parents experience having their children removed as traumatic, leaving them confused, angry, shocked and shamed. Due to the turmoil and upheaval, parents often lose connection to their supports, have their income reduced, struggle to have secure housing, suffer mental and physical anguish – all of which impacts on their capacity to contribute and participate in child protection processes effectively and meaningfully.

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Research into the experience of parents who have had their children removed repeatedly highlights the lack of inclusion and consultation with families and communities throughout the assessment and decision making processes of child protection interventions. Various jurisdictions continue to treat parents with punitive and adversarial attitudes and approaches, minimising the imperative role of families and community in a child's life.

Imperative for all families is to be treated with dignity, fairness and equity. The objective of Fin WA is to advocate for the voice of parents, family and community in the child protection process. This is at any and all parts of the continuum of child protection interventions from the first notification, to a child being removed, returned home, or to permanent care out of home.

A recent project undertaken by Fin WA, called the Parent Voice Project, invited parents and family members to use a photographic image of how they experienced child protection interventions. Significantly parents identified being shut out and not listened to.

The needs of parents with children in care have been documented in multiple research studies. Parents who have had children placed in State care encounter significant issues in effectively engaging with the child protection process. There is a considerable gap in current services to assist parents suffering the loss of a child and it can take a long time for parents to overcome the problems that result in their children being removed from their care. In their report 'Family Inclusion in Child Protection Practice', FIN in Queensland identified the need for a 'statement of commitment' by the Department of Child Safety to partnering with parents inclusive of a balanced investment into parental support and 'out of home' care and greater parental inclusion in the child protection process, as two of the main strategies for inclusion (2007).

In Akin & Gregoire (1997) parents identified the welfare system as reinforcing their hopelessness and powerlessness. Dumbrill (2006) concluded that the way parents perceive power being used is the primary influence shaping parents views of intervention and their reactions to it.

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Research findings from a Lotterywest funded project undertaken by the University of WA and Anglicare WA titled, ‘The Experiences of Parents and Families of Children and Young People in Care,’ details how people feel once their children are removed. The study took place in 2007 and involved interviewing and documenting the stories of 41 parents and families affected by the removal of a child. The most consistent themes that emerged included parents deep sense of grief, loss, despair and isolation following the removal of their children, and a significant amount of helplessness, powerlessness and hopelessness held toward statutory authorities.

Effective intervention requires a productive working relationship between the worker, the child and the family. Working relationships require the professional to work skilfully with their authority to develop trust and hope for the grieving family. Where parents and family are included and consulted, and there is a sense that ‘the authorities’ are working together with the family, there will be a sustained and necessary sense of hope which will assist the family to continue to work toward having their children returned home.

Recommendations:

- a. Establish advocacy services such as the Family Inclusion Network of Western Australia in every state and territory to help address the experience of imbalance of power between families and statutory authorities which by its very nature is adversarial and does not allow for a collegial working relationship;
- b. Case planning should be approved or endorsed for implementation only when it can be demonstrated that the children and the significant family members of the children in ‘out of home’ care have been actively consulted in the decision making process; this plan must include a contact plan with significant family members and community of the children in ‘out of home’ care;

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- c. Care and protection orders until 18 years can only be filed when authorities can demonstrate they have exhausted all possible avenues of assisting families to be reunified ;
- d. Access to quality professional legal representation be made available to families to ensure they can properly defend such applications throughout the entirety of a court process (including trial);
- e. Each state, and or territory, should be resourced to produce an information booklet that provides vital definitions of important terms used in care and protection orders, as well as an explanation of court procedures and rules of evidentiary standards in their relevant jurisdictions. This will reduce the level of confusion and panic that families suffer when served with care and protection order documentation. It will also help to equip and empower parents and families to defend themselves more capably.

Extent of children in out of home care remaining connected to their family of origin

It is understood that there are some cases whereby permanent ‘out of home’ care is the only option for a child – but this should never be at a cost of loss of identity to the child’s birth family. If a child is in permanent care then every possible strategy needs to be made to assist in the maintenance of their relationship to their family. It is acknowledged there are complex and competing demands regarding contact.

Placement of sibling groups must be a priority for continuity of relationship and family identity; it also promotes stability, continuity and emotional wellbeing. Experience shows us that finding placements to take sibling groups (particularly large groups) are difficult. What we also know is that when siblings are not placed together, regular contact is rarely sustained. We can cite families who have experienced no contact between siblings for over 6 months.

The intent and application of the Children and Community Services Act 2004 in its entirety, and specifically the objectives and principles states, *‘(a) promote the well-being of children, other*

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individuals, families and communities (b) to acknowledge the primary role of parents, families and communities in safeguarding and promoting the well-being of children (c) encourage and support parents, families and communities in carrying out that role.'

Section 8 of the Act lists at paragraphs (a) to (m) a number of matters that must be taken into account by the Court when determining what is in the child's best interests. Paragraph (h) makes it clear that one such matter is the need for the child to maintain contact with his or her parents, siblings and other relatives.

Furthermore, in determining the best interests of a child, consideration must be given to relationships with 'other relatives'. Section 8 of the Act requires, that the court in determining the best interests of the child must consider the child's relationship with 'other relatives'.

When permanent out of home care has been determined then contact is no longer about assessment or reunification; it clearly becomes a position of maintaining a relationship over the many years ahead. The value placed on this by the statutory workers involved, including foster carers, will directly influence the type, frequency and effectiveness of the interaction/contact. Most often when children are placed in permanent care, contact between children and their parents, family and community, is reduced to two and four times a year; sometimes unnecessarily supervised for short periods of time. With limited or no commitment to assist parents and families to maintain a meaningful relationship with their children, over time with such little contact, children and parents can become disillusioned or disinterested, and contact becomes non-existent.

Parent's experience of the quality of the contact will determine '*their ability to maintain a meaningful and comfortable role as parents*' Schofield (2011). In order for parents to be encouraged and supported in maintaining their relationship with their children, to address the issues that led to their children going into care, enhance parenting skills, and increase

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knowledge and understanding of child development and the impact of trauma, the issue of contact is a significant one.

The current high rate of removal of children from their parents and the resourcing crisis often means that:

- (i) Contact arrangements are made less frequently than what is in the best interests of the child and the family;
- (ii) If contact is cancelled there are no 'make up' visits;
- (iii) Often what is court ordered is not adhered to;
- (iv) Babies and toddlers are not given the opportunities to attach to their mother (particularly if the mother hopes to breastfeed);
- (v) High turnover of departmental officers means when there is a changeover in case worker, the process slows down considerably for parents, often resulting in no visits; or there is a change in direction of a case due to a difference of opinion on what ought to happen with the family.
- (vi) When children are moved in their placements (whether that be into a long term placement or not), children's contact is often stopped until the 'child has settled' – this can be for months. This appears to be in stark contrast to a child's best interests when contact with their family may have been a constant in their life.

All of these issues are exacerbated for parents living in remote and regional areas, and parents who are incarcerated.

We know statutory authorities do not have finite resources; when cutbacks occur it predominantly affects the area of contact - transport and supervisor availability. Generally there are no arrangements after normal business hours and definitely not on weekends or public holidays - unless a plan of safety has been developed, and a 'safe person' can help facilitate such contact after hours, or the carer is willing to assist. More often than not, such

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limits to contact between children and their parents or family members are not in the child's best interests.

Fin WA considers that in addressing the best interests of the child, supporting the child's relationship with his or her parents should be a priority and resourcing should not be a factor in determining a child's best interest.

Section 12 (d) of the Act states that when an Indigenous child is placed with a non-Indigenous carer, that in the opinion of the CEO the person is '*sensitive to the needs of the child and capable of promoting the child's ongoing affiliation with the child's culture, and where possible the child's family*'. It is our experience that many Indigenous children are being placed with non-Indigenous carers who *are not* supporting or maintaining appropriate family and/or cultural connections. These placements are often due to the lack of Indigenous foster carers.

Research tells us that continuing contact with the birth family helps maintain placements for children, improves chances of reunification, provides imperative value to help with understanding one's own identity, and assists to preserve long term family connections (Barnardo's Australia 2003).

Recommendations:

- a. Recruitment and assessment of foster carers to include willingness to work with birth families;
- b. Training for all workers (including foster carers) to understand the importance of family of origin and the maintenance of relationships and identity;
- c. Resourcing i.e. money to fund contact between children and their families where more natural means of interaction are not able to occur;
- d. Models of contact which allow for more natural family interactions;

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- e. Contact to be viewed as a continuum – from cards/letters → phone calls
→ supervised contact (where possible in natural environments with people known to the child/family) → unsupervised contact → overnight stays → shared care → developed relationships between foster and birth families;
- f. Consideration to be given for various types of contact, including the use of social media such as Skype;
- g. For the norm to be that birth families and foster families work in partnership to establish meaningful relationships, and maintain identity for children;
- h. Aboriginal children placed with non-Aboriginal families have solid cultural plans developed, and assessment that are enacted;
- i. An independent body (not connected to the statutory authority) for parents and families to make complaint about the practice and decisions made by the statutory authority;
- j. Intensive support and advocacy for the birth parents/family pre and post removal of children;
- k. Services to assist in the maintenance of the relationship between the child and birth family;
- l. Expectation that foster carers will work with the department and birth family to assist in maintaining a relationship with the birth family;
- m. Training for foster carers regarding the importance of the birth family; training to include strategies to work with the child regarding identity, culture etc.;
- n. Training for statutory workers on the importance and inclusion of the birth family in the children’s lives. Training to include strategies of how to maintain the birth family’s relationship.



Best practice solutions for supporting children in vulnerable family situations including early intervention

Services which feature working with families early to prevent statutory removal of children, clearly effectively reduces the numbers of children going into care.

The Western Australian Children and Community Services Act 2004 places emphasis on the primary role of parents, and that provision to encourage and support parents in carrying out that role is paramount. It is our experience that early intervention and support to families is often too little, too late, often resulting in the removal of children from the family home.

Increasingly we see expenditure in tertiary interventions which could be more effectively used in early intervention and supports, (and ongoing where necessary) preventing children entering the care system. For example:

- (i) The high numbers of children in care, due to exposure or risk of family and domestic violence, with very little support provided to the family. Mothers that have experienced family and domestic violence often feel ‘punished’ by the system when children are removed from their care without having had sufficient or practical support prior to the removal;
- (ii) When protection order applications to 18 years are made where parents have an intellectual disability and have had no opportunity to demonstrate capacity (or not) to care for their child, with or without supports and interventions;
- (iii) An increase in applications for a care and protection order until 18 years of age if reunification has not been achieved within a time limited care and protection order, yet there has been significant changes that solely require a little more time;
- (iv) Children being the subject of care and protection applications time limited, or to 18 years of age due to homelessness;
- (v) Newborns being the subject of care and protection applications to 18 years when the mother has had other children removed from her care;

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Removal of children in the above examples only serves to *increase* the harm to the child/family. Parents will seek practical and meaningful support for their families during times of stress. Many of these families will find the assistance they require is not available to them unless their child is the subject of a care and protection order. Also, repeatedly we see foster carers being given the support needed to care for children when it was not afforded to families prior to the removal e.g. children with significant disabilities or behavioural problems.

Repeatedly clients are asked to address various issues which may include; domestic violence, drug and alcohol, mental health issues, counselling etc. Parents will need to seek out the services of various agencies – meaning multiple agency engagements and multiple appointments. To reduce this burden on parents and the complications associated with this, it is reasonable that more skilled therapists are needed who deal with a number of issues with one client e.g. manage the range of presenting issues.

If the family's needs are not addressed, the ever-increasing amount of parents with children being removed from them, and placed in care, will continue to escalate. In order to reduce the increase in children entering care, parents, families and communities must receive more proactive and responsive support. Children will benefit when their parents are treated with dignity, respect, support and challenged to make positive changes in their lives. It is at this point Fin WA Inc. notes that while it is parent focused it will *never support actions that place a child at risk of harm*. During the process, however, parents' voices need to be heard and their dignity maintained. Many DCPFS workers will attest to the monumental positive difference when dealing with family members who are independently supported and how much smoother the process can be in assisting them, and their children, to work towards addressing the concerns raised.

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Recommendations:

- a. Encouraging a collaborative approach to resolving potential and actual harm, neglect or abuse between the statutory authority, family and relevant non-government agencies, will expedite the chances of reunification of children in care;
- b. Provision of wrap around services be made available to families particularly in cases of multiple complex needs - i.e. domestic violence, disability, and drug and alcohol use. Having one worker with multi-disciplinary skills to support and work with the family, rather than families having to visit a number of different professionals;
- c. Support needs to go beyond individual siloed services and into holistic view to support (as opposed to segregated) whole families and communities;
- d. Self-directed services which would allow parents, families or communities to determine the way they want to address their issues to care safely for their children, and for funds to be made available for this to occur;
- e. Establishment of advocacy services such as Fin WA being made available to all families who come to the attention of statutory authorities.

NOTE: *The Family Inclusion Network of Western Australia Inc. (Fin WA) is an independent organisation and is the only government funded service of its kind throughout Australia.*

Debbie Henderson

Executive Officer

November 2014