

Engaging with children and families earlier to bring about change and integrated, multi-agency responses are critical to address complex needs

79. With the forced removal of Aboriginal and Torres Strait Islander children from their families, many of these children did not have the opportunity to learn parenting skills from their own parents, aunties, uncles and grandparents. It is therefore essential that parents have access to strengths-based, culturally appropriate parenting programs.
80. A number of years ago Mudgin-Gal Aboriginal Corporation developed the *"Healthy Family Circle"* program in partnership with Relationships Australia. This program had a number of components. One component was to encourage young Aboriginal women from the community to participate in the Playgroup Facilitators Training Course, a certificate course offered through TAFE. This course, run by SDN Children's Services Inc and Connect Redfern, helped build the women's skills and understanding about parenting skills and early childhood development and provided *"positive behavioural modelling for parenting and childcare"* that could be implemented in the women's own families and communities. Some of the women gained employment in the area of early childhood.³⁵
81. In addition to programs like Healthy Family Circle such awareness and early support and prevention work could take the form of, for example, coffee mornings where Aboriginal mothers could gather together in their local community to yarn about a range of issues in a supportive environment, such as getting their children to preschool and where they can go in the community for help. Such programs are consistent with Recommendation 36 of the *Bringing them home* report that the Council of Australian Governments provide adequate funding to relevant Indigenous organisations in each region to establish parenting and family wellbeing programs.
82. Many women fear contact with FACS and services that are mandatory reporters, believing it will result in the removal of their children from their care. This is a fear often strongly felt by Aboriginal women, particularly given colonisation and the Stolen Generations.
83. It is important that pregnant women and primary caregivers be able to access legal advice early to understand FACS and NGO child protection services processes, how to engage with FACS and NGO child protection services, how they and their family can address issues identified with the aim that children be supported to be cared by family where it is safe to do so.
84. Another example of the value of early legal advice and social support with services working in a collaborative way is outlined below.

Role of early legal advice and support services for pregnant women

Some women we work with have previously had children removed from their care. They may contact us when they are pregnant to ask what they need to do so their baby can be in their care.

We provide legal advice, referrals and/or legal support, alongside other support services, and help

³⁵ See Mudgin-Gal Aboriginal Corporation, *Seeding Hope*, accessed at: <http://www.redfernfoundation.org.au/mudgingal.pdf>

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women to engage early with FACS. For example, we help them to ask FACS to identify any issues of concern and discuss with FACS the supports available that they can access to address these concerns.

Along with support services we also help women to prepare for conferences also attended by family members to discuss the care of the child.

Access to legal advice before and after such conferences is important due to potential power imbalances and so participants fully understand the process and how to engage in the process.

Some conferences have resulted in the child remaining with their mum, with the mum being supported to care for her baby.

85. There is also a role for parent advocates with lived experience of the child protection system to provide early support to parents and primary caregivers involved in the child protection system. We refer to the Independent Family Advocacy and Support Service being piloted in Bendigo and Melbourne. This service aims to help families involved in the child protection system at the early stages to understand their rights and responsibilities and engage with services. Team members include a lived experience consultant and they have referral pathways for early legal advice.³⁶
86. Noting that family preservation and restoration of children to families is time and resource intensive, we recommend the system be designed with greater investment and incentives to prioritise this work.

Recommendation 12

Increase funding of community led, culturally safe, strengths based and trauma informed parenting and other support programs, such as integrated social and legal services, to help parents address issues that may lead to the removal of their children.

Health justice partnerships

87. Pregnant women and women who have recently given birth to a child are at a higher risk of experiencing family violence. According to the 2016 Australian Bureau of Statistics' Personal Safety Survey, 17% of women had experienced violence by a partner since the age of 15. Of the women who experienced violence by a current partner, 20% experienced violence during their pregnancy. Of the women who experienced violence by a previous partner, nearly half of them experienced violence during their pregnancy.³⁷

³⁶ For further information see Emma D'Agostino, "Victoria Legal Aid launches Independent Family Advocacy and Support pilot in Bendigo", *Bendigo Advertiser*, 4 April 2019 accessed at: <https://www.bendigoadvertiser.com.au/story/5998946/service-seeks-to-make-court-a-last-resort/> and <https://www.legalaid.vic.gov.au/about-us/what-we-do/independent-family-advocacy-and-support>

³⁷ Australian Bureau of Statistics, *Personal Safety Survey, Australia, 2016*, Canberra, 2017 accessed at: <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Impacts%20of%20partner%20violence%20-%20children%20witnessing%20or%20during%20pregnancy-24>

88. International research has also found that violence often begins during pregnancy or becomes more severe during pregnancy and into the first month of motherhood.³⁸ Aboriginal and Torres Strait Islander women and young women are at a greater risk of experiencing family violence during pregnancy.³⁹
89. Family violence during pregnancy can lead to negative health outcomes for the mother, foetus and child such as low birth weight, premature labour and miscarriage, foetal stress and/or trauma. The mother is more likely to experience depression, trauma and anxiety and family violence during pregnancy can have long-term negative impacts on the wellbeing of the child.⁴⁰
90. It is important that antenatal and post-natal health workers and midwives are trained to identify the risk of family violence and provide early support to pregnant women and mothers. Health justice partnerships are a way to provide that training and facilitate referrals to legal services and promote an integrated, multidisciplinary response.
91. Health justice partnerships are where health and legal assistance services work together to provide a person with holistic early support to prevent problem escalation. Health justice partnerships recognise that addressing a person's legal needs appropriately can assist in improving their health. Research conducted by the Law and Justice Foundation of NSW found that people are more likely to tell a health professional about a legal problem than a lawyer.⁴¹ By basing a lawyer in a health setting such as a hospital or health centre the lawyer can train health professionals to recognise legal issues their clients may have and promote referrals for legal advice. The lawyer can also refer clients to health services, including counselling.
92. Women's Legal Service NSW has been working in partnership with Women's Health Centres for over 30 years to deliver safe and accessible legal services to women. We provide regular legal advice clinics at Women's Health Centres in Liverpool, Blacktown and Penrith, helping to provide holistic early support to women.

Recommendation 13

Fund health justice partnerships to train health workers to identify family violence and provide appropriate referrals to early legal support and for legal services to refer to counselling and other support services.

³⁸ Australian Institute of Family Studies, *Domestic and family violence in pregnancy and early parenthood: Overview and emerging interventions*, 2015 accessed at: <https://aifs.gov.au/cfca/publications/domestic-and-family-violence-pregnancy-and-early-parenthood>

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Law and Justice Foundation of NSW, *Legal Australia-Wide Survey: Australia Access to Justice and Legal Needs*, Vol 7, 2012, p192.

The system elements

Early targeted support, advice and case management

93. International best practice demonstrates the benefits of serious commitment to early support, particularly where mothers have experienced family violence; or where trauma, social exclusion and poverty are the causes of child protection concerns.
94. The value of investing in early support is well documented in the research commissioned by the Department of Family and Community Services as part of the Targeted Earlier Intervention Reforms⁴² as well as research undertaken by Their Futures Matter.
95. It has been recognised that to improve outcomes for children at risk of being removed from their families, there is need for sustained treatment for parental mental health issues, addressing family violence, treatment and support to prevent and treat drug and alcohol abuse and ensuring access, engagement and educational attainment for children and young people.⁴³
96. In cases where parental substance abuse has been identified as a contributing factor it is important to recognise that substance dependency may arise from past trauma and violence. Every effort should be made to develop a range of accessible treatment programs to provide parents with a genuine opportunity to address their alcohol and/or drug misuse, including any underlying catalysts.⁴⁴
97. In addition to early access to support services, parents and primary caregivers would benefit from referrals for free early legal advice.
98. In our experience the early support tools developed to be used by FACS and NGO child protection services as part of the 2014 Safe Home for Life Reforms, such as parent responsibility contracts and parent capacity orders, are used infrequently by FACS. We fear this has been in part because FACS is unable to offer a parent responsibility contract where corresponding support services are not available and accessible. There also needs to be a cultural shift within FACS and the NGO child protection sector so that workers understand the importance of parents/primary caregivers receiving social and legal support at an early stage to promote the safety of the children, inform parents and primary caregivers of concerns and how to address the risks of the children being removed from their families. This would also require a change in practice such that workers make referrals to the appropriate social and legal services.

⁴² Australian Research Alliance for Children and Youth, *Better Systems, Better Chances: A review of research and practice for prevention and early intervention*, 2015 accessed at: http://www.community.nsw.gov.au/__data/assets/pdf_file/0008/335168/better_systems_better_chances_review.pdf See also, Neha Prasad & Marie Connolly, *Factors that affect the restoration of children and young people to their birth families*, published by ABSEC, ACWA and the NSW Government 2013, accessed at: http://www.community.nsw.gov.au/__data/assets/pdf_file/0014/320036/literature_review_on_restoration.pdf

⁴³ NSW Government, *Their Futures Matter: A new approach – Reform directions from the Independent Review of Out of Home Care in New South Wales*, 2016, p4-5 https://www.facs.nsw.gov.au/__data/assets/file/0005/387293/FACS_OOHC_Review_161116.pdf

⁴⁴ Northern California Training Academy, *The importance of family engagement in child welfare services*, 2009 accessed at: <http://academy.extensiondlc.net/file.php/1/resources/LR-FamilyEngagement.pdf>

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99. Services should not wait to refer families for legal advice until a child is removed from the care of the family. Early legal advice can help parents, primary caregivers and families to identify and address issues before they escalate. Early legal advice can help prevent the trauma that would otherwise be experienced by the child, family and FACS workers when a removal of a child is required.
100. Access to early legal advice and social support can help to address power imbalances between families and child protection services as well as enable a collaborative response to child protection concerns, with child protection services being held accountable for providing the necessary supports for parents/primary caregivers and children.
101. Community legal centres, including specialist women's legal services, are independent from government, based within and connected to community and have specialist expertise in working with vulnerable people.
102. If funded, community legal centres are well placed to develop and provide a multidisciplinary model of practice which could include a lawyer, a social worker and other specialist workers, including Aboriginal specialist workers to provide holistic, integrated, intensive early support to families. Aboriginal and Torres Strait Islander community controlled legal services should also be adequately funded to undertake intensive early support in such matters.

If you would like to discuss any aspect of this submission, please contact Liz Snell, Law Reform and Policy Coordinator or Carolyn Jones, Senior Solicitor on 02 8745 6900.

Yours faithfully,

Women's Legal Service NSW

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