



Office of the Public Advocate

Submission

Protecting Victoria's Vulnerable Children Inquiry

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Introduction

The Office of the Public Advocate (OPA) welcomes this opportunity to contribute to improving the child protection system in Victoria. OPA has long-standing concerns about the sometimes unfair and harmful consequences of the operation of this system for parents with a disability and their children. Additionally, OPA sometimes deals with adults with a cognitive impairment who seem to have had very poor outcomes from their unsettled placements into out-of-home care as a child. These concerns relate to different aspects of several terms of reference for the inquiry. For this reason OPA has elected to concisely submit some overarching observations which explain our concerns, followed by recommendations. These relate mainly to the operation of the child protection system, and its interaction with disability and other supports needs.

Where support needs associated with disability or mental illness is part of the family context, OPA urges the Inquiry Panel to recommend solutions that focus on the delivery of adequate effective and timely support to parents and children. Helpful and adequate support provision should be the obligatory first approach taken (rather than the child's removal) when there is concern that a parent or child's disability may give rise to child neglect.

OPA has highlighted these issues through a series of submissions and contributions to projects for more than a decade. While recommendations previously made by OPA have not been sufficiently implemented, and unhelpful practices persist, this submission has been kept brief. OPA also notes the current Victorian Law Reform Commission proposal to lower the age limit of the *Guardianship and Administration Act 1986* to sixteen, and raise the age limit of the *Children, Youth and Families Act 2005* to eighteen.¹

Unfair discrimination

The primary issue identified by OPA, from which other problems flow, is the lack of understanding and support offered to vulnerable families where the parent also has a mental illness, intellectual disability, acquired brain injury or physical disability (hereafter

¹ See Chapter 11, pp.205-216, Victorian Law Reform Commission (2011). Guardianship consultation paper. Melbourne.

referred to as disability). OPA acknowledges that there has been a significant increase in the number of families where disability is present. There is a continuing presumption that parents with a disability are unable to meet the developmental needs of their children. Research has shown that having a disability is not a predictor of capacity to parent.² OPA remains concerned that there is a continuing discrimination in the way in which parents with a disability are viewed and treated by workers, and risk management approaches and other procedures within the system.

OPA is also aware that some parents need significant assistance from the service system to effectively parent. For many years now, OPA has been concerned by the lack of adequate support for these families, resulting in the permanent removal of children to out-of-home care. The frequent changes in placements which usually follow have a serious negative impact on the child's development and life outcomes.

In July 2003 the Office and the Victorian Parenting Centre (VPC) co-hosted a forum to consider the broad range of issues confronting parents with a learning difficulty. Parents with other disabilities also experience similar problems in being adequately supported. A working party from that forum developed the following vision statement: *A society that recognises the capacity of all individuals to be effective parents.* Work has been done since then to develop a range of mechanisms for providing assistance to all parents, including the most disadvantaged and vulnerable. This work, supplemented by advocacy provision, needs to be properly resourced and expanded.

Systems changes and culture

OPA believes that previously too much emphasis was placed on restructuring the service system, imposing greater managerial controls, and legislative reform as a way of addressing deficiencies in current service practice or public alarm over tragic cases of harm to children. While this approach may have resulted in some improvements there now needs to be a reframing of the child protection response to disability.

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Booth, T., D. McConnell, et al. (2006). "Temporal Discrimination and Parents with Learning Difficulties in the Child Protection System." *British Journal of Social Work* 36(6): pp. 997 - 1015,
Fitt, K. and Parents with a Disability Community Network (2010). *Our forgotten families: issues and challenges faced by parents with a disability in Victoria.* Fitzroy, Yooralla and VALID Inc.

More recently within child protection services there has been greater scrutiny and action for issues such as workforce and staff recruitment, defining outcomes and standards, supervision and enhanced training to promote best practice. OPA's understanding is that this training has focussed upon the technical competencies associated with child protection case work, including the investigatory elements. OPA is very concerned about some consequences of the increased focus upon risk assessment, and more routinised procedural approaches. This may have exacerbated an already present predisposition to treat the presence of disability as a problem to be controlled and managed, rather than seeking to engage with the family context and develop person-centred solutions.³

OPA's continuing concern is that the acceleration of measures from within the current frameworks may not challenge or shift systems and a prevailing culture that can stigmatise parents with a disability, leading to unfair and discriminatory practices.

Best Interests

OPA reasserts the principle that it is in the best interests of the majority of children to grow up with their families, and that this principle equally applies to families affected by disability. Where children have been removed, reunification should always be pursued as the immediate goal, unless there is a real, unacceptable risk to the well-being of the child.

Emphasising permanent placement (particularly at an early stage) exacerbates the tendency to not actively pursue supports for improving the functioning of the family unit. This is influenced by misunderstandings and at times active discrimination against parents with a disability by child protection workers. A lack of adequate immediately available family support services for assisting these families increases the likelihood of permanent placement of children in out-of-home care becoming the preferred option, to resolve the assessed situation. Whilst OPA acknowledges that failed efforts at family reunification need to be avoided, OPA's experience is that reunification is often not attempted, even where it is likely that the family context can be remedied by available additional support measures.

³ See discussion by Eileen Munro of the detrimental impact of greater attempts to manage risk in child protection.
Munro, E. (2010). "Learning to reduce risk in child protection." *British Journal of Social Work* 40: 1135-1151.

Recommendation One

That each element of the system (family services, statutory child protection services, out-of-home care) is required to revise its training, knowledge management, risk management, other program support infrastructure, and procedures or practices that lead to indirect or direct discrimination that detrimentally affects families where disability is an issue.

Review of the practices, policies and procedures by all elements of the system should ensure these are consistent with their responsibilities under equal opportunity and anti-discrimination legislation. For example, one consequence of this would be that parents with a disability are always provided with information about their rights and responsibilities in a format that they can understand.

Recommendation Two

That each element of the system develops or enhances networks and connections with people with a disability and disability support systems to increase disability awareness and responsiveness.

Consideration should be given to creating program adviser positions, or adequately supported portfolio roles, having this responsibility.

As part of this initiative, formal training for workers should include a disability awareness component that is delivered by parents with a disability and disability support and advocacy agencies.

Recommendation Three

That DHS be required to develop a protocol that enhances the relationship between child protection services and disability client services. Its objective would be to streamline and prioritise the provision of timely, adequate and needed disability support provision to parents with a disability who have come to the attention of child protection or family support services.

Recommendation Four

That useful and properly resourced and coordinated training and positive parenting support is available to all vulnerable parents with a disability who are in contact with the child protection system.⁴

Recommendation Five

The establishment of a properly resourced information and advocacy service that provides direct and indirect support to vulnerable parents, including those with a disability, who are in contact with the child protection system.

Further information

The author of this paper, Mark Feigan, may be contacted on 03 9603 9573 or via Mark.Feigan@justice.vic.gov.au to provide clarification of points made in this submission.

References

- Booth, T., D. McConnell, et al. (2006). "Temporal Discrimination and Parents with Learning Difficulties in the Child Protection System." British Journal of Social Work 36(6): pp. 997 - 1015.
- Fitt, K. and Parents with a Disability Community Network (2010). Our forgotten families: issues and challenges faced by parents with a disability in Victoria. Fitzroy, Yooralla and VALID Inc.
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