



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON HEALTH, AGEING AND COMMUNITY SERVICES
Ms Bec Cody MLA (Chair), Mrs Vicki Dunne MLA (Deputy Chair)
Ms Caroline Le Couteur MLA

Submission Cover Sheet

Inquiry into Child and Youth Protection Services (Part 2)

Information Sharing under the Care and Protection System

Submission Number: 5

Date Authorised for Publication: 19.09.19

30th August 2019

The Committee Secretary,
Standing Committee on Health, Ageing and Community Services
Legislative Assembly for the ACT,
GPO Box 1020, CANBERRA ACT 2601.

Via email: LACommitteeHACS@parliament.act.gov.au

Dear Committee Secretary,

Re: Submission in response to the Inquiry into Child and Youth Protection Services Part 2: Information Sharing under the Care and Protection System

Thank you for the opportunity to provide comment on the *Inquiry into Child and Youth Protection Services*. Advocacy for Inclusion (AFI) had provided a submission into the *Review of the Child Protection Decisions in the ACT* in June 2019. This submission has been reattached for the purpose of the Inquiry in relation to information sharing, transparency and involvement of parents with disabilities.

We have also provided our expertise to the Australian Law Reform Commission (ALRC) in response to the proposed *Commonwealth Family Law Review* Issues and Discussion papers in 2018, to the *Dispensing with Consent* discussion paper in regard to the adoption in the ACT following from community consultation in 2016 and the *Response to Family Violence in the ACT* in 2016.

AFI continues to advocate for parents with disabilities and their right to actively parent under Australia's obligation to the United Nations Convention on the Rights of Persons with Disabilities (CRPD) under Article 23.¹ A parent with disability is up to ten times more likely to have a child removed from their care on the basis of parental disability and assumed neglect than other parents.^{2 3 4 5} In our experience, we continue to see the common experience^{6 7} of parents with disability report difficulty accessing service to assist in their parenting within the

¹ UN CRPD, Article 23: Respect for and the Family

² Approximately one in six children in alternative or out of home care has a parent with disability, see: United Nations Committee on Economic, Social and Cultural Rights (2017) *Review of Australia Fifth Periodic Report under the International Covenant on Economic, Social and Cultural Rights*, Australian NGO Coalition Submission

³ Starke, M. (2010). Encounters with professionals: views and experiences of mothers with intellectual disability. *Journal of Intellectual Disabilities*, 14(1), 9-19.

⁴ Tarleton, B., & Ward, L. (2007). As above

⁵ Victorian Office of the Public Advocate (OPA) (2012) *OPA Position Statement: The removal of children from their parent with a disability*, online.

⁶ Non-Government Organisation Convention on the Rights of Persons with Disabilities (NGO CRPD) Shadow Report Project Group, *Disability Rights Now – Civil Society Report to the United Nations Committee on the Rights of Persons with Disabilities*, People with Disability Australia (2012)

⁷ Beckenridge, J. and Huppert, S. (2010) 'Intensive Family Support Programs – Keeping Children with a Disability Safely with their Families', *Centre for Gender-Related Violence Studies*, University of New South Wales, p.58

ACT. In our experience, for parents with intellectual or mental health/psychosocial disabilities, it is a common feature that parenting orders extending to eighteen (18) years is placed, without information shared with them or involvement regarding their child's welfare and ongoing care over time. This is reflection of the "issue of poor sharing of information among agencies and service providers working in the family violence and child protection sectors is an Australian-wide and internationally shared problem" and "within the ACT family violence and child protection sectors there is considerable room for improvement in information sharing between agencies".⁸

In our submission to the *Review of the Child Protection Decisions in the ACT*, we noted that all information provided to applicants whom seek an internal review of a decision should be 'openly available, easy to access and clearly understood by applicants'.⁹ We continue to find that processes that should involve transparency, shared decision-making, documents and guides to be inaccessible, full of jargon and unable to follow easily.

Personal information privacy is fundamental to an individual's ability to enjoy their self-determination. In the ACT, the right to privacy is protected under the *Human Rights Act 2004*, the *Information Privacy Act 2014* and the *Privacy Act 1988 (Cth)*, however, for people with exposure to multi services and supports the right to privacy is often compromised when a decision to share information is not provided to the individual and information is shared without their consent or their direct involvement in the process.

It is unnecessary to assume that an individual with a cognitive impairment will not understand why their information is being shared among agencies and they should be left out of all communications regarding their children; it has often been a matter of 'pressing on' and not complicating or slowing down the process. Whilst it is respected that children should be protected and provided stability as first priority, there is concern that in instances where families are not provided information at all and then expected to pick up the pieces years later when reunited, and without support, is unrealistic and unfair to the parent and the children.

Case Study - Carly

Carly has an intellectual disability. Carly's children were removed from her care and both split to separate foster families. Carly was not involved in the process of her children's removal, including their wellbeing. The siblings grew apart from each other and only regained contact when Carly gained access to visitation and when they were reunited years later. In an interview with Advocacy for Inclusion, Carly expressed that information was never provided to her from CYPS or the service provider in which her children were fostered under. Today, Carly and her children are repairing their relationships with each other.

Q: "How often were you trying to get information from Care and Protection?"

A: "With Care and Protection and *service*, I was ringing them almost every week. Nearly every day. Just to find out information and find out where my kids were. And half of the time "Nup, can't tell you nothing."

*service identity has been unidentified for this case study

AFI also continues to find that the advocate chosen by the individual to assist in their voice, is often left out of the information sharing process between CYPS and services involved.¹⁰ They are often not notified of changes in case management of the individual or their children and as a result, are behind, spending their capacity catching up and putting pieces of a complex puzzle back together in order to support their client prior to meetings,

⁸ ACT Government (2016) *Findings of the Glanfield Inquiry – Information Sharing (a)(b)*, p.92

⁹ As emphasised in the *Review of child protection decisions in the ACT: Discussion paper. April 2019*, p.19 and noted in AFI submission in response to *Review of the Child Protection Decisions in the ACT (2019)*, on p.3

¹⁰ Reflection of ACT Government (2016) *Findings of the Glanfield Inquiry – Information Sharing (c)*: Government agencies and non-government service providers tend to focus on their specific areas of responsibility often leaving no-one with the full picture of the issues or needs of an individual or family. Not having the full picture can mean agencies are incorrectly assessing risk, making decisions and providing services on incomplete evidence, p. 92

hearings or reviews. This is unsatisfactory, confusing and inadequate as their time is also spent preparing their client to gain confidence in their participation.

The Community Service Directorate discussion paper outlined that “the child protection system attempts to make decisions in the context of shared decision-making where possible”¹¹ – this should be amended to reflect that shared decision-making and the involvement of the family should occur at all times where their children are concerned unless under extreme, unfortunate circumstances – it is discriminatory at best in the impact it delivers of negative presumptions of a person’s capacity to be involved in their own process.

The findings of the Glanfield Inquiry noted that “legislative authority to share information will not alone ensure sharing occurs. Efforts are required to create an information sharing culture with government agencies taking the lead, including open, consultative and transparent decision making”.¹² In our submission to the *Review of the Child Protection Decisions in the ACT*, AFI noted the information booklet that is provided to parents and caregivers who are navigating the CYPS system. Parents with cognitive disability are able to make decisions and actively engage if information is communicated to them in a way that is appropriate to their individual abilities and methods of understanding when obtaining and absorbing information.

It is critical that information is provided in an Easy English format to ensure the greatest level of accessibility for people with cognitive impairments, alongside an assumption of decision-making support. We support and encourage action on the Glanfield Inquiry recommendations that the ACT Government should take the lead in creating an information sharing culture through sharing information and creating trust and confidence by open, consultative and transparent decision making in its CYPS processes.¹³ AFI acknowledges the complexity between current privacy laws and legal barriers, but the privilege granted to the receive the ‘right to information’ relies on judgement of the person’s ability to understand elements of the way their personal information is being collected and disclosed to them. The Glanfield Inquiry noted that service providers also reported that the lack of transparency and sharing of information also leads to a sense that child protection decisions are inconsistent, ill-informed or even “bizarre”¹⁴ and AFI continues to agree with this notion.

Finally, we continue to recommend that the ACT Government begin to collect, share and dispense data collected on the numbers of parents with disability in the CYPS system as a form of information sharing. Data remains key to the accountability and monitoring of parents with disabilities in the CYPS system. There is a need for data to demonstrate how many people with disabilities are parents within the ACT. Importantly, there is an urgent need to engage in gathering data to create a picture of the involvement of parents with disabilities in the child protection system and the understanding of the basis in which disability has been identified as a risk factor. The National Data and Reporting Framework¹⁵ will not be operational until 2022, however the ACT Government should be placing preparation to ensuring that data collection of parents with disabilities, irrespective of domestic violence or not, should be included as part of collection of data earlier than 2022.

In conclusion, consistent and supportive measures to drive cultural, attitudinal change across all policy areas and judicial sectors will be integral to the review and reform of the ACT child youth protection system. AFI continues to appreciate the opportunity to contribute to this Inquiry.

Yours Sincerely,

Bonnie Millen
Senior Policy Advisor
Advocacy for Inclusion

¹¹ Community Services Directorate (CSD) *Review of child protection decisions in the ACT: Discussion paper*. April 2019, p.5

¹² ACT Government (2016) *Findings of the Glanfield Inquiry – Information Sharing (f)*, p.92

¹³ Recommendation 22(a) *Recommendations – Information Sharing*, p.93

¹⁴ ACT Government (2016) *Glanfield Inquiry*, pp.45-46

¹⁵ *National Plan to Reduce Violence Against Women and their Children 2010-2010*