

Submission to Child Protection Commission of Inquiry

Court Processes in Regional areas

2013

Background

QIFVLS is a relatively new organisation, formed in 2010 as a result of the amalgamation of the individual family violence units operating in Mount Isa, Cairns and Townsville. These services had been operating as stand-alone services prior to a process of regionalisation. The Rockhampton service was incorporated into QIFVLS at a later date from 1 July 2010.

QIFVLS is predominantly an outreach service however clients who reside in the Cairns, Mount Isa, Rockhampton and Townsville locations are not ineligible for service.

Communities serviced from the Cairns Office include: Mareeba, Atherton, Kuranda, Yarrabah, Napranum, Mapoon, Aurukun, Lockhart River, Coen, Laura, Injinoo, Umagico, New Mapoon, Hopevale, Wujal Wujal, Cooktown, Pormpuraaw, Kowanyama, Weipa, Mossman Gorge, Mossman, Bamaga and Seisia.

Communities serviced from the Townsville Office include: Innisfail, Tully, Proserpine, Palm Island, Ayr, Bowen, Charters Towers, Richmond and Hughenden.

Communities serviced from the Mount Isa Office include: Mornington Island, Burketown, Normanton, Doomadgee, Camooweal, Cloncurry, Julia Creek, Dajarra, Urandangie, Boulia, Bedourie and Birdsville.

Communities serviced from the Rockhampton Office include: Emu Park, Kepple Sands, Gracemere, Mt Morgan, Wowan, Duaringa, Bajool, Marlborough, Yeppoon, Gladstone, Woorabinda, Biloela, Yamba, Caves.

The role of QIFVLS is to provide legal assistance, practical support, court support, early intervention, education and advocacy for Indigenous victims of family violence and/or sexual assault in rural and remote communities. Services are provided in the areas of family law, child protection, family violence and sexual assault.

The legal team for QIFVLS consists of a Client Support Officer (Aboriginal or Torres Strait Islander) working alongside a Solicitor. This model ensures that a client is treated holistically, in that their practical and welfare needs are addressed in addition to their legal needs. It also provides for a culturally appropriate service, with the CSO working with the client and the solicitor to ensure any language and/or cultural barriers are reduced which ensures the client's instructions are properly understood and acted upon by the solicitor. QIFVLS is aware that victims of family violence and/or sexual assault are in a vulnerable state and this area of law is often complex, emotionally charged and accompanied by current or past trauma. QIFVLS considers the team approach (CSO and solicitor) beneficial to the client as it provides a supportive environment so the client feels safe to tell their story and provide the history of their matter.

QIFVLS currently has nine solicitors (excluding the Principal Solicitor and CEO who are both legally trained) and nine Client Support Officers. As we are a multiregional organisation, we are able to assist clients even if they move between communities or from a community to a regional city. With the assistance of technology, we can also ensure our clients are appropriately represented across regions as we, at times, have Solicitors appearing in other regional courts by telephone remotely if face to face appearance is not an option at that time.

A majority of the work QIFVLS deals with involves child protection matters; and there is also a number of instances where domestic violence issues and child protection matters coincide. QIFVLS provides legal representation from early Intervention through to final hearings for Long Term Guardianship applications. Specifically, QIFVLS is able to assist clients who have received a notification and/or follow up visit from the Department of Communities – Child Safety ('Child Safety'). As such we assist in the negotiation of terms for

Safety Plans or Intervention with Parental Agreements, or such other Care Agreement. If there are court proceedings on foot then we attend the court mentions, Family Group Meetings, Court Ordered Conferences and, if necessary, prepare and represent our client at a final hearing/trial. In cases where there are Long Term Guardianship matters on foot, where instructed, we will attend to reminding Child Safety of the necessary reviews for case plans and review. We have noticed that in cases where there is legal representation from our service, that case plans are negotiated which have specific and measurable outcomes, and that case plan review dates are adhered to. Anecdotally, we understand that where no such legal representation exists, that reviews are not always done, or not done according to prescribed dates. We are also aware in cases where we peruse already existing case plans, that these often contain unachievable and non measurable outcomes, which clients often struggle to understand or adhere to.

In cases where QIFVLS has become involved, we report an improvement in some areas within Child Safety over the last 14 months, in regards to workers and their actions involving interventions/removal of children and issues of accountability for families. This is discussed further in our submissions.

In providing a response to the Child Protection Commission, we have addressed 3(c) of the *Order of Inquiry* and have used the same reference headings to provide our response. We provide our response from a legal perspective and therefore our submission is narrower in focus than were we considering the Child Protection System as a whole. We have also answered a number of questions put to us in Cairns in August 2012. We have used those questions as headings. Our submission follows.

Direct questions asked by Commission regarding QIFVLS service provision.

Do QIFVLS lawyers advocate for cultural plans as part of the current FGM and case plan processes?

The QIFVLS service model ensures that we identify and negotiate for the inclusion and need for identification of ATSI heritage and that the continual linkage required with family, kin and community is addressed. There has been a shift with some Child Safety workers who understand the need to ensure that culture, family and spirituality are addressed in plans.

Through the CSO role, QIFVLS advocates and provides direction about the parent's position regarding the appropriate cultural needs for the children and how the case plans should be best designed to support the continuity of culture in the child/children's development, if they are placed out of community. We have noted that the child is disadvantaged in keeping connection to their community and culture when the child is removed from community. This is compounded when parents and the child/children are 'apportioned' two, one hour weekly blocks of supervised time through a majority of duration of the Child Safety application. This small amount of time, particularly when it is away from community, provides little opportunity for real attachment to be sustained or maintained.

Accordingly, despite the inclusion of the cultural requirements in the case plans, the application of the requirements is not always followed or even considered by some Child Safety workers. It is unclear whether this is a consequence of ignorance of cultural requirements, under-resourcing issues or the short term nature of employment of Child Safety staff. We note anecdotally that the average tenure of a Child Safety worker is 18 months. This results in large turnover and, for families, a need to form relationships with new staff and to tell and retell their stories. QIFVLS believes that cultural plans should be a

“must” and not a “maybe” in regards to Aboriginal and Islander children and families.

What is QIFVLS experience of the mediation model used in child protection proceedings from a cultural and litigation perspective?

We note that we rarely experience any mediation based approaches with Child Safety. In the rare occasions we do, the responses are usually restricted by funding and the lack of delegated authority to commit Child Safety to the proposed agreement.

This means that often the matters go directly to a court process, which is often intimidating for clients and not a cost effective, nor culturally sensitive, first step approach.

What is QIFVLS experience of the Department as a litigant?

Overall, it is the exception rather than the norm, for Child Safety to enter into ‘meaningful discussion’ regarding a different proposed course of action. It is usually when Crown Law become involved that such meaningful discussion occurs. This is again a waste of scarce resources, and provides for a higher level of emotional burden on all parties. Further, despite the Model Litigant principles applying to the Queensland Government departments, it is our experience that these principles are rarely considered or followed by Child Safety. For example, Principle One which states “The State and all agencies must conduct themselves as model litigants in the conduct of all litigation by adhering to the following principles of fairness” and specifically: dealing with claims promptly and not causing unnecessary delay in the handling of claims and litigation, endeavouring to avoid, prevent and limit the scope of legal proceedings wherever possible, including by giving consideration in all cases to alternative dispute resolution before initiating legal proceedings and by participating in alternative dispute resolution processes where appropriate and Principle Three: when participating in alternative dispute resolution, the State must ensure that its representatives: (a) participate fully and effectively, and (b) have authority to settle the matter so as to facilitate appropriate and timely resolution of a dispute. On numerous occasions throughout the Child Protection process we have found the conduct by Child Safety to not be in accordance with the Model Litigant principles.

What is QIFVLS view on the current role that Recognised Entities play in court proceedings? Would they recommend any changes in relation to the court advisory function?

In QIFVLS experience we have seen Recognised Entities ('RE') placed in difficult, and often compromised, positions as although their position requires them to be representative of an Indigenous community and in that representation ensure the best for families within those communities, their position is funded through Child Safety.

This inherent conflict may not always provide for the best outcome for children, given that a common response used by Child Safety is "The Recognised Entity agrees with this course of action". In many cases there are no reports provided by the REs which clarifies why and how the RE agrees with the course of action or how they have formed that view.

In remote areas, we often do not receive input from the REs at meetings, due to other commitments or the late notice of such meetings. QIFVLS believes the input of RE's is invaluable, and notes that when sufficiently experienced RE are involved, particularly when they have a strong understanding of the court process, their recommendations have provided better insight into the situations and have produced a better outcome for the parties – for example, we have experienced quite intrusive Orders reduced to IPAs or Safety Plans. In addition, experienced RE who understand the needs of their communities and the families in those communities will have the confidence to state an alternative view to that proposed by Child Safety. We believe this provides for better outcomes for all parties and often contributes to a greater acceptance of the outcomes for parents.

In order to provide independent information into the best interests of the children, perhaps the REs should be funded and administered through a separate body and a clear process followed in appointing REs and the provision of ongoing support and training in the court process and what is required in providing recommendations (report writing). It may be a better option for REs to be attached to the Court service as this enables them to be seen as independent from the parties involved in the 'dispute'. For example, in the Federal Magistrates Court (Cairns Registry) there is an Indigenous Liaison Officer who, as a part of the role and function, reports to the Federal Magistrate as to the cultural ramifications of proposed orders.

Do you have any observations about your client's experiences in the local Children's Court?

As our client's location varies across Queensland, we have addressed this below in our submission.

Submission

c) reviewing the effectiveness of Queensland's current child protection system in the following areas:

i) Whether the current use of available resources across the child protection system is adequate and whether resources could be used more efficiently;

Department of Communities - Child Safety statistics indicate that there has been an increase in Indigenous children in the Child Safety system over the past four years and an increase in out of home care placements. We note that in 2011-12, of the 1,684 children admitted to out of home care, that 987 (59%) were Indigenous. In addition, 60% of the Indigenous children removed come from the service catchment of QIFVLS, i.e. Central Queensland extending north and west to the Cape and Gulf areas, including Mount Isa.

We suggest that despite the majority of children coming from the central and north and north west areas, these remote and regional areas do not have adequate resources (staff, housing, education) to assist our clients in reunifying with their children. Given that the majority of the removals occur outside the South East Queensland corner, then theoretically the majority of the resources should be expended in appropriate early intervention, support and case management and review in those areas that are demonstrating the highest need. It is unclear whether this is actually the case.

In addition, Indigenous clients within communities often come with a range of complex needs. As such they need and deserve Child Safety staff who have the highest level of experience, including experience of culture and Aboriginal and Islander parenting styles and family dynamics. This is not always the case. In the most recent release of the Australian Governments report "*A Picture of Australia's Children 2012*" it is noted that there is a marked variation in the rates of child protection substantiations and children in out of home care for Aboriginal and Islander children with Indigenous children more than 10 times as likely as non-Indigenous children to be on care and protection orders.¹ In addition there are a range of other needs to be addressed, with the report noting that:

¹ Australian Institute of Health and Welfare 2012. "*A picture of Australia's children 2012*". Cat. no. PHE167 Canberra: AIHW.p.93

Aboriginal and Torres Strait Islander children Indigenous accompanying children aged 0–14 continue to be over-represented among specialist homelessness service users relative to their proportion in the Australian population. In 2010–11: 26% of accompanying children aged 0–14 were Indigenous, which was higher than the 5% they represent in the Australian population (AIHW SAAP National Data Collection 2010–11 unpublished data). The rate of Indigenous children accompanying their parent or guardian to a specialist homeless agency was 7 times that for non-Indigenous children aged 0–14 (99 per 1,000 children compared with 14 per 1,000, respectively) (AIHW SAAP National Data Collection 2010–11 unpublished data). Estimates of the Indigenous Australians who were homeless on 2006 Census night also suggest that Indigenous Australians were over-represented. Although the number of homeless Indigenous children has not been published, 10% of the overall homeless population were Indigenous, considerably higher than the proportion of the total Australian population who are Indigenous (2%) (ABS 2008a).²

ii) the current Queensland government response to children and families in the child protection system including the appropriateness of the level of, and support for, front line staffing;

At present, the legislation does not provide for what constitutes “Best Interests” or sets out, with certainty, the necessary stages required in assessing “risk of harm”. The current risk assessment tools are not necessarily incorporating Indigenous focused parenting styles or indicators of what should be the determining factors in Indigenous communities of risky behaviour.

In assessing the effectiveness of the current Child Safety workers file load, we see the workers are required to remove children, work with the parents, have carriage of a part legal/part social science file, and make determinations of parenting skills and whether parents can be ‘assessed’ as understanding protecting children from risk. We consider this must be particularly difficult for such workers, who are often recent graduates from university with little to no experience in such an emotionally charged area, and often have little to no experience within communities.

² Australian Institute of Health and Welfare 2012. “A picture of Australia’s children 2012”. Cat. no. PHE167 Canberra: AIHW.p.75

The support we consider would be beneficial for our client base would be having lawyers draft affidavits and negotiate with the file (in accordance with the Model Litigant principles). Given this area ultimately ends up being litigated, it would be helpful to have meaningful discussions take place at an earlier stage. By streamlining this area, this may reduce the current standard of poorly drafted or irrelevant court material as well as providing relief to the Child Safety workers in also having to draft material as well as manage their case load.

Further, the experience of the Child Safety workers often does not reflect the complexities of the role. For example, a new graduate from university, who may have limited experience with people with complex issues, is required to provide families with parenting skills and direction on the reunification or explanation as to why the children will not be reunified. We believe that many Child Safety workers want the best for the children with whom they are working. We further believe, however, that given the complexities and sensitivities involved with removing Indigenous children from families and/or communities that the level of experience and cultural competency and proficiency needs to be of the highest order.

In regards to what support is provided to case workers, there seems to be inadequate understanding of the legal system within which workers operate. As such there is a high level of power given to Child Safety under the legislation, which is sometimes misunderstood or disregarded. QIFVLS believes that staff who are taking part in the legal process on behalf of the Department, should be at a minimum trained in the court process, have a strong understanding of the relevant legislation, understand the importance of legal documentation and adherence to requirements under the legislation, particularly as they relate to issues of culture with Indigenous families.

As noted above, there is also a considerable turnover of staff which directly affects the continuity for clients of the progress of a client's file. This often makes it difficult for QIFVLS as a service because the carriage of files moves between Child Safety staff, and causes difficulties for clients who are not always clear which Child Safety worker they are working with.

A possible contributing factor to the high turnover of staff (particularly in the Cape and Gulf areas) is the lack of understanding by Child Safety as to what is culturally appropriate and a lack of understanding of Indigenous parenting. In looking deeper into the diversity of child rearing practices in Aboriginal and Torres Strait Islander communities, literature has identified that children form their social identity from communities and the way they raise children³. Further Indigenous children can have *“a network of caregivers and acceptance in their community. Attachment in a network of multiple caregivers in Aboriginal culture takes on a special significance. In a multiple caregiver context, the opportunity of forming an enduring affective relationship with more than one specific person in the community allows the support and maintenance of the children’s emotional health throughout their lifespan”*⁴.

Accordingly the lack of understanding of cultural child rearing practices, is in QIFVLS experience often the key to what a Child Safety worker perceives as ‘risk of harm’ to the children when in fact this is not the case. This lack of understanding on cultural considerations together with the little to no understanding of the prevailing community standards can often account for the misconception of risk. For example, Child Safety workers use their own perception as evidence of risk children walking home ‘alone’ when the community has its own security/awareness of children’s locations.

iii) tertiary child protection interventions, case management, service standards, decision making frameworks and child protection court and tribunal processes;

It is our perception that some workers in Child Safety do not consider they work within a legal sphere and are therefore not bound by rules of evidence. It is considered that Child Safety fail to understand the power provided to their government department; how it has been created and their obligations to work within it as a legal framework. This is explained further under Decision Making Frameworks.

³ Yeo, Soo See, *“Bonding and Attachment of Australian Aboriginal Children”*, Child Abuse Review Vol.12: 292-304 (2003), p. 297

⁴ See footnote 1 – p. 299

Child Protection Intervention

Many of our clients have a number of children. We have seen, and been told by a number of clients, that they feel Child Safety assume any new child born will be an automatic removal. This creates high anxiety for the parents because they assume Child Safety will remove their baby because of past Child Safety involvement – i.e. past behaviour is not just a possible indicator of future behaviour but past behaviour dictates and unequivocally predicts future behaviour.

Our clients report to us that this means they are rarely given the opportunity to change or demonstrate that changes have been made. In addition they are made to feel that positive change is temporary and that Child Safety are expecting, and are waiting for them to make a mistake. As such, clients who have had children removed often have all children removed.

This “crystal ball” approach to case plan negotiation is often detrimental to clients. Child Safety behaves in such a risk adverse manner that children are removed “in case something happens in the future”. Often the Child Safety workers are trying to insulate the child rather than allow the parents to make mistakes in parenting – mistakes which may not cause any level of risk to the safety of the child.

This is compounded for our clients who are victims of family violence or sexual assault who are often too scared to report this behaviour for fear of Child Safety’s intervention resulting in children being removed. In a relationship where there is spousal violence (intimate terrorism⁵), the victims is, in our view, often protecting her children from being hurt as she is the one who is the recipient of abuse. Rather than expose the abuse, it is often the fear of having children removed which prohibits victims from either reporting abuse, seeking assistance for the abuse or in some cases, even protecting the abuser by minimising or denying that the abuse occurs or occurred.

In addition, the legal jargon often associated with Child Safety orders and agreements is often misunderstood by clients and/or not well explained by workers. We have found that some clients have ‘agreed’ to Long Term Guardianship orders when they were not aware of

⁵ Johnson, Michael P, “A Typology of Domestic Violence: Intimate Terrorism, Violent Resistance and Situation couple Violence”, Northeastern Unity Press, 2008 pp. 5

options they had at the time of the 'agreement' and what they could do instead of the Long Term orders being made. In addition, some clients did not understand the implications of a Long Term Guardianship order, and did not realise they were assenting to the removal of their child until that child had turned 18. When this was explained to them these clients have been horrified, and reported that they didn't and wouldn't assent to such an arrangement. In addition, for many clients English is their second, third or fourth language. There have been instances of which QIFVLS is aware where clients were told to sign case plans that it was possible they couldn't even read, that had been written on scraps of paper and which everyone in the family was made to sign, even elderly grandparents who could not and did not understand what they were signing.

Case management

The case plans proposed by Child Safety often do not have realistic, specific and/or measurable outcomes for clients. This means that it is sometimes difficult, if not impossible for parents to achieve/meet the expectation of Child Safety's outcomes because those performance requirements have unachievable goals. This is particularly the case when considering the resources in the regional and remote locations. For example, if one parent requires intensive therapy for a specific area and that is a requirement of the case plan, that type of therapy may not be available in that community. It is often the case that Child Safety expects that person to travel and reside in a place where that therapy is available (despite the expense) simply because Child Safety considers it important.

An additional concern regarding the case management process is that Child Safety workers generally endorse their own case plans. This does not necessarily provide for an accurate reflection of the entire agreement. In addition, we are aware that often a number of case plans exist, particularly for children in out of home care arrangements. This is a waste of resources, is not a true case management model and is not a client centred, strengths based model.

Other concerns QIFVLS has noted are:

- Lack of case conferencing. Sometimes no reviews have been done for months, if not years and only after significant contact by an advocate to schedule meetings. In some circumstances Child Safety have requested guidance from QIFVLS as to how to do a case review – even when a child has been on a long term order - because they have no experience or knowledge as to what is involved.
- Evidence gathering is often flawed because of Child Safety trying to find evidence that most supports the decision they want to make. Opposing information seems to be either ignored or not actively sought.
- No real negotiation seems to occur at conferences. The outcome seems to be predetermined and the conference merely a formality- i.e. not a conference but information provision.
- The client is not always treated holistically, with issues of poverty, inadequate housing or other social issues addressed as part of the case planning and case management process. For example, in one case Child Safety used as a reason to not allow reunification that the client was living in the house with parents and DV had been present in the past. When Child Safety was asked to assist in regards to priority housing to facilitate reunification, they claimed that as now they were seeking a long term guardianship order that they were prohibited from assisting with priority housing and that the client living with her parents was actually “protective” in respect of the child.

Decision-making framework

We have outlined previously the concerns we have regarding the current decision making process:

- There is no provision in the legislation for the onus to be on Child Safety to provide parents reasons for the decision to remove/outcomes of investigations regarding children. The onus for requesting these reasons is on parents. This provision is contained within the legislation and unless

aware of this request mechanism, this information is unknown to parents and either not exercised, or only used in later proceedings.

- Child Safety appears to favour policies and procedures over actual law in regards to the requirement for Blue Cards (in the case of kinship carers for example). The Child Safety website states that blue cards are compulsory, however the legislation actually states that this is at discretion and a factor to be taken into account only. This requirement for a Blue Card prohibits some suitable kinship care arrangements to be entered into by relying on what is essentially a misreading of the legislation.
- Child Safety workers often find it difficult to deal with legal representatives. For example there are too many instances where Child Safety workers approach and discuss their matters with the clients directly (who are legally represented) without their legal representative consulted or present at such discussions. In addition, it is sometimes difficult to obtain the documentation required, even though as legal representatives QIFVLS is entitled to obtain this documentation. We also believe that in some cases, where clients wish to seek and avail themselves of legal representation that this is not encouraged and possibly seen as a hindrance.
- The decision making/risk assessment framework is not a culturally appropriate decision making tool for Indigenous people.
- QIFVLS has found that on many occasions a Child Safety worker attends court events and/or formal negotiations, without them having the necessary delegation or authority to make decisions on behalf of the Department. For example, at court mentions it is often the Court Coordinator and the Child Safety worker who has carriage of the file, who attends court. However, neither can make decisions on changes to orders or applications without the consent of the Team Leader. This makes it difficult when there needs to be alterations and negotiation as to time between the parent and the children/children and causes unnecessary delay and emotional distress to clients.

- The time allocated for children's contact with parents is approximately an hour a week. This does not provide for sufficient time for attachment between the child and parent(s), particularly those parents who have relocated from communities to be near the children in more 'metropolitan' areas. In addition, such meetings are often superficial because they are supervised and/or in locations which are not conducive to real communication.
- Parties, including parents, are often not asked about their availability to attend meetings and often meetings are conducted by telephone to the parties' legal representatives while Child Safety are in communities. This is a false assumption on the part of Child Safety in believing that parents can attend meetings at whatever time Child Safety indicates, and that they have no other prior engagements such as work. It also causes a power imbalance for the clients as their support person and/or legal representative may not be with them in person, given the often short time frames proposed for meetings and a constant change of meeting times.
- The Child Safety system is incredibly distressing for families. Clients in communities have described the removal of children from their care and from communities as a whole, as another "stolen generation". Some parents have stated that they cannot negotiate the Child Safety system any longer, and feel that instead of "fighting" the system they will wait until their children return home of their own volition after the Order has expired.
- QIFVLS believes that for each case, reunification needs to be the final goal, with clear and measurable progress noted and resulting in appropriate outcomes. We note that in some cases, it is not in the best interests for children to be reunified given safety issues; however this does not preclude this being the underlying philosophy of Child Safety.
- The removal of children from community to a regional centre is highly problematic. Given connection to family and country, removal from communities significantly affects ongoing linkages to culture.

- QIFVLS has noted that Child Safety workers often use parent's initial reactions to a removal of their child/children as behaviour unbecoming of a parent. This behaviour is then reported in affidavits and relied upon as evidence of a parent's inability to work with Child Safety.
- QIFVLS clients have stated that when the children are placed in care they are often not informed where their children are placed, or if they are with Indigenous families or the usual day to day activities such as if the children are attending school.

Child Protection Court

We have stated above our concerns regarding some Child Safety worker's knowledge of the legal process and conduct throughout.

The other issues we have noted regarding the current court system:

- The inconsistency of evidence in the proper form. QIFVLS has noted that a considerable amount of filed material from Child Safety contains opinion (not expert opinion), historical information (and at times unsubstantiated allegations) which are presented as current issues/evidence of risk of harm. This creates an issue for the court in determining whether the information has any relevance or probative value to the risk of harm to the child.
- There are generally no written reports from the REs upon which the Court can rely regarding cultural considerations.
- The fact that the Department of Communities is responsible for facilitating the FGMs and Court Ordered Conferences which does not provide for an independent party in resolving matters. This we believe unfairly disadvantaged clients.
- The length of time between removal of a child/children and Family Group Meeting, Court Ordered Conferences and hearings may take over a year with

“justice delayed is justice denied”. This is a highly stressful situation, particularly when the parents have relocated from their residence and are only seeing their child twice a week for two hours. The emotional cost of the entire Child Protection process is not quantifiable.

- Despite issues of Child Protection and Domestic Violence being complex, traumatic and a difficult area of law, the fact that these matters are sometimes considered ‘private’ or ‘family related’ has then appear to be ‘soft law’. QIFVLS believes these matters are so important that significant training of all those involved in the legal and court processes be mandatory. This includes training in Family Violence and cultural considerations including Indigenous parenting.

iv) the transition of children through, and exiting the child protection system;

Parents and children often need high levels of early intervention and case management support throughout the child protection experience. Often, neither children nor parents appear to be appropriately supported throughout the process. It is not unusual for children to be returned to their parents when foster parents are unable to care/control the children, for example when children become involved in the juvenile justice system. This places significant pressure on families. It also runs the risk of further Child Safety involvement with the family, particularly where younger children are involved. Instead a more carefully managed “through-care” and support process is required.

d) reviewing the effectiveness of the monitoring, investigation, oversight and complaint mechanisms for the child protection system and identification of ways to improve oversight of and public confidence in the child protection system;

We believe that it is an inherent conflict of interest that complaints about Child Safety are directed to and managed by Child Safety. There is no independent external review and

investigation process associated with the Child Safety system. Instead, complaints are managed by more senior staff or through the internal child protection complaints mechanism. We would consider that this reduces accountability, transparency and impartiality.

We submit that significant changes are required to the Child Protection system in order to see improvement in process and outcomes. These changes include:

- Change the Child Safety risk assessment tools to be more culturally appropriate.
- Increase the focus of Early Intervention and Prevention and support of families.
- Improve training for Child Safety workers in the areas of cultural understanding and competency and the legal process.
- Consider the creation of 'hubs' in regional areas where parents can be supported in required to be away from communities. These community hubs could provide a 'one stop shop' for practical and emotional support, training, therapeutic interventions and in a possible residential setup.
- Consider a move away from Government as the provider of Child Safety intervention to a more community controlled, non-government organisation model.
- Strengthen the process required in any case which involves potential removal of a child. This could include:
 - Contact the parents (and legal representatives) and organise for a mediation/Alternative Dispute Resolution (with an organisation not within Child Safety) to occur and when all avenues are exhausted, the parties can obtain a completion certificate (similar to the Family Law s60i certificate) to go to court.
 - The appointment of a Recognised Entity and Child Representative at the beginning of the matter (at the time the initial notification is made) so as to provide an opportunity to have a more child inclusive/involved conference.

- When the initial application is made, an interim hearing heard within 14 days of the application being filed to determine the interim care arrangement.
- A social assessment completed by a trained psychologist with experience in dealing with Indigenous communities.
- The final hearing completed within six to eight months from the date of the initial application.
- The litigation process be the last resort rather than the first step action. Where litigation is warranted, it should be dealt with by Crown Law and not non-legally trained Child Safety workers.
- Education should be provided to all parties regarding 'Best Interest' issues as well as cultural considerations.
- Consideration regarding the time spent with children and parents be adopt similar legislative assessments outlined in the Commonwealth *Family Law Act (1975)* "Equal time or Substantial and Significant Time".
- Resources need to be directed to geographical areas of greatest need.