



1 October 2013

National Centre for Excellence  
National Consultations

Be email: [NCEconsultations@ahuri.edu.au](mailto:NCEconsultations@ahuri.edu.au)

Dear Sir/Madam,

### **National Centre for Excellence Research Priority Issues**

1. Women's Legal Services NSW (WLS NSW) thanks the National Centre for Excellence for the opportunity to provide comment on key issues, areas and topics for research which focus on ending violence against women and children.
2. WLS NSW is a community legal centre that aims to achieve access to justice and a just legal system for women in NSW. We seek to promote women's human rights, redress inequalities experienced by women and to foster legal and social change through strategic legal services, community development, community legal education and law and policy reform work. We prioritise women who are disadvantaged by their cultural, social and economic circumstances. We provide specialist legal services relating to domestic and family violence, sexual assault, family law, discrimination, victims compensation, care and protection, human rights and access to justice.

### **Key issues, areas or topics for research**

#### ***Child protection and early intervention***

3. We would like to see research in the area of child protection and early intervention. This should include: social and economic cost effectiveness of intensive early intervention support, particularly where mothers have experienced domestic violence, or where trauma, social exclusion and poverty are the causes of child protection concerns.
4. There are holistic community based models in international jurisdictions, such as the Cornerstone Advocacy approach in New York City in the United States, but further research and studies in the Australian context which explore such models, as outlined below, are required.
5. Factors to include: addressing intergenerational trauma; holistic community based models that include social work/support services, parent advocates (peer mentoring of parents) and early intervention legal services to support parents and children; 'strengths based' framework; ways to support parents to be protective parents (including services supporting victims of domestic and family violence by providing evidence to support an application for protective family law orders); addressing barriers to engaging with support services; adequate training and support of case workers.



6. We note the 2008 Special Commission of Inquiry into Child Protection Services in NSW ('Wood Inquiry') found that the key to reducing risk to children is 'sufficiently resourcing flexible prevention and early intervention services so as to reduce the numbers of children and young people who require the state to step in to keep them safe.'<sup>1</sup>
7. We refer to our submission to the NSW Government in response to the NSW Child Protection legislative reforms proposed. We attach a copy.

### **Why are these issues of national relevance?**

8. There are over 37,000 children in out of home care (OOHC) within Australia.<sup>2</sup> We are greatly concerned by the large numbers of Aboriginal children and young people in OOHC.<sup>3</sup> There is a correlation between OOHC, the criminal justice system and homelessness.<sup>4</sup> Studies have highlighted the importance of family preservations where it is in the child's best interest. This is consistent with Australia's human rights obligations.<sup>5</sup>
9. Recently in Queensland, the Carmody inquiry into Child Protection has been completed. While noting the 2008 Special Commission of Inquiry into Child Protection Services in NSW ('Wood Inquiry'), we believe a more extensive inquiry on this issue, like the Carmody Inquiry, is required within NSW and indeed, nationally.
10. WLS NSW is a member of a national network of community legal centres specialising in women's legal issues called Women's Legal Services Australia (WLSA). Members from different states and territories have raised concerns about the need for more to be done in the area of early intervention to support families before children are removed, particularly victims of violence or where trauma, social exclusion and poverty are the causes of child protection concerns.
11. WLS NSW is also a member of the NSW Women's Alliance – which includes a number of NSW peak organisations and state-wide service providers working within the sexual violence and domestic and family violence field. The Alliance is also concerned about the need for early intervention in child protection matters.
12. Similarly, WLSA is a member of the Australian Violence Against Women Alliance – AWAVA also shares these concerns.

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<sup>1</sup> The Hon James Wood, *Report of the Special Commission of Inquiry into Child Protection*, November 2008, Executive Summary at i.

<sup>2</sup> Cited in Joseph J McDowall, 'Experiencing Out-of-Home Care in Australia: The Views of Children and Young People', *Create Report Card 2013* at 2 (28) accessed on 25 September 2013 at: [http://www.create.org.au/files/file/report%20cards/CREATE\\_ReportCard2013\(LR\).pdf](http://www.create.org.au/files/file/report%20cards/CREATE_ReportCard2013(LR).pdf)

<sup>3</sup> Australian Government, *Child Protection Australia 2011-12, Child Welfare Series No 55*, Australian Institute of Health and Welfare, Canberra, 2012, Table 2.4

<sup>4</sup> Australian Institute of Health and Wellbeing, *Children and young people at risk of social exclusion: Links between homelessness, child protection and juvenile justice*, Canberra 2012.

<sup>5</sup> *Convention on the Rights of the Child*, ratified by Australia on 17 December 1990, Articles 3 (1), 3(2), 3(3), 8, 9(2), 9(3), 12, 18(2) 19, 20(3), 26 29(1)(c), 30, 31. The state also has a responsibility to protect victims, namely children and their mothers, and bring perpetrators to account – Due diligence obligations outlined in: Human Rights Committee, *General Comment No. 31*, CCPR/C/74/CRP.4/Rev.6, para. 8; Committee on the Rights of the Child, *General Comment No. 5*, CRC/GC/2003/5, 27 November 2003, para. 1; Committee on Economic, Social and Cultural Rights, *General Comment No. 14*, E/C.12/2000/4 (2000), para. 33. Also see: *General Assembly Resolution - Guidelines for the Alternative Care of Children*, A/RES/64/142, 24 February 2010, Article 3, 6, 9, 11, 15, 24, 32, 33, 34, 35, 36, 39-41, 51

**How would the results of the research contribute:**

**(a) to knowledge and understanding**

13. Identify and address barriers to parents engaging with support services.
14. Focus on holding the perpetrator (often the father) to account rather than on punishing and blaming the mother for not acting in a protective manner.
15. Recognising that by supporting mothers to be protective parents and good role models that this in turn supports their children.
16. Understanding that substance dependency may arise from past trauma and violence and that if there was a cultural shift towards support rather than surveillance and punishment, parents are more likely to feel more able to engage with treatment services.

**(b) improved services, programs or practice**

17. Understanding that substance dependency may arise from past trauma and violence and that if there was a cultural shift towards support rather than surveillance and punishment, parents are more likely to feel more able to engage with treatment services.
18. Increased funds being directed at what has been proven to work - early intervention. Solutions are focused more on long lasting benefits for all – children and parents.
19. Better understanding of the need to and how to address intergenerational trauma.

**(c) changes in policy**

20. The NSW government is proposing more emphasis on permanency planning which includes adoption. Better understanding about and investment in early intervention could see an emphasis on family preservation when it is in the best interests of the child. This is an issue of national importance.

**Other priorities**

21. We also support research about the characterisation of violence, including the mischaracterising of family violence as mutual violence and the impact on this on women accessing legal aid and final decisions in family law proceedings.
22. The national significance includes addressing gender bias in accessing legal aid; better identifying the nature and dynamics of family violence.
23. Changes in policy include the importance of appropriate assessment of family violence in family law proceedings and accreditation of family report writers.
24. If you would like to discuss any aspect of this submission, please contact me on 02 8745 6900.

Yours faithfully,

**Women's Legal Services NSW**

Liz Snell

Law Reform and Policy Co-ordinator