OzChild's Submission to the *Protecting Victoria's Vulnerable Children Inquiry*

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Introduction:

OzChild welcomes the opportunity to provide a submission to the Inquiry Panel, through the terms and references outlined in the 'Protecting Vulnerable Children Inquiry Guidelines'.

We are a not-for-profit organisation which aims to enhance the life opportunities and well being of children and young people, especially those who are disadvantaged or at risk. Our primary focus for service delivery is the Southern Metropolitan Region of Melbourne.

We run a range of programs designed to support and nurture children and their families. These include the single largest Home Based Care program in Victoria with 160 children being placed in Home Based Care placements on any given night. As part of this program we deliver a therapeutic foster care program in partnership with The Australian Childhood Foundation.

Our large Family Services Program incorporates partnership in the delivery of a ChildFIRST Service, a therapeutic Families First program, Together Again Program, Kinship Care, and a large volunteer family support program. Together with our Disability services, counselling, educational support programs, Community VCAL and youth pathways programs OzChild's services reflect a concern to address issues across the various domains of children and young people's lives. OzChild is also a registered Training Organisation and delivers training and development in the areas of children's services.

In preparing a response for the Inquiry Panel, we have identified a number of issues which are program specific but also some common concerns which are evident across programs. Our response has been organised under the Terms of Reference headings but many of the issues raised are relevant to more than one TOR.

As an agency we are committed to taking a holistic view of children's needs and how best to respond to them. We believe that a fundamental problem which compromises effective service delivery is the siloed thinking about how to meet the needs of vulnerable children. Overall, in our experience, it is evident that far too often structures and processes impede rather than support service delivery in the best interests of the child.

While our response has been framed to address the set terms of reference, we would like to register our concern that this yet another inquiry when many of the issues raised in the recent Ombudsman's report for example, have yet to see a substantive government response.

Terms of Reference 2

Strategies to enhance early identification of, and intervention targeted at children and families at risk including the role of adult, universal and primary services. This should include consideration of ways to strengthen the capacity of those organisations involved.

Respite – Home Based Care (HBC)

Over the last four years our program has seen a significant shift in the complexities of the children and young people being referred for placement. As such, greater attention has been given to the role of respite care in supporting and sustaining placements.

Through specific respite carer recruitment the number of accredited respite carers within the OzChild HBC program had grown and in June 2010 we had 35-40 respite carer households within the broader carer pool of 180 carers.

Historically the program had prioritised community respite referrals as a way to prevent children entering the care system. However, this approach had proven less possible over time with the growing need for respite being used as an additional support to internal existing Child Protection foster placements and those in our Kinship Care Program. The consequence of offering support in this way draws on an already limited resource of respite carers and will often result in children being exposed to multiple carers due to placements being made with limited capacity to be ongoing.

Our HBC respite service has become virtually unavailable to members of the community as the priority is given to internal foster placements. Whilst some of our carer families draw on their own existing networks for respite support (as promoted by our agency throughout the initial assessment process), many do not appear to have access to family and friends who could take on this role and continue to feedback to us their critical need for respite support.

We have recently conducted an internal review of our HBC respite program which highlighted that different models of respite should be considered. The screening, assessment and training of respite carers needs to be considered in terms of the length of time to accreditation. This is often up to nine months for carers wanting to only offer monthly respite. We believe the current lengthy competency based assessment should be redesigned to promote the accreditation of respite carers to occur in a more timely way.

Funding is a central issue for agencies providing respite care. The unit funding model that sits alongside respite is insufficient given the same screening, assessment, accreditation and support that is offered to respite carers. Currently one child needs to be in respite care for 30 nights in order to achieve one target. This would translate to 10 weekend respite arrangements being supported a month in order to achieve one target. This is a significant

issue for CSO's in that the workload does not match the funding that is available. In a recent project undertaken, *Respite Care – The Grassroots of Preventative Care*, involving thirteen agencies including OzChild, only two received dedicated funding to deliver a respite service.

We are also aware of many instances where the level of respite required exceeds the current formula for respite payments of 28 days per year. In these instances it is often assessed by the agency as critical support to the sustainability of a placement and that ongoing dual caregiver payment is required to ensure financial predictability for the carer. We are currently seeing an increase in these applications which is not surprising given the number of complex and intensive children in the program. Currently, an application for extended respite needs to be submitted to the Placement Coordination Unit and requires a significant amount of evidence to support the application of dual payments with no guarantee that it will be approved.

Respite - Family Services

The demand for community based respite for children and young people in the Families First and the Intensive Therapeutic (Family Solutions) program has increased over the last couple of years. However, demand for respite has outweighed capacity of the Home Based Care programs in the southern region and the availability of carers who can offer respite to such families continues to be a problem. This means that parents who are experiencing significant isolation in the community are not receiving much needed respite from parenting, and that children are potentially missing out on the opportunity of positive experiences they seldom receive in their current environments, which could also help build their resilience.

In relation to kinship care, children and young people placed through Child Protection show a similar range of complex needs and hence the availability of respite care to support placement stability is a similar issue to that in HBC. With kinship placements however the need for respite can be more pressing due to the fact that many of the kinship carers are older, more likely to have age related medical problems and potentially are without the coping capacity found in carefully assessed foster carers.

OzChild would welcome being part of broader discussions about new initiatives and models of respite care. It is clear that respite is highly valued and is seen as crucial to not only parents who still have children residing in their care as a preventative service response but also in instances where children are in care, either kinship or foster care, and placement stability would be enhanced through the provision of a regular respite match.

Term of reference 3

- *The quality, structure, role and functioning of:*
    - *family services;*

- *statutory child protection services, including reporting, assessment, investigation procedures and responses; and*
- *out-of-home care, including permanency planning and transitions; and what improvements may be made to better protect the best interests of children and support better outcomes for children and families.*

Family Services

Introduction of ChildFIRST and its impact on Families First referrals
The introduction of ChildFIRST has had an impact on the appropriateness of referrals coming though to the 'Placement Prevention' Families First program. The Families First model was developed as an *early intervention* model of practice targeting families with a lower degree of 'risk' and fewer of the chronic variables listed below and hence a greater capacity to sustain positive change.

With the introduction of ChildFIRST however, more and more community and family services referrals are being directed to ChildFIRST. However the ChildFIRST system is unable to refer into the Families First program. Families First referrals can only be received from Child Protection, which means that the majority of cases referred have a multitude of complex, ongoing and chronic issues including:

- current substance abuse if carer is refusing treatment;
- untreated mental illness;
- significant intellectual disability;
- current transience; sexual abuse if perpetrator has current access to child;
- family violence if perpetrator is still in the home, and;
- extensive Child Protection history.

The cumulative effect of these factors has a serious impact on the likelihood of families being able to make significant and sustainable change in the short period of Families First intervention. For the majority of cases coming through the Families First program, Child Protection remain involved following the closure of the Families First intervention which while it may be a reflection of the increased complexity of the cases coming through the system. However it also brings into question the appropriateness of the model of intervention being referred to and its capacity to effect any meaningful change in complex families.

We believe that the intervention timeframe for families accessing the Families First Service should be reviewed and lengthened to acknowledge the complexities and

long term nature of issues that require support and intervention with these families and children.

Out Of Home Care, including permanency planning and transitions:
The current funding model is outdated and does not reflect the current needs of children entering the out of home care sector. Over the last three years in particular we have seen a significant shift in the behavioural, social and emotional complexities of the children and young people being referred for placement. Our Home Based Care program (HBC) has renegotiated its targets with DHS every 12 months to more accurately recognize that there has been a reduction in children entering the care system who are classified as General targets with a corresponding increase in Intensive and Complex targets. The renegotiation has been a way to accurately capture this change and to accordingly, reflect the work that is being undertaken with the current mix of children within the program and the resources needed to support them.

For example in 2007/2008, the OzChild HBC program had 114 General targets, 40 Intensive and 5 Complex while for the 2010/2011 financial year the HBC program has 65 General targets, 65 Intensive and 22 Complex targets.

This shift in focus for the HBC program has been a planned and strategic move to offer a service to children at the higher end of the care system who are deemed more difficult to place as a result of abuse, trauma and placement history. Increasingly, children in out of home care present with a complex matrix of needs and challenges that are often not well understood or responded to, resulting in their poor psychological, emotional, social and academic functioning. This makes the task of caring more demanding, stressful and complicated for both carers and staff.

Accordingly, over the last three years, we have put in place a number of strategies to build capacity within the carer and staffing group to ensure that the children who are classified as Intensive and Complex are given every opportunity for stability, consistency of care and a therapeutic response. These strategies have been largely centered on developing and strengthening knowledge and skills within the areas of trauma, attachment and therapeutic re-parenting. This has been achieved through a strong partnership with the Australian Childhood Foundation who have delivered training to carers and staff and has provided specialist therapeutic support though a care team model within and external to the Circle Program.

This strategy has enabled us to provide over 30 of our most intensive and complex HBC placements with the necessary level of help through access to complex brokerage and specialist therapeutic support from within the program. It has provided consistency of care and stability to a number of children who otherwise may have experienced placement breakdowns due to their complex care needs and challenging behaviors and are likely to be placed in residential care.

We strongly recommend that as part of this Inquiry particular attention be paid to the need for more therapeutic support packages for children and carers to be available more broadly across the out of home care sector. This requires agencies to be able to access appropriate funding for staff and carer training in the area of attachment and complex trauma and consideration be given to evaluation and expanding the already existing Circle Program or providing ongoing funding to agencies to employ therapeutic specialists.

Permanent Care Support – Home Based Care and Kinship Care

A large percentage of children in OzChild HBC and kinship placements are in long-term stable placements and are case-planned to remain in their current care arrangements. Whilst it is positive for these children to experience such stability, we are increasingly concerned that many of these children will not be able to progress to being placed on a Permanent Care Order (PCO) to their carers due to the current lack of ongoing post legislation support. We believe that in many circumstances being legally placed into permanent care provides children and young people with an opportunity to experience family life, free of ongoing Child Protection involvement and court action. Permanent care can assist children and their permanent families to 'claim' each other, and to move forward in a more normative family environment than the out of home care system can provide.

In our Kinship Care Program if children do move to a PCO they are advised to contact and access Family Services should issues emerge in the future. The appropriateness of this response is yet to be determined and it would is believed that a more planned and tailored approach to post PCO is required.

There are a variety of circumstances which prevent these children and young people from being placed on Permanent Care Orders such as lack of ongoing financial support, lack of ongoing case management and specialist supports, and/or concerns about the ability of the carers to manage the access arrangements between the child and their birth family. A model of Post Permanent Care Support funding which allows for children and their carers to continue to be supported after the making of a Permanent Care Order would enable many more children to access the extra stability permanent care could offer, and in our view would also decrease the risk of permanent care placements breaking down. Whilst some post permanent care support is available to some permanent carers, at this stage it has not been made readily available to placements who are 'converted' from home based care to permanent care. The required support would vary in each individual circumstance, and ideally could be flexible in order to support children and young people and their carers at times when they need it most.

The lack of post PCO support means that some kinship families stay in the Child Protection system longer than they need. In particular, cases that require supervised access need to stay in the Child Protection system as alternative access support services are unable to provide long term supervised access for this client group. The lack of post PCO support can also influence families to not proceeding with a PCO process.

We recommend that the Inquiry consider how the availability of individualised post permanent care support be expanded particularly for placements which have been converted from home based care.

Education – Home Based Care and Kinship Care

A snapshot taken in February 2011 of children in OzChild Home Based Care showed that we have 101 children in our program enrolled in school. Of these, 61 children are placed across 37 primary schools, 23 young people across 16 secondary schools and 17 children/young people across 10 special schools. Among these students there are always a small number who require high frequency contact between HBC/DHS and the school and Education Department to try and manage their behaviour/complex needs and sustain them within their educational setting. Some of these children, who can be as young as 6 years of age struggle within the classroom setting with learning difficulties and have significant problems with social interactions. Consequently, they develop disruptive patterns of behaviour that can result in exclusion and suspensions. Additional pressure on foster care placements can result when children are excluded from school due to the obvious demands this places on carer households.

Our case management staff establishes timely and positive relationships with classroom teachers and principals. However, in our experience many teachers are not aware of their requirements under the Partnering Agreement (2003) and have either limited or no knowledge of current resources such as Calmer Classrooms (2009) and Caring Classrooms (2010) . The placement of out of home care children in geographically diverse schools (often one child amongst a population of several hundred within the school setting) creates significant logistical challenges in ensuring there are 'trauma informed' responses in each school which are individualised and appropriate to the child/young person involved.

The recent Ombudsman's Report into Out Of Home Care supports our experience of many children not having Individual Education Plans and regular Student Support meetings in place. The Partnering Agreement (2003) delivers clear expectations that each child in out of home care is required to have an Individual Education Plan and a Student Support Group meeting (Minimum of once a year). The primary responsibility for developing the IEP and SSG sits with the school. Of the 101 children in our program attending school only 63 had an IEP. 44 children/young people of the 63 are DHS contracted cases. When there are IEPs they are often not individualised, many are not trauma informed and often they do not reflect 'the staged response' as set out in the Education policy *Engaging children* about what strategies are being implemented in keeping the most complex children/young people at school.

Navigating the Regional Education system to access integration aide funding or assessments often proves difficult, as does accessing a Regional Student Support Officer. In many instances OzChild staff accessed this support directly when the school has not initiated this.

It is well documented that educational outcomes for children in out of home care are more likely to be poorer than those for mainstream children. A similar situation prevails for children in Kinship Care placements. On two occasions OzChild has implemented a pilot, employing an additional staff member to work alongside case managers in both the HBC and Kinship Care programs specifically to improve educational outcomes and the school experience. The first pilot, 'Bridge the Gap', was supported by a philanthropic grant. Despite demonstrating positive outcomes for children in both Home Based Care and kinship placements, we were unsuccessful in gaining recurrent DHS funding for the program. The current pilot, run in partnership with the Smith Family is for children in HBC placements. So far the outcomes have been similar to the first pilot. These include:

- improvement in children/young people having Individual Education plans;
- plans are individualised, better informed, flexible and creative in meeting the needs of the child or young person, therefore much more likely to engage them within the school setting;
- more regular Student Support meetings, which are reflective and measurable in reviewing and establishing goals;
- improved partnership between DHS, CSO and Education Department;
- pathways to navigate through the Education Dept to access regional support became clearer and relationships with key people are formed;
- encouraging and providing education to key people around 'trauma informed' resources such as Calmer Classrooms;
- better understanding of the Education Department's own policy around student engagement therefore accountability of the 'staged response' steps when a child/young person is at risk of suspension;
- better cognitive assessments which link to better outcomes in relation to children/young people's access to alternative school settings or integration aide funding;
- less pressure placed on their placement;
- links to children/young people's access to mentors/tutors which saw positive results.

We strongly advocate for additional dedicated, educational support to be available to children within HBC and Kinship Care and recommend that the model piloted by OzChild which has clearly demonstrated improved academic and social outcomes be considered as the way forward. Should the Inquiry panel require any further information about the full evaluation of Bridge the Gap program or the interim report from the OzChild/Smith Family pilot this can readily be made available.

Health and Wellbeing

The CYFA 2005 states that in placing a child, the Secretary *must make provision for the physical, intellectual, emotional and spiritual development of the child in the same way a good parent would. While we can make informed guesses about basic needs, a thorough assessment is the obvious starting point to gain a full understanding of a child's developmental needs.*

OzChild supports the introduction of the proposed Entry to Care Assessment Service and believes this model would provide an integrated and coordinated approach to ensuring children and young people's needs are professionally assessed at the point of entry. The Entry to Care Assessment will bring together the expertise and knowledge of service networks of a range of physicians and clinicians to contribute to a comprehensive assessment of a child's health and wellbeing. This model strongly supports the need to access culturally sensitive services for aboriginal children and children from linguistically diverse cultures. While the current recommendation relates to children coming into HBC, we believe that it should also apply in relation to children being placed in Kinship Care through Child Protection.

OzChild believes that in addition, a positive state wide (or preferably national) vision for childhood and life course for children in Australia against which all government departments would have to be accountable, is required. We need an aspirational, publicised model of healthy childhood and positive life course that is understood and supported as the expectation for all who care for children. Such a model also assumes that all government departments - Courts, DHS, DEECD, along with Community Service Organisations would have greater clarity and commitment to a vision against which all actions and outcomes for children could be measured and steered. We believe that an essential part of this process is the need to revisit the move to establish a Children's Commissioner with a mandate to oversight and report on the well being of all children in Victoria, not just those involved in the statutory Child Protection System.

Terms of Reference 4

The interaction of departments and agencies, the courts and service providers and how they can better work together to support at-risk families and children.

Home Based Care

The introduction of the 'Children, Youth and Families Act', (CYFA) in 2005 provided specific guidelines around the provision of information to the OOHC service and carers (section 179). This section states that the secretary or out of home care service placing a child 'must' provide the carer *all information that is known to the secretary or the service and that is reasonably necessary to assist the carer to make an informed decision as to whether or not to accept the care of the child*.

It is critical to the delivery of appropriate services to children in need of care and the enabling of those who deliver this care to have access to accurate, relevant and timely information at all points of a case's progress and particularly at the point of placing a child in care. However, our experience is that we commonly receive referral from Child Protection which are forwarded with minimal information regarding the child's care needs.

As an agency we accept that there are instances whereby children previously unknown to the DHS in the context of a protection application by apprehension, may require placement with little information being available to inform the child's care needs. Frequently however, children being referred for placement have had historic episodes of involvement with the DHS and in many cases of placement in out of home care. In such cases as per the CYFA, children should be referred with appropriate information. It is a persistent dilemma navigated by OzChild HBC staff to proceed with matching a child to a carer whilst having insufficient information despite assertive attempts to redress the situation. As we are an agency committed to providing home based placements for children in need of care we would not deny a child this opportunity on the basis of being unable to access appropriate information about the child from DHS. Carers deemed to be appropriate matches for the child based on the available information are approached to ascertain their willingness to accept the child into their homes on this basis. In most cases, foster carers accept placement of the child because of their desire to help vulnerable children, despite the difficult position this can place them in.

There are substantial risks in placing children without appropriate information. These include:

- Increased likelihood of multiple placement changes.
- Inappropriate matching of a child's needs to carer capacity.
- Risk of harm to other children in care or carers' children due to the acting out of children traumatised by experiences of sexual or physical abuse.
- Unmet or delayed attendance to psychological and physical health needs due to unknown medical or psychological conditions.
- Unaddressed or compounded trauma to children due to inadequate knowledge of a child's experience.
- Carer retention

Examples of referrals where we became aware of significant information after placement have ranged from specific dietary needs linked to culture to not being informed about recent sexual abuse perpetrated against children while living in residential care.
The implications are obvious to the likely care experience for a child entering out of home care where significant and pertinent information about their needs are unknown at the time of placement and are discovered over the course of the child's time in care. Prompt attendance to the impacts of neglect and abuse can only promote recovery and healing and should not be impeded by a system issue of poor information sharing. Furthermore it is

unreasonable to place community volunteers motivated to 'make a difference' for children in a position where they are hamstrung in providing the best possible care.

Common themes in the reasons given as to why information is not shared appear to be linked to workload demands within the Child Protection workforce as well as a lack of knowledge and confidence in understanding their role in sharing relevant information with CSO HBC providers.

Family Services

Generally across these services the incapacity to share information due to privacy legislation can lead to poorer outcomes for a child. This is a particular issue in contracted cases, where agencies are expected to undertake child protection functions without all the available information.

There are a number of issues around notifications to Child Protection.

- Notifications are often not responded to in a timely manner, or in a manner that the community services would expect in terms of protecting children.
- In many instances notifications are not viewed by Child Protection to be as serious as the notifying community agencies or professionals consider they should be. Consequently, a decision is made not to proceed with an investigation and the case is then referred to Community Services, usually ChildFIRST. The rationale for the lack of Child Protection response is not always clear and is frequently considered to be inconsistent when compared to other decisions when a notification has been acted on.
- When making a notification, the consultation process by Child Protection workers with their team leaders always delays the decision making process.
- There is an expectation that professionals tell families they are making a notification. The subsequent lack of response by Child Protection heightens a family's anxiety and can exacerbate the risk factors which prompted the notification. It can also damage the working relationship between the worker and family.
- Services outside ChildFIRST do not have access to a consultation role with Child Protection .
- More recently, when Child Protection has been understaffed and when OzChild Family Services staff have made a notification, Child Protection staff have requested that our Family Services staff sit in on interviews with children during the investigation. We consider that this is not appropriate as it is neither the role of Family Services staff to do nor are they trained to undertake this work.

- Reports are often made to Child Protection regarding children presenting with bruising/injury. However, due to staff shortages at Child Protection the report is not investigated immediately and by the time it is investigated, the evidence is gone/faded etc. and the child is then deemed not at immediate risk.

Family Services – Families First

Often there are significant time delays in setting up the initial 'information sharing' meeting with Child Protection following a case being allocated to the Families First program. As a result, throughput of cases can be slowed dramatically which in turn impacts on targets. We regularly find that the involvement of Child Protection throughout a Families First worker's intervention is unsatisfactory. The Child Protection case manager can be very difficult to contact and liaise with regarding case issues, updates and concerns. The Families First worker provides an extensive written report to Child Protection on completion of the intervention and a final meeting with the family, Child Protection and the Families First worker is usually arranged to go through the report and recommendations with the family. Child Protection case managers often do not attend these meetings (due to being called into court or for other reasons) which leave the Families First worker and the family unsupported in this process. The Families First worker (and the family) sometimes receive no prior communication about this. Additionally, sometimes the Families First worker receives no communication or feedback regarding their reports which have been sent to the Child Protection case manager.

As stated elsewhere, the Families First program is based on the Home Builders Family Preservation program which was developed as an early intervention model of practice. The Families First program is designed to provide a service which maximizes positive outcomes for children and young people by targeting families that are more likely to make and sustain positive changes through the provision of intensive 'short term' (6 week) family support. The original aim of the model was to divert families from the Child Protection system. However, the program is now firmly entrenched within Child Protection as a referral option. There has been occasions when a Families First case will be re-referred to the Families First program sometimes two and even three times in a 12 month period, and there has been no awareness by the current Child Protection case manager of the previous Families First referrals and interventions. It is a huge concern that Child Protection case managers are at times unaware of the work that has been completed with a family (through their own system) prior to a new Child Protection worker's involvement. This also leads to the questions - where do the Families First reports go once they are provided to Child Protection and how does all of this impact on the families?

Kinship Care

OzChild has been a flagship agency in relation to the provision of kinship care to Child Protection clients having operated the only stand alone service for more than twelve years prior to the introduction of the current model. While the new model addresses some of the funding and support inequities inherent in a process whereby the placement outcome of

children removed from their families for protective reasons depends almost exclusively on whether a relative can be located to take on their care.

While we are still in the early stages of the program's implementation there are still a lot of programmatic issues to work through. Key emerging issues are the growing and at times unrealistic expectations that kinship workers do all the work with carers, children and extended family. Caseloads are quite high given the complexity and multi-dimensional aspects of the role. Funding is now per child as with HBC, however the unit cost is capped at the 'general' HBC level and there is no capacity to have funding beyond this regardless of the complexity of a child's needs and those of the kinship family. At times it appears the policy and legal drivers to make a kinship placement are so strong that serious risks within the family environment and/or significant support needs are at times overlooked or minimised by Child Protection. Overall however, in our experience it is extremely difficult to remove children from poor quality kinship placements despite available evidence that it would be in the best interests of the child. It has also been our experience that the Court will return children to inappropriate kinship placements.

As more kinship placements are being sought and used there is an increased use of other types of carers other than grandparents or other close kin. There is a need to know more about this group - what their particular needs are and what sort of support is most appropriate for them. There are some situations where the 'kinship' relationship is quite weak and it is questionable whether it really is a kinship placement in terms of the carer having a strong, natural relationship with the child. We have concerns that the underlying rationale for applying a less comprehensive assessment process to kinship carers on the grounds that the benefits of preserving the family connection will outweigh, in most cases, any deficits in parenting or the family environment, does not necessarily apply when there is no blood relationship. There are grounds for arguing that these kith placements should be categorised as a form of foster placement and treated accordingly. We believe that the growth of kith placements increases the risk management issues for both Child Protection which makes the placement and agencies such as ourselves which support the placement.

The lack of financial support for kinship placements is a major stressor. Children in HBC have access to supplementary funding and flexi pack funding as well as significant brokerage if classified as a complex target. Kinship Care children do not have access to any of this additional financial support. This is clearly inequitable as the children are drawn from the same pool of families and have a similar range of needs.

Respite remains an ongoing, unmet need for kinship carers and is in desperate need of allocated funding. Respite can be viewed quite creatively by utilizing such services as child care, after school care, camps and school holiday programs. However, all these services are costly and without 'financial packages' for kinship placements, a carer's capacity to pay for these is often quite limited.

Given the length of time OzChild has been providing kinship care to children referred from Child Protection, we were in the unique position of being able to have a large enough cohort to enable analysis of factors contributing to placement breakdown and thus, ways to reduce its likelihood. In a paper presented at both ACWA in Australia and internationally at IPSCAN, we identified risks factors for placement breakdown as being:

- children who have suffered extensive abuse and neglect resulting in significant behaviour issues;
- adolescent age group – which make up many of our kinship placements;
- younger children in the carer households, a poor relationship between the carer and the birth family;
- carers who are isolated with poor extended family and social relationships.

Protective factors were identified as being:

- placement with grandparents rather than other family members;
- adult children in the caring household who can share some of the load;
- carers who are well supported by their extended family and social relationships.

While recognised as a frequent source of stress among kinship carers, financial or health issues and issues around birth family access did not appear to be significant risk factors for placement breakdown.

Given the project growth of kinship care we believe it is essential that the current model is reviewed overall in view of the issues raised above and particularly in terms of its unit cost funding. Access to a range of support packages is needed in recognition of the fact that that many of the children if they were in foster care would be classified as intensive or complex cases and as such, they should not be penalised in terms of their well-being just because a kinship carer has been identified for them.

Disability Service

Children with a disability are a hidden service user group in Child Protection and OOHC – their interests and needs are not considered in most Child Protection enquiries /reviews/ strategic planning, nor are statistics compiled or reported about their experiences. Unfortunately, there is currently no national Australian data published on the incidence of abused children with disabilities, nor are accurate records kept on the number of parents with a disability who maltreat their children. This is a significant limitation on the effectiveness of planning for the delivery of services to support children with a disability and their families.

Children with disability generally enter the Child Protection and out of home care (OOHC) system as a result of family breakdown or relinquishment rather than for reasons of abuse and/or neglect. Often, universal services cannot cater for children with high needs and they can be unresponsive to the stressors experienced by their families. This can lead to exclusion

from much needed support services such as holiday programs, child care and community recreation options. Families also frequently experience a reduction in the informal support available to them from within their family and friendship group.

Once in the Child Protection/OOHC systems, children with a disability are poorly supported by workers who know little or nothing about assessing or meeting specific disability/individual needs and who know little or nothing about disability systems/supports and resources the children need. At OzChild we have tried to address this by crossing HBC and Disability program training for workers and provision of cross program consultations as needed and appropriate.

Children with a disability are not included in planning/care team meetings and do not have information presented to them in a way they understand, nor is feedback sought from them if they have limited or no verbal skills.

A consequence of the fact that most children in the OOHC system are in voluntary placements and are covered by, and funded through, the Disability Act and that children with a disability in HBC or Kinship Care who have come through Child Protection are under the CY&F Act is that there is a difference in the support packages attached to children in each system with those in HBC and Kinship Care being funded at a lesser rate. We believe this is inequitable and needs to be addressed to ensure greater outcomes for children with a disability.

We believe that it is essential that Child Protection staff and staff in OOHC programs, particularly those who are not part of agencies which also run Disability programs, be required to undertake training in the particular needs of children with a disability and the support services available to them and their families.

Terms of Reference 6

Possible changes to the processes of the courts referencing the recent work of and options put forward by the Victorian Law Reform Commission.

Family Services

For many of the children and young people being referred to OzChild's Family Services program, the issues for the families are chronic, entrenched and cyclical, whereby the children's needs are only *barely* or *not* being met in their current environment. Even with intensive interventions, things don't seem to change. These children remain in home environments that repeatedly fail to meet their needs. A major issue compounding this is that the Court system also seems to fail these children time and again by allowing them to remain in these environments, or by removing them, only to return them to the same home environment where their needs continue to be unmet.

The decision to return children to such adverse home conditions is usually made by the courts on the proviso that yet another community service support program intervenes with the family, despite this having been tried numerous times in the past with little or no change being sustained by the family. This raises the question: 'Why is it so difficult to argue and prove cumulative harm for children and young people in the court arena?' Furthermore, for families requiring ongoing statutory and community interventions and support just to be able to meet the basic needs of their child/children and who repeatedly demonstrate a lack of capacity or motivation to make positive, sustained changes to their parenting and home environment, we have to ask, "when from a child's best interests perspective is enough, *enough*?"

There are a range of issues relating to the court processes which relate primarily to the complexity of giving evidence at court and a lack of respect of professional intervention and opinion. These include:

- a reluctance by Child Protection to take Court action justified on the basis that as they do not have enough evidence to substantiate the concerns despite extensive involvement of services over long periods of time. In some cases up to 10 years of Child Protection involvement and in excess of 10-20 previous reports to Child Protection;

- Cumulative harm is not being argued in the courts as Child Protection feel they do not have enough evidence. There is an assumption that there must be physical/sexual abuse to substantiate reports and matters are often not proven by Magistrates. Consequently, children are being sent home where they are likely to experience further ongoing emotional, social and developmental damage, despite the evidence of our Family Services workers.

- There have been occasions when Family Services staff have been subpoenaed to give evidence on a case they have had significant involvement with over a long period of time, and are not given the opportunity to give appropriate evidence in chief. This is a major issue considering that on such occasions, the staff member was subpoenaed by the DHS barrister essentially to support DHS' case, and were given little or no opportunity to be questioned by this barrister in the court arena. This is despite the staff member being able to make a significant contribution to, and strengthen Child Protection's disposition.

- We have experienced a Magistrate not reading reports being submitted to Court by DHS and then arguing, "I don't have to read that report if I don't want to", whilst our worker was on the stand.

- Final Orders are made with conditions directing parents to engage with a Family Service. However, we are unable to enforce engagement with a service particularly with parents who don't really believe they need to change.

- Family Services workers being dismissed by barristers for not being 'qualified' e.g. not a clinical psychologist or psychiatrist. Our Family Services workers regularly experience a refusal to accept any of their comments on relating to the impact of trauma/attachment on a child. They are also not allowed to comment on the home environment and/or parent child interactions, as they are not considered 'experts' even though they have undertaken many hours of observations and therefore probably in the best position to offer an independent professional assessment of risk.

- being served witness summons 1 to 2 days before being required to attend Court and not receiving conduct money;

- spending days in Court on the stand, or alternatively called in to Court three days running with no evidence given – and finally giving evidence on the fourth day of being at Court. This has a significant impact on workload management as well as being stressful for the worker involved.

- Cases are continually adjourned and take months to go before the Courts, at which time the evidence is 'old'. Contested cases can also be adjourned when not enough Court time is booked. A further issue is the files being kept by legal parties involved when a case is adjourned;

- questions by the lawyers representing the parents and children appear to be disproportionately directed towards our Family Support workers who are on the stand for the majority of time compared to an average of around one hour for Child Protection workers;

- In our experience barristers representing the parents and children appear to 'team together' against Child Protection.

- multiple requests for copies of one file by all parties;

- photocopies of witness summons rather than originals:. witness summons are posted/faxed and there is no communication from the DHS worker regarding requirements expected of the Family Services worker.

A further issue related to the Court processes has been a failure to listen to the views of children. They are asked what they want by both Child Protection and the Court but if the child does not want access, or want to return home, their wishes are ignored. We recently had a situation where a 12 year old child was clearly articulating to our support service and his Barrister that he did not wish to return home to his parent's care. This was conveyed to

the Magistrate who nevertheless sent him home justifying his decision on the grounds that it was doing the child more damage being away from his parents.

Children are forced to have contact with parents when it is not wanted by them which consequently creates a great deal of stress and anxiety for them. There appears to be limited consideration of the psychological impact on them and the key priority is to ensure the 'parent's rights for access' are met. This occurs in cases where children have been exposed to family violence and they are fearful of their fathers, and in cases where parents are in prison for violent crimes.

We strongly believe that the expertise of our professional Family Services workers in relation to their observations and assessment on parenting capacity, family functioning and the home environment should be recognised as such and admitted as evidence in Court . We also believe that it is important that judges are given specific training on the well evidenced impact of trauma, problematic attachment and cumulative harm on child development .

We are also advocating that the views of children involved in the Court process should be given greater weight and that the introduction of a children's advocate who can argue for the child's best interests, as distinct from being a legal representative be considered. Together these steps will contribute to a better decision making process by the Court which is actually in the best interests of the child.

A broader legal issue in our Family Services experience, is that there is a widespread failure to activate Family Violence laws. Men are not being routinely ordered to attend Men's Behaviour change programs, and made to be accountable for their use of violence. Instead, more often the mother is blamed and held accountable for failing to protect her children and then threatened with their removal. We strongly believe the response ought to be focused on the perpetrator and the victim ought to be supported.

Disability Service

Allegations of abuse when a child with a disability is involved are often not acted upon or investigated by Child Protection or the Police as a child with a disability can often not disclose verbally and are considered an 'unreliable' witness. As Ammerman (1990) stated "Children with a disability, particularly a severe disability, may be unable to understand or report the occurrence of physical or sexual assault." We have had involvement with a number of children in which physical or sexual abuse was considered by police investigations as "highly likely to have occurred" yet no formal action was taken after notification due to an inability to gather evidence deemed suitable by the courts. The failure to take legal action when a carer is involved also creates issues for managing the DHS Quality of Care requirements. While we have taken immediate steps to remove children from carers when we have become aware of possible abuse, we have experienced significant delays in getting an appropriate formal

response from Child Protection in relation to removal from the Care Register which covers Disability services such as Family Options.

Terms of Reference 7

Measures to enhance the government's ability to ensure a workforce that delivers services of a high quality to children and families.

Family Services

Systemic issues in Child Protection are having an impact on our Family Services workforce. We have sometimes experienced a general negativity towards CSOs such as OzChild. The high risk focus of the Child Protection system means that when faced with risk, workers can become very directive and expect us to over consult in relation to decision making. There appears to be a prevalent attitude that as they fund the sector, they can direct workers within Community Services Organisations to do work as they direct.

The work with the complex client group who make up the majority of clients can lead to an 'erosion of empathy' across the whole sector. This requires the provision of a stronger support system for the workforce than is currently in place. The Child Protection workforce is generally inexperienced with a high turnover. This has implications for the effectiveness of our interface with this service system. Cases often get shunted around and/or are not allocated. Staff shortages impact on Child Protection's capacity to collaborate effectively with services, carers and families.

We have significant concerns in relation to worker safety when Child Protection does not share safety issues or alternatively deems the safety issues to be serious enough to expect us to allocate two Family Services workers to work with the family. In particular, we have concerns about situations when information regarding IBR information on perpetrators who are still residing in the home and the nature/seriousness of domestic violence, is incomplete, inaccurate or withheld.

We strongly support the need for a consensus on what constitutes the limits of acceptable/manageable worker safety risks to be reached with Child Protection.

We also need agreement on strategies to ensure information from Child Protection in relation to family issues is sufficient to enable an informed and responsible decision about the Family Service response and worker safety to be made following referral.

Terms of Reference 8

The oversight and transparency of the child protection, care and support system and whether changes are necessary in oversight, transparency, and/or regulation to achieve an increase in public confidence and improved outcomes for children

Lack of evaluation of The HBC Circle Program

Since 2007 OzChild has been working in partnership with the Australian Childhood Foundation and DHS to deliver The Circle Program. The Circle Program provides specialist training, assessment and support to carers in order to assist them to provide a stable and healing environment for children who have experienced trauma. Through the use of a care team approach, and the integrated support of a therapeutic specialist, we have observed children experience great periods of stability in placement and we believe the program assists in minimising placement disruption. Moreover, we have witnessed children's quality of life dramatically improve. Rather than having their lives dictated by their emotional deregulation and challenging behaviours we have seen children heal from their past experiences and become healthy, happy and resilient.

Unfortunately, we are only funded to provide this support to thirteen children at any one time. The Circle Program was designed to be a 'pilot' program that would be reviewed at the end of 2010 but this review has not occurred due to lack of government funding. In 2010, OzChild, along with other involved agencies agreed to contribute financial support to a state wide review of the Circle Program; however we were advised that the necessary government funding was not available. Whilst we are endeavouring to replicate some of the success and knowledge of the Circle Program across our whole home based care program, to do so without an informed evaluation limits the capacity of OzChild and other agencies to build on the successes of the program, as well as reflect on improvements or changes that should be made.

Given the evident and increasing need for more therapeutic input we strongly recommend that the evaluation of the Circle Program be implemented as intended so that the findings can be used to inform current practice and enhance outcomes for the more damaged children in Home Based Care.