

## **Submission: Protecting Victoria's Vulnerable Children Inquiry.**

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We welcome the government's '*Protecting Victoria's Vulnerable Children Inquiry*', and acknowledge the importance of strengthening and improving Victoria's capacity to secure the well being of the state's most vulnerable children. This clearly requires that they have access to high quality services, and have their rights recognised in ways that enable and support their full development.

We begin by making a number of specific observations and suggestions and then move on to make some more general points.

### **SPECIFICS**

#### **1. Relations between DHS and the Children's Court**

Our research suggests that the current relationship between DHS staff and staff in the Children's Court is dysfunctional in the sense that it is too often characterised by on-going conflict and bad behavior which is accommodated. This does not ensure that young people coming into the system as clients are dealt with by a functioning and effective system that serves the best interest of the child. Relations between DHS staff and the Children's Court can be best characterised as antagonistic and lacking in trust and good will.

This we suggest is caused by a number of factors that can be remedied.

We suggest that some of the 'issues' that result from matters such as court judgments that DHS staff disagree with, the alleged poor 'treatment of protective staff' by the courts and negative views on the part of some court staff of some DHS systems and workers etc can be remedied firstly by working on improving communication systems between staff in both domains. An example of how communications can be improved to help address this problem entails the establishment of simple procedures like ensuring that DHS managers are sent briefings on judgments that are made in the Children's Court – or that they receive some kind of regular briefing on the rationale for the judgments. These issues can be remedied also by using targeted concurrent in-service education. More in-service education that targets protective workers and DHS managers about the Children's Courts, processes and procedures can assist DHS workers by providing them with clear information about what is required. Equally there is a case for more in-service education for court workers designed to inform them about the work and culture of staff in Child Protection and DHS more generally.

There are different cultures operating in DHS and the Children's Court, and if managers and policy makers are serious about remedying the prevailing conflict and associated problems then those cultural differences require recognition.

Those different ways of seeing the world, working and acting afford some insight into the reasons for the 'difficult relations'. Our understanding is for example that DHS like many government bureaucracies of late can be characterised in terms of the incremental consolidation of executive power. As a highly bureaucratic, hierarchical, organisation informed by economic liberal worldviews we observe the rise of a 'command culture' and patterns of un-democratic leadership that has been to the detriment of more consultative practices that are inclusive of 'on the ground' workers and middle managers (Walter, 2007; Hocking, 2005). It also requires obedience to one's manager regardless of whether the required action is contrary to the worker's own professional judgment and conscience. We have heard a number of reports of how this can create situations in which protective workers (and others) are required to act in ways that cause serious moral and ethical compromise that can lead to high staff turn over, ill-health and low morale, it also adds to the tensions between the courts and DHS when those workers appear in the courts and have to argue a case they disagree with.

It is also acknowledged how 'crisis situations' heighten anxiety for senior managers, reinforcing an 'inner group' versus 'outer group' framing and leading to a closing of the ranks and 'groupthink' (Janis, 1982). This is combined with a trend towards the de-skilling of middle and lower ranking staff. This is caused by both exclusive 'higher level' decision making, and by practices that see the expensive contracting out of professional practices that can be done in-house— (for example risk assessments for sex offenders etc). Added to this is the more general loss of opportunities to exercise professional discretion by protective and other workers, all of which has created a particular autocratic 'command culture' (communications with DHS workers). Moreover, in child protection most 'front-line workers' receive minimal initial on-site training, work in unsafe and very challenging and difficult jobs, are often inadequately supported and supervised, and experience constant and frustrating problems with IT system (data collections systems etc).

The Children's Court on the other hand has a very different organisational and work culture. Unlike staff in DHS most staff in the legal system and courts operate with what may best be described as a legal-rational decision-making process, based on styles and forms of legal rationality, which relies on clearly set out rules/laws, arguments and evidence. They enjoy a high level of professional autonomy, collegial decision-making, the opportunity to exercise power, a collegial and more collective decision making processes and good wages and conditions. Unlike the child protection system, the working environment in the Children's Court is tightly knit, generally supportive and collegial.

## ***2. Disincentives and permanent care arrangement***

Our research suggests that there is a good case for putting children into permanent care as soon as it is apparent that doing this is the best option for them. Too often prolonged accommodation in residential care places children at risk and is characterised by the child being constantly moved and this does not facilitate the optimal development of the child.

Our research also suggests that a critical reason why many carers do not take on more permanent care arrangements is because once they have done so, what support they have been getting from DHS ceases. Knowing that such support would be available and on-going will remove what is now a major disincentive and encourage carers to take on longer term and more permanent responsibilities. This will result in fewer children being placed in temporary care arrangements and provide opportunities for them to have living arrangements that give a sense of security.

## ***3. The quality of residential care is inconsistent***

The care children receive when in residential care varies enormously across the sector. Whether a child is placed in decent residential care is a matter of luck. It is general knowledge that different providers provide very different standards of care. It is clear that we need consistently high standard across the board and that this be monitored more rigorously.

We also recommend that attention be given to remedying arrangement that see seriously 'damaged children' placed with other children who also have major problems. The practice of placing children with histories of abuse, crime, substance use etc together is a short-sighted and foolish practice that can only cause more problems down the track.

## ***4. Support for parents and children***

Vulnerable children become more vulnerable when their parents and carers can no longer care for them. We acknowledge that in most cases securing the relationship between a parent and child is critical for the well being of the child. We argue there is value in supporting parents to care for their own child. This suggests consideration be given to establishing a strong and reliable support system for parents who find themselves on the verge of 'not being able to cope'. If supports can be set up around parents so they can continue to care for their children at critical points then we are serving the interest of the child and alleviating demands on child protection and making long terms savings.

There are a number of possible models that can include living arrangements in which a parent and children can go for respite, immediate to long term support and help. This kind of support and shoring up can work to support parents who want to continue to care for their children.

## ***5. Secure accommodation***

There often comes a point at which some children require a tight structure and an environment that is away from the places and spaces in which they are engaging in activities that are causing them serious harm (prostitution, serious substance abuse, violence, crime etc). We recommend the establishment of 'family-style' homes designed to provide full and secure accommodation, intensive one-on-one and small group support, and a formal curriculum for children who are seriously at risk.

## **6. Targeted support for vulnerable and disadvantaged groups.**

There are specific groups in our community who require specific programs and policies. For example:

### *Children of prisoners*

We refer for example to children of prisoners and suggest considerable work needs to be done to ensure these children live well and have opportunities available that promote and encourage healthy options and a good life as a child and later as an adult. Stigma and shame, the loss of family income, parental support and relationship with the incarcerated parent are some of the issues that children of prisoners experience which place them 'at risk' – including the risk of being placed 'in care'. We recommend research be commissioned in this area to establish the kinds of policies and programs that would support these children. More immediately, simple actions can be taken, like the use of simple technologies such as skype in the family home and prison, and that consideration of the child's interest when sentencing are some of the issues we have in mind. This is a particular area of concern given the growing number of women being imprisoned.

### *Asylum seekers*

The continued incarceration of children in immigration detention centres places them 'at risk'. There is now plenty of credible evidence to verify the psychological and physical damage done to children who are held in immigration detention centres. Given that many child asylum seekers and their families have been persecuted in their homeland and subject to the horrors of war it is unwise to place them in environments that cause further harm. It is in the state's interest to do all that is possible to promote the optimal development of young new comers into the community and include them rather than hold them in facilities known to damage their mental and physical well-being.

### *Children in the justice system*

There are children in youth justice (in Victoria) on extended periods in remand – this can be up to a year or more during which time they are denied access to formal education. While we acknowledge this area is currently undergoing change, more work needs to be done to ensure good management and a 'capable professional workforce are in place. Once young people are released from youth justice they are also vulnerable, and while recent initiatives have been taken to provide support more work and resources are required.

## **GENERAL**

### **1. Contemporary patterns of government engagement**

We observe the trend towards transferring of risk with the shift of responsibility away from the public sector on to the community sector and note that it is not in the child's best interests for the community sector to be picking-up the 'high risk' cases (eg., intensive case management goes to NGOs like Berry and Salvation Army etc). The suggestion that non-Government service providers take on more responsibility for statutory child protection services is also not in the best interests of children. While this practice reduces liability and risk for the state by reducing 'exposures' and by offering a cheaper option, (pay and conditions are lower on the community sector) it means that priority is given to reducing government risk exposure over the best interest of the young person. Non-Government organisations are also struggling to perform many of their contracted functions (eg., providing quality residential care).

We recommend that urgent attention be given to the option of the state resuming responsibility for the care of vulnerable children. This would include the establishment of a state sponsored and properly resourced system in which workers are paid decent wages and where staff are supported to provide quality services and care.

### **2. The policy context**

Our first big point is that many problems which result in children and young people becoming vulnerable and that add to the burden and contribute to the failure of services like Child Protection are the consequences of deeply embedded forms of social inequality much of which can be explained by reference to the negative effects of government policy.

Research shows (eg., Barry, 2005) that the level of social inequality in any society is directly connected to increased poverty, to increased pressure on already struggling families, and to persistent domestic violence, child abuse and neglect, poor health, and elevated rates of mental illness, criminal offending and the like. According to Wilkinson and Pickett (2009) Australia now has one of the most unequal distributions of income among OECD countries. Basic social and economic inequality correlates with a range of social problems such as unemployment, crime, family violence and abuse and neglect of children. Increased social inequality has a major impact on the capacity of parents and carers to provide basic social goods such as a safe and secure place in which to live, nutrition adequate, basic health care, clothing, meaningful social relations and education (Barry, 2005; Wilkinson & Pickett, 2009).

In answering the questions: what can be done to prevent children and young people from being 'placed at risk', to secure the well-being of vulnerable children and alleviate pressure on service providers such as Child Protection we acknowledge that governments possess the kinds of resources and capacities to ameliorate social inequality and poverty and those factors which contribute to family breakdown, material hardship, family violence, child abuse and neglect. According to Australian Council of Social services (ACOSS) more people are 'falling into poverty'. CEO of ACOSS Cassandra Goldie observed that: "At last count it was estimated that over 2.2 million people in Australia were living in poverty and 105,000 were homeless".

"Preliminary figures from our 2011 Community Sector Survey show the number of people accessing and being turned away from services is increasing, especially in the areas of disability, housing and homelessness, and youth welfare services. But the largest increase is in area of financial support and/or emergency relief, which has seen a 47% increase in the numbers of people turned away' (Goldie cited in ACOSS a 2011).

Moreover, the 'last figures on household income and income distribution (2009) shows a marked increase between rich and poor widen between 2004 and 2008' (ACOSS 2011 B).

Reporting on ACOSS research the CEO Goldie continued:

'We know the cost of essential items and services like food, rent, energy, health, education, clothing and transport costs continue to go up. In fact since 2000, the cost of living in Australia, as evidenced by the CPI has risen by 34% with energy expenses in particular doubling in the past decade and expected to double again in the next 5 years. And ACOSS believes this is understating it as the CPI isn't necessarily the best measure to reflect the disproportionate impact of the rise of essential goods and services for people on the lowest incomes. ... We know that nationally over a million low-income households are in housing stress with housing costs exceeding more than 30% of household income. 65% of people on low incomes in private rentals currently experience housing stress, with many of these households spending over half their income on rent' (ACOSS a 2011, See also Duffy 2011).

This matters given that it is the policies pursued especially by national governments over the past few decades which have consolidated the many forms of social inequality now evident in our community. This can be seen for example in the inequitable effects of tax reform policies, and the inequitable patterns of expenditure and service delivery in education, social security, housing (eg., negative gearing and housing subsidies which advantage the top three quintiles of income earners) and health care. From the mid 1970s a new policy consensus saw the strengthening of economic liberal approaches which, amongst other things, encouraged 'the public sector' to mimic private sector practices and to promote 'new values' like the 'user pays' principle.

We have also witnessed the steady demise of the state's capacity and willingness to provide civic staples such as decent and publicly available welfare services and an effective child protection system – and a strong labor market and a relatively equitable distribution of income (Katz and Redmond 2009, pp. 167-198; Bessant, 2009, pp. 27- 40, Mizen 2004).

A neo-liberal policy framework has failed to equip and support young people so they could respond effectively to the larger global transformations taking place in the labor market and the economy. Indeed, at precisely the time that children and young people required policies and social institutions that supported and protected them from the negative effect of major socio-economic changes taking place, those resources were steadily withdrawn. It is also worth noting how this had a compounding effect given that Australians aged 12 to 25, (like young people globally), are also disproportionately affected by poverty, housing crisis (affordability and homelessness), and poor health (Yates, 2009).

It is no longer novel to say that the economic theories and reforms that speak of 'free markets' and 'efficiency' 'choice', 'accountability' and their suitability for the public sector cannot deliver equitable distribution of opportunities and resources, nor can they help address serious social problems such as child abuse, poverty. Policies informed by these ideas do not ensure the delivery of effective Child Protection systems – indeed they exacerbate the problems that cause children to become vulnerable. Economic liberalism has been discredited. In the words of leading Australian economist John Quiggin, they are 'dead ideas', yet they live on and inform public policy in ways that continue to cause serious individual and social harm (Quiggin, 2010. See also Ravitch, 2011).

Given this, it would be useful to review the empirical evidence that exists about the capacity of recent economic liberal reforms to improve the problems they were introduced to remedy. For the purpose of this inquiry, such an exercise would require an assessment of how government policies have contributed to inequality and socio-economic stress and the vulnerability of children. It would require an assessment of the growing private cost associated with children and young people and the implications of that for families, parents and carers to provide the basic staples (Mizen, 2004; Bessant, 2009, pp. 27-40). It would require an assessment of how those growing costs are the direct result of government policies. Moreover such assessment of the social impact of recent policies and law would be best done using an explicit framework of human rights based and ethical criteria that is not exclusively utilitarian.

Attending to the well-being of 'Victoria's vulnerable children' entails raising public awareness and the debate about inequality as well as research that measures income/wealth distribution so a clear understanding of the issue is

available (see Wilkinson & Pickett, 2009; Bessant, 2009).

### **3. Listening to and giving effect to the voice of young people:**

Over the last decade, the idea of youth participation has been given prominence in government discussion and has become part of the contemporary political talk in Australia and most western societies. The Terms of Reference and associated questions refer to the importance of youth participation and consultation.

Given this it is somewhat disappointing that a concerted effort does not appear to have been made to access the views of vulnerable children themselves. Not only are their experiences invaluable for articulating a sharp and accurate account of the problems 'vulnerable children' experience, there are ethical reasons why their direct input matters for an inquiry such as this. Moreover, given the status of 'vulnerable children' and their limited access to resources and information of the kind required for a submission we recommend that an outreach activity be developed to seek the views of the young people who are the subject of this discussion. We suggest also that ethnographic research be given priority, research that accesses and pays close attention to the complexity of children's lives. Ethnographic research designed to better understand the lived experiences of children that policies are developed for is needed.

What meanings do the children who are being researched give to words like vulnerability, exclusion, harm, safety etc or to activities like bullying, care or good relationships? And how can we understand how they think, feel and act? In short, to understand 'the problem' and lives of 'Victoria's vulnerable children' a sophisticated understanding of who 'they' are, how the children interact with others, how their emotions, ideas and actions are connected and how they create and maintain social relationships is required. Ethnographic research produces valuable conceptual and empirical material that can provide the basis for developing a range of policies that are sophisticated in their capacity to be finely tuned so as to effectively meet the different needs of different children in different circumstances. Such policy is possible because it draws on detailed knowledge of the 'vulnerability as it was experienced by children themselves.

### **4. Enhancing young people's capacity to help and protect themselves**

Much of the mainstream literature on children and young people continues to be framed by bio-medical models and assumptions and to a lesser extent by a modernist social science framework which operates from structuralist premises. These interpretive traditions privilege a 'naturalist' disposition which tends to treat children and young people as inherently defective. Theoretical or empirical narratives on themes like vulnerability, risk or neglect overlook the effects of these discursive frames about 'children', 'adolescence' or 'youth' on the subjectivities of young people themselves and *how these work to weaken a young person's capacity to protect themselves*. What we suggesting is that children/young people - like all people - take on aspects of the narratives that are told of them and in this way tend to internalise accounts of themselves as weak, dependent and incompetent in a number of domains when in fact that may not be the case if they are *afforded opportunities and support to see themselves and to act in ways that demonstrate their capacities* and inform a self identity as one who is confident enough to play a stronger role in helping to protect themselves.

There is value in explicitly recognising the interplay of power and interests operating in the dominant narratives about childhood, adolescence, which form the content of many relevant medical and social scientific disciplines and allied professions.

There is also value in considering the proposition that some young people are vulnerable because for so long they have been positioned that way by older people who have interest in securing the prevailing arrangements. Sometimes that interest in power is expressed in exploitative and abusive practices, sometimes it is expressed as paternalist and well-intentioned interventions which nevertheless re-enact the condition of vulnerability.

*To overcome the problems that arise when a group is relatively disadvantaged by lack of access to various resources measures are needed that secure their rights of children and young people and critical processes that identify and challenge ageist assumptions and practices.* To be effective this needs a well articulated set of citizenship and other human rights which include social economic and cultural rights buttressed by genuine commitments to resources needed to secure those rights.

One additional measure that will ensure that the risks/harms/vulnerabilities some children and young people may experience might be reduced is to establish reporting procedures that take their complaints seriously, that are respectful of young people, and are not intimidating. Currently complaints procedures in key institutions and child and youth services such as child protection do not meet these criteria.

### **5. Strengthening workforce capability and professionalisation**

The Terms of Reference identify the potentially transformative role played by a capable and professional workforce. As Grabosky (1989) argued nearly twenty years ago professional training, regulation and effective governance is a

precondition for quality service delivery. This point is high lighted if we consider the revelations of abuse and neglect at the hands of carers in government supported and funded agencies (see eg., Brouwer, 2009, 2010).

Those who work with vulnerable children and young people, such as Youth Workers who are specialists who work with 12 to 25 year olds, need to be professionalised and regulated. This along with decent wages and conditions is critical for quality service delivery and a strong child protection and allied youth sector. Some form of accreditation or registration that requires minimal education standards is one way of guaranteeing quality service delivery. At the moment no minimum qualification is needed to work in most areas of the child protection system, particularly in out-of-home care. There are new statutory arrangements that require child care centres employ staff who have degree qualifications. It is reasonable for similar arrangements to be put in place for all sectors, organisations and services that work with children involved with Child Protection, and this includes out-of-home care providers and youth services.

It is worth noting also that the issue of access to appropriately qualified workers is a matter of concern given the context in which university youth work programs are being cut and/or down graded as demands for capable professionals increases. There are limited options to study youth work in Victoria with only three degree programs on offer in the State, and these programs are under threat of cuts and closure (Hansard, 2010). The government needs to intervene and support the provision of quality youth work education in universities.

Any shift from university-based education to TAFE training that is reliant on a competency model of training is not likely to enable the kind of valuable educational experience leading to the intellectual and practical capacities typical of highly effective child and youth professionals. While we cannot offer a comprehensive or critical analysis of the competency framework here, we can briefly indicate some of the limitations with competency-based training for the demanding and complex work that is required of child and youth practitioners. (For a more comprehensive critical reflection see Edwards & Nicoll, 2006; Grant, 1999; Iverson, Gergen & Fairbanks, 2005; Jordan & Powell, 2007; Lum, 2004).

While competency training plays a useful role in all professional education, whether it is designed to prepare medical practitioners, or youth workers, it is not enough on its own. TAFE competency-based training offers an excellent pathway to university education where that initial training is then built on and extended by programs informed by graduate attributes. Competency based training can produce highly proficient technicians possessing both novice and beginning level capacities who are able to follow instructions. It does not do so well if we are looking for reflexive and critical professionals able to decide when rules need to be adapted or broken (Dreyfus & Dreyfus, 1986). For a discussion about the educational standards required for those working with young people (see Bessant, 2011).

There is a shortage of properly educated and capable professionals, which is particularly evident in areas such as Child Protection where staff shortages continue to exist and where positions remain unfilled. As mentioned, workforce capabilities can be strengthened by recognising the specialist skills and knowledge that is required and by investing in the education of specialist practitioners. Such action can remedy the existing unmanageable workloads, the high numbers of unsupported and stressed staff, and high 'churn' rates of frontline workers.

We recommend that consideration be given to the implementation of legislation akin to the *Education and Training Reform Act 2006* that requires that all teachers register with the Victorian Institute of Teaching before they can be employed in any Victorian school. We recommend there be similar requirements in respect to professional child protection and youth workers in the state of Victoria. This could go a long way towards improving the standards of practice, regulation of the sector, expertise of those who work with vulnerable young people and quality of care.

#### *Teachers: new options*

Given that teachers have contact with children and young people on a daily basis over a long period of time, their education in domains that go beyond their capacity to provide an education relevant to their disciplines is critical.

Modern teachers, child protection workers and youth work practitioners share a lot in common. There is plenty of research documenting the interplay between education, child protection and youth work in both the schooling and community services networks (eg., the Victorian government's School Focussed Youth Services). Secondly much of their work involves a mix of formal and informal education, training, advocacy and 'pastoral care'. Thirdly their practice while securing the well-being of young people also involves an uneasy mix of paternalism and exercises that enable children and young people to be autonomous.

We suggest there are a number of good reasons for bringing Child Protection, Youth Work and teaching together, some of which are canvassed here. It is also written with a conviction that if young people are required to remain in some form of education or training for longer periods of time (up to the age of 18) then we need some serious efforts to ensure the time spent in education is time in which they are provided with opportunities designed to develop in all the ways they can. It is also a good reason if the objective is to identify and support children and young people who are vulnerable.

We propose the development of new modes of professional education and practice with children and young people that result in teachers having dual qualifications in education and youth work or education and child protection. While it is not appropriate to canvas this proposal in detail here we welcome the opportunity to provide an oral presentation.

## **6. Leadership and accountability**

Effective services in the relevant organisations rely on effective leadership and supervision. Competent leadership at executive, senior and middle management levels along with clearly defined accountability mechanisms are critical for building and maintaining a capable workforce and quality service delivery (eg., Precision Consulting et.al., 2007; Australian Council of Social Services, 2007). We note the limited opportunities for quality formal tertiary education on management and leadership in the child and youth sector, and this is a gap that requires urgent attention.

An independent regulatory body that has the authority to investigate complaints about child protection would bring the state one step closer to able to remedy the failing system. This could also go a long way towards restoring public trust and confidence in services that care for vulnerable children and young people. A Child Protection and Youth Sector professional association could have the statutory responsibility to investigate complaints of unprofessional conduct, which could also improve management arrangements and ethical standards.

Prior to the 2010 State election the Opposition promised to fund improvements to community sector wages, 'whatever the cost'. Since then the Government has backed away from this promise, and threatened to cut jobs and reduce services if pay rises are awarded as a result of the 'pay equity case'. Low wages and poor conditions in the community sector are systemic problems for Victoria's child protection system. Decent wages help attract and retain qualified, skilled and experienced workers. This includes those employed by community sector organisations that are contracted by the government to who work with young people who are statutory clients of the child protection system. The Baillieu Government made a commitment to fund in full wage increases that could result from the pay equity case and should honor this commitment. An appropriate demonstration of the government's commitment to 'vulnerable children' would be act to improve the wages and conditions of child and youth work practitioners.

### ***Accountability***

Why is it that after decades of official reports and inquires, hundreds of recommendations, commitments and expenditure of millions of dollars, our child protection systems remain in crisis? We suggest that part of the answer to this question lies with the issue of accountability and legal liability.

Children and young people are being exposed to sexual assault and other unacceptable kinds of circumstances due to the breakdown of the child protection system (Brouwer, 2009, 2010). We know from various reports over the years that vulnerable young people in child protection are being denied food, clothing, medical care, and school. For many young people removal from their home puts them at greater risk. This not only constitutes a breach of Australia's obligations under the UN Convention on the Rights of the Child, the failure of the state to comply with its own standards its requires civic parents and guardians also means the government breaks its own statutes and in doing so cause serious social and personal harm. Indeed, if such harm was caused by a civic parent they would immediately be subject to child protection intervention and possible prosecution. Our statutes ought to bind the government when it acts or fails to act. At stake is state immunity from legal liability.

The question of legal liability and Crown immunity receives little attention. We recommend this issue receive greater airing and that the question of the state's legal liability be put on the agenda. It is appropriate that senior officers (Ministers, CEOs) be held accountable when the lives of children and young people are systematically harmed because the Child Protection system is in a permanent state of crisis.

We recommend the principle of equality before the law be taken seriously and a review of the practice that sees Crown employees afforded special protection from prosecution.

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