Victorian Government

Protecting Victoria's Vulnerable Children Inquiry

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Association for Children with a Disability

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Introduction

Established 30 years ago, the Association for Children with a Disability is a non-profit community based organisation representing children with a disability and their families living in Victoria. Our current membership includes over 2,000 families.

Statement of Purpose

- To empower parents of children with a disability to be as self-sufficient as possible in advocating on behalf of their child and family.
- To promote and advance the rights of children with a disability and their families.
- To advocate on behalf of children with a disability and their families to ensure the best possible support and services are available.
- To work collaboratively with other organisations to improve the service system for children with a disability and their families.

Guiding Principles

- To be responsive to the needs of children with a disability and their families.
- To provide a professional, quality service.
- To be proactive by raising issues with government and building awareness in the community about the rights of children with a disability and their families.

Introduction

Our Association applauds the decision by the Coalition Government, to undertake an inquiry that aims to better protect Victoria's vulnerable children and welcomes the opportunity to respond. In the "Guide to Making Submissions" reference to disability occurs in 2.1.3 on Page 2 abut refers to parents who have a disability. There are also many children with a disability currently in the Child Protection system and it is these children, who are the focus of our Submission.

Children with a disability are amongst the most vulnerable in our State and as citizens they have the same rights as all children to fully participate in the life of the community and contribute to our society more broadly. Most recent statistics

estimate that approximately 7% of children living in Victoria have a significant disability.
http://raisingchildren.net.au/articles/raising_a_child_with_a_disability.html

In recent years our Association has become aware of an increasing number of children with a disability who are in the Child Protection system or whose vulnerability is heightened as a result of parents surrendering their children into the full time care of DHS – Disability Services. Disability Services refer to this phenomenon as relinquishment. Through the operation of our parent support telephone service we hear first hand from parents and caregivers, about the gross inadequacy of support for many children with a disability, either through disability, education or early childhood services. Parents and caregivers constantly struggle with the barriers such short-falls pose for them and their child and in many instances combined with other challenging factors, leaves the family at risk of emotional and economic disintegration. Even in such traumatic circumstances, most parents do not want to relinquish the full responsibility of their children but rather wish to remain actively involved in their lives.

General Observations

From the knowledge that our Association has gathered over the years, it is clear that the Disability Service system and Child Protection in many ways are incompatible in that the relevant legislation governing Children, Youth and Families rightly focuses on the safety and wellbeing of the child. The best interests of the child within the Child Protection framework relates to the elimination of child abuse and harm minimization, whereas the interests of the child within a Disability Services framework relates to self-determination and supporting families to assist children to realize their full potential. Families approach Disability Services for support and the relationship is based on partnership embedded in a rights-based framework. It is a completely voluntary arrangement whereby families plan and determine their level of need.

In many situations, the trajectory for children with a disability in the care of Child Protection results from an inability of parents to continue providing the full time care of their children. Often no 'abuse or neglect' leading up to a surrender incident has occurred and the child does not need to be protected from their current living arrangement. The Child Protection legislative framework relates to parents not willing or not able to care for their child, however for most parents who have a child with a disability, their inability to care stems from lack of support not from a lack of willingness to continue their full-time caring role. From Disability Services' perspective the primary long term care of children with a disability is the sole responsibility of their parents, with a range of complementary supports including short-term episodic respite options. The variety of care settings available through Children, Youth and Families, e.g. joint care, foster care and out-of home care and youth housing, are not available or necessarily suitable due to the nature of the care requirements of the child with a disability. When parents surrender their child, Disability Services seems unable to provide a permanent accommodation alternative and the surrender then constitutes homelessness with the resultant trajectory into Child Protection.

In these instances the only reason the child is in the care of Child Protection is the result of a grossly inadequate disability care and support system.

Depending on individual situations, parents left exhausted after relentless demands on them, often have to make a choice as to which relationships they try to preserve e.g. the parental relationship, the ongoing relationship with the child or with their other children. This is particularly the case when behaviors of concern are a major contributing factor and siblings are at risk of harm. An already intolerable situation is exacerbated by a regulatory environment that in such circumstances activates an inappropriate response to addressing this problem. The rights of parents left with no other 'care option' than to surrender their child with a disability, are also faced with losing all their parenting rights. Our Association has often found that these parents possess significant self efficacy, are loving and resourceful individuals who have attempted to do what for many others is close to impossible and are devastated as a result.

In other instances where reportable abuse or neglect is of concern, the workforce expertise required to appropriately support children with a disability is often inadequate.

The following responses to the Inquiry's specific questions are informed by the lived experiences of families who approach our Association for help.

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.

The manner in which the formal protocol between Child Protection and Disability Services is operationalised does not properly support the many children with a disability who become the focus of its processes. Appropriate accommodation within Child Protection that meets the needs of children with a range of disabilities continually proves to be inadequate. In a formal sense, Disability Services does not provide long term accommodation to minors. Currently the response to surrendering is ad hoc. Individual regions try their best to accommodate children in out-of-home respite for as long as possible, with the aim of eventually securing family reunification. Usually the child remains living in a respite house and rarely is able to be accommodated in foster care or youth housing. Typically children living long term in out-of-home respite, are moved to another setting around peak times such as school holidays. This approach is aimed at trying to manage interim respite bookings that are already allocated for short respite stays. Our Association is aware of some children remaining in this out-of-home respite holding pattern for up to two years. The negative emotional impact on a child living in such an unstable environment is obvious and totally unacceptable. Equally unacceptable are the occasions where children with a disability are being housed in adult supported accommodation settings.

Due to the nature of disability-related surrender of care, children sometimes become known to Children Protection through unsubstantiated reports. This is particularly the case where behaviors of concern are present. Destruction of property by the child with a disability, restrictive practices by families in an effort to minimize absconding, melt-downs that include loud noises, removal of objects that can be

used to self harm, all can be misinterpreted as neglect or abuse. The usual Child Protection early intervention strategies are inappropriate and workers trained to implement strategies to improve parenting skills, report that they have no relevant strategies or support to offer.

The formal protocol between Child Protection and Disability Services aims to facilitate joint case planning with one Department taking the lead role (e.g. Child Protection convene meetings/case load maintained by Disability Services). Sometimes Child Protection provides the funds to support alternative settings. Although a Best Interests Plan is required to be developed setting out strategies to ensure the most appropriate support and services are identified, neither department is charged with the responsibility for implementation and parents are shut out of this process.

In relation to the transition of care, determined by the Court system, Disability Services begins by leading the process but once a relinquishment is confirmed there is a swift transfer across to Child Protection with no transition process as such. When Disability Services transfers the responsibility of care to Child Protection it results from its inability to provide adequate individualized support to keep families together. During this time, families quickly progress from an environment that has been seeking to support them in their caring role, albeit grossly inadequate, to a space where they are regarded as the perpetrator of an injustice that results from circumstances for which they could rightly expect Disability Services to take partial responsibility. Families feel very de-valued and grossly inaccurate assumptions are made for example, they have poor parenting skills, they mistreat their child in some way, they are involved in behaviors that create an unsafe or inappropriate living environment etc. The impact on the child with a disability is also significant. They are frightened and bewildered by the changes to their routine and environment. Equally their siblings are distraught at the upheaval to their family and fears for their brother or sister.

In many instances families have told us that they were unaware surrendering their child to Disability Services would mean transition to the child protection regulatory environment. They are unaware of the need for a Court hearing, have no knowledge and are not adequately informed of the processes, have insufficient time to organize and understand the associated documentation. When accommodation orders are secured families are not properly informed of the process and their rights and in the short term are not privy to their children's whereabouts. Although this is appropriate in protective cases, it is not when it comes to the surrender of a child with a disability.

3.2 Providing a quality service to vulnerable children and their families is dependent on having a skilled workforce. What are the strengths and weaknesses of current workforce arrangements eg working conditions, training and career paths? How might any weaknesses be addressed?

The level of competency in working effectively with children with a disability is inadequate which results in inappropriate decisions being made or the necessary disability-related care needs being left unaddressed. In relation to behaviors of concern and/or absconding, our Association has evidence that the level of risk for children with a disability is significantly elevated. Knowing how to work effectively

with children displaying these additional needs is critical to the quality of care they receive.

Incorporating a family's perspective as partners in the ongoing support of their child with a disability sits outside the Child Protection framework. Mutual respect and empathy demonstrated by some Child Protection and Disability Services workers at times is present however due to the restrictive nature of the systems governing their responses and with little hope of a positive family reunification outcome, the likelihood of it enduring is rare. This also relates to the way in which information is shared. From a parent's perspective and because of the nature of the Child Protection framework decisions made and actions taken are not transparent. Parents feel locked out which adds to the trauma of surrendering the child they love.

High turnover of Disability Services and Child Protection workforce is not conducive to maintaining effective parent partnerships, resulting in high levels of frustration. Relevant knowledge held by families particularly in relation to what works for their child, is either not sought or disregarded. Child protection workers need to better understand the circumstances around disability-related surrender, so that the best knowledge and support available from disability workers and families informs their work.

3.3.1 How might the identified weaknesses be best addressed? Are there places where some of these services work more effectively than elsewhere? What appear to be the conditions associated with this and how might these conditions be replicated elsewhere in the State?

Where a Child Protection response is appropriate for children with a disability, continuity of disability support is critical. A disability or behavior support plan with input from family (where appropriate) and staff who have previously worked with the child, should be developed, implemented and monitored. This invariably involves access to other services already occurring in the child's life such as early childhood intervention and/or disability funded services such as access to

- Therapy – occupational, speech, physiotherapy, psychology
- Medical support
- Aids and equipment and home modifications
- Behavior support
- Disability related individual/group activities
- Continuity of education setting

Training is key to Child Protection workers building their skill and knowledge base to better engage with children with a disability and their families.

- Disability awareness training
- Relevant behavior support that promotes the least restrictive practices and awareness of legislative requirements and the role of the Senior Practitioner
- Family perspectives on disability
- Professional development opportunities on effective strategies for supporting children with a disability and engaging families (where appropriate) in transition processes.

3.4 What are the strengths and weaknesses of our current statutory children protection services in relation to responding to and assessing suspected child maltreatment?

The same approach is operationalised whether a child with a disability is at risk of abuse and neglect or whether parents are taking the action to surrender their child because there is no other option open to them.

Inadequate transition between Disability Services and Child Protection.
The early intervention preventative aspect of Child Protection is a mis-match when a child family has been surrendered. The only protective 'early intervention' response is restricted by a framework that only intervenes to minimize the risks of abuse/neglect posed by adults in the child's life.

Mismatch across departments - from a voluntary (disability) framework to a regulatory (protective) environment.

3.4.3 What has been the impact of the Victorian system of mandatory reporting on the statutory child protection services? Have there been any unintended consequences from the introduction of the Victorian approach to mandatory reporting.

As previously mentioned in relation to neighbor reaction, those mandated to report, can misinterpret a given situation. Injuries resulting from the effects of disability - behaviors of concern, heightened anxiety, continence issues, self harm (head banging) can bring families to the attention of Child Protection and coupled with the challenges of full-time care can result in an inappropriate response. It is at these times that families need greater support from Early Childhood Intervention and Disability Services, to verify disability related behaviors.

3.5 What are the strengths and weaknesses of the range of our current out-of-home care services.

Some out-of-home care arrangements are inappropriate in that the buildings are not accessible or in the case of children who abscond, no appropriate equipment to ensure a safe environment.

Workers engaged in out-of-home care settings often have little or no experience in supporting children with a disability and therefore their responses are inadequate.

Hand-over from Disability Services staff to Child Protection does not always include key information about the child's care needs, as parents' knowledge is either not valued or disregarded. The rationale seems to be that once parents state that they can no longer care for their child, any expressed desire to remain involved in their child's life is then treated with suspicion.

3.5.1 How might any identified weaknesses be best addressed?

In relation to access to built environments, ensure that the acquisition of new or replacement housing stock available for children in care is taken into consideration. In relation to transition from Disability Services to Child Protection, parents are able to provide information such as medication, therapies, proven successful behavior strategies.

Ensure that the child's care plan or behavior support plan is up to date and incorporated into the Best Interests Plan with provision of up to date copies for all parties including parents.

To minimize any further trauma for the child, ensure that the relevant Disability Services worker previously responsible for supporting the child/family is granted adequate time to remain connected until it is determined that the transition across to Child Protection has been appropriately completed. Section 7 of Protocol 7.1.1 discusses the formation of a care team. Where surrender is the case, parents should constitute an integral part of the care team)

Availability of Disability Services to support implementation of specialist behavior intervention strategies tailored to the needs of the child.

Instigate an active register of incidents while the child is in out-of-home care. Incidents that constitute 'high risk' are investigated by the Child Safety Commissioner.

Explore the viability of expanding the work of the Office of the Senior Practitioner and the Disability Services Commissioner to include children with a disability in the care of Child Protection.

3.5.2 What more might need to be done to meet the needs and improve the outcomes of children in out-of-home care and those leaving care……

Where a parent surrenders a child because they are no longer able to provide full time care, arrangements around the Interim Accommodation Order need to be clearly communicated to the parent in a timely manner and that all efforts are made to retain contact between parent and child.

Our Association is aware of instances where even though a family member has been estranged for many years or has an intervention order in place, these circumstances have been disregarded. Child Protection workers have made contact and actively sort involvement in a re-engagement plan. Such actions cause additional stress for those parents who have been struggling with the primary care role without support from these estranged partners or extended family. Review of this practice needs to be considered especially where previous Family Court decisions have determined the most suit able placement of the children. There also needs to be active reflection on previous or currently existing intervention orders. There seems to be little recognition of the increased emotional distress or other impacts experienced by parents providing primary care when Child Protection workers pursue re-engagement.

3.5.4 How can the views of children and young people best inform decisions about their care? How can the views of those caring for children best inform decisions affecting the wellbeing of children in their care?

When children in care have a disability, it is critical that Child Protection workers understand their individual needs and engage with them in a manner that is dignified and respectful of their abilities. (example = respectful of a child's attachment to toys that would in other circumstances be considered inappropriate for their biological age). As mentioned previously, the need to include up-to-date knowledge and history of a child that is held by Disability Services needs to guide ongoing care.

Workers who do not have the skills to engage effectively with children who have a cognitive impairment or complex communication needs should seek expert advice to ensure that the child's rights are upheld. Equally nuances on how a child communicates needs to be understood and where appropriate, guidance from parents should be sought.

3.5.5 How can placement instability be reduced and the likelihood of successful reunification of children with their families, where this is an appropriate goal, be maximized?

Reduction in the level of disruption to components of a child's life. For example, continuing attendance at the same education setting, ongoing access to therapy and other pre-existing supports. Promotion of connection to key adults in the child's life. Although re-unification may be the aim of Child Protection, in some circumstances it is inappropriate and long-term care is required to support the child. Currently no appropriate long term accommodation exists within Disability Services.

4.1.1 Are current protocols and arrangements for inter-organisational collaboration in relation to at-risk children and families adequate, and how is the implementation of such protocols and arrangements best evaluated?

The protocol between Child Protection and Disability Services is suitable, as it relates to protective intervention, however when it relates to parents surrendering full time care, it is inadequate. Implementation of the protocol appears to be creating the greatest challenges and it is here where its intent unravels. A better definition of lines of responsibility in relation to implementation would be useful as would the ongoing role of parents in the life of their child.

Regular independent review of the Protocol's effectiveness would be beneficial and our Association would appreciate the opportunity to contribute to such a process.

4.1.2 What needs to be done to improve the quality of collaboration at the levels of policy development and implementation, local and regional service planning and delivery, and direct service to individual children and families?

Disability Services needs to be adequately resourced to ensure that parents avoid having to resort to surrendering their children.
There needs to be other models of care beyond short stay 'respite' options available to children. Models of shared care that are based on good practice, rather than the current 'ad hoc' use of residential respite as semi-permanent accommodation, needs to be developed and implemented, as a matter of urgency.

Workers who feel ill-equipped to meet the needs of children with a disability and their families due to lack of adequate resources, are time-poor and often suffering from workplace fatigue. Therefore their capacity to provide quality support that reflects the level of patience, empathy and resourcefulness required to achieve good outcomes, is compromised. Workers under this sort of pressure are at risk of rushing through processes, cutting corners, missing vital information and driven to seeking speedy case closure that may leave a child and their family unnecessarily traumatized beyond what is already an horrific circumstance.

In the case of surrendering a child due to inadequate disability related support, parents feel demonized when in fact they are victims of a grossly under-resourced broken system that's sole raison d'être is to support children and adults with a disability and their carers.

4.1.3 How might professional education prepare service providers to work together more effectively across professional and organization boundaries?

Professional development that is based on upholding the rights of children with a disability to be treated with dignity and respect should be provided to all staff working within the Children, Youth and Families domain. One option could be connecting with agencies like our Association, where information on better understanding family perspectives of disability can be shared.

Gaining a better understanding of the causes of behaviors of concern and how best to support children in the least restrictive manner is also important to children's wellbeing and development.

An appreciation of good practice, with training around Disability legislative requirements such as disability discrimination and restrictive practices and complaints processes through the Human Rights and Equal Opportunity Commission, the Office of the Senior Practitioner and the Disability Services Commissioner.

5.1.4 What is the responsibility of the State to ensure that all organisations in the community which are engaged with children fulfill their duty of care to protect children from sexual abuse and other forms of maltreatment and how might that responsibility be exercised?

The State hold significant responsibility and the need to maintain safe environments for children in out-of-home care should be absolute.
Data from key reporting bodies needs to be linked and used effectively.

e.g. Department of Human Services to Justice Department, Victoria Police (and other State and National bodies)

7.1.2 How might those providing home-based care and residential care for children be most effectively recruited and supported?

More effective and relevant pre-service training.
Reduction in case loads.
Greater opportunities and recognition of specialist expertise.
Provide quality supervision and professional development opportunities.
Identify and respond to unhealthy organizational culture that inhibits best practice.
Opportunities to broaden skill base - develop cross-sector secondment opportunities (children, youth and families – disability; government – community service organizations).

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