

# Submission to Protecting Victoria's Vulnerable Children Inquiry

Bendigo Sitting  
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 Ioddon campaspe  
community legal centre  
A program of the Advocacy & Rights Centre Ltd

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Loddon Campaspe Community Legal Centre (LCCLC) acknowledges at the outset the importance of this opportunity to provide a submission, which aims to identify systemic problems within the Victoria's existing child protection system and provide suggestions to better support and protect vulnerable young Victorians. We are particularly grateful that the Inquiry is conducting regional sittings and believe that this contributes to people and organisations in rural and regional Victoria having greater input to reforms and systems that affect their lives.

### Background

The Loddon Campaspe Community Legal Centre (LCCLC) was established in 2005, is a generalist community legal centre servicing the Loddon Campaspe region and provides pilot services in the Goulburn Valley region. It provides legal assistance, delivers legal education and conducts policy and reform work. Legal assistance is provided in a broad cross section of matters, including child protection disputes in the family division of Victoria's Children's Court. While this work tends to comprise a small component of LCCLCs work (because most of the parties are legally aided) it is nevertheless significant, with most of our work involving representation for grandparents of children who are the subject of child protection interventions or proceedings.

In 2009 the Loddon Campaspe Community Legal Centre (LCCLC) received a small amount of one-off Commonwealth funding to help meet the needs of older people in Central Victoria. This funding was applied to respond to the legal needs of grandparents within the region. The work undertaken by LCCLC included engaging with a Kinship Care Group which meets weekly at St Lukes Anglicare, Bendigo. The group consists of about twenty members who are mostly kinship carers for their grandchildren who have been placed in out of home care. LCCLC engaged with the grandparents so as to identify concerns and develop strategies to address those concerns. Part of this strategy was to provide increased legal assistance and representation both in the Children's Court (Family Division) as well as the Federal Magistrates Court (Family Division).

### Submission Framework

This submission draws from LCCLCs engagement with the Kinship Care Group and the direct experiences of LCCLC. While the term *kinship carers* or just *carers* is used in this submission to refer specifically to grandparents, LCCLC believes that issues experienced by this cohort of kinship carers are likely to be experienced by other cohorts (such as friends or other relatives) who are kinship carers.

LCCLC notes the submission by Grandparents Victoria to the recent Victorian Law Reform Commission inquiry into the child protection application process, and endorses the general sentiments expressed in that submission.

## **Overarching Perspectives of Submission by LCCLC**

Grandparents that provide kinship care during the child protection continuum are often in an invidious position – wanting to support their own children (or their partners); wanting to protect the best interests of their grand-children; trying to maintain difficult and often untenable relationships with their own children while retaining connections with their grand-children; supporting child-protection interventions while keeping Child Protection Services accountable for their conduct; often being ineligible for legal aid because they own their own home; the list goes on.

Because they are in this invidious position they are significantly disempowered, both formally and informally, from actively participating in the resolution in child protection interventions or proceedings. Notwithstanding this disempowerment, they are relied upon time and time again by Child Protection Services and parents to provide continuity of care during interventions or proceedings – many feel used and also feel guilty for expressing this because of their affections and loyalties to their children or grand-children.

Their experience of Child Protection Services is highly variable, ranging from excellent engagement and participation, through to active exclusion and disregard. Where excluded from decision making processes (at Court or within Child Protection Services) they often feel that they are perceived as meddlers should they attempt to intervene, demanding a voice to communicate what they believe are in children’s best interests. In many cases it can be contrasted to their ostensible position under the *Family Law Act 1975 (Cth)* where their standing and ability to properly contribute is likely to be more highly regarded and readily welcomed (albeit that the jurisdiction is excluded during the passage of the child protection proceedings!). In short, many grandparents that we have had contact with feel as though their role and relationship is exploited and not respected, much less esteemed.

LCCLC recognises that in many circumstances it may be inappropriate to involve or over-involve certain grandparents; LCCLC is not naïve to the complexities of dynamics within extended families. Nevertheless, LCCLC wishes to impress the following key points upon the Inquiry panel:

1. The importance of kinship care in caring for and protecting vulnerable children.
2. The general lack of formal recognition given and participation afforded to kinship carers in the current child protection continuum.
3. The general lack of attention given to the role, importance of and participation by kinship carers in the child protection continuum by the Victorian Law Reform Commission’s *Protection Applications in the Children’s Court: Final Report* June 2010.
4. The need for increased focus on shared decision making which is respectful of existing cultural and family connections.

5. A greater formal recognition of the importance of kinship carers in protecting children and providing appropriate out-of-home care, and practical support for this role.
6. The need for holistic, all of government approaches to address issues of substance abuse, mental health, poverty and marginalisation which impact on families at risk.

### **Terms of Reference**

LCCLC has focused its submission on question 3 of the Inquiry's Terms of Reference, *"The quality, structure, role and functioning of: family services; statutory child protection service, including reporting, assessment, investigation procedures and responses; and out of home care including permanency planning and transitions; and what improvements may be made to better protect the best interests of children and support better outcomes for children and families."*

### **C. Out of home care including permanency planning and transitions (strengths and weaknesses)**

#### **Strengths**

1. Kinship care recognises the importance of existing cultural and family support and relationship
2. Foster and kinship care allows a child to remain in a family like environment as opposed to institutional care.

#### **Weaknesses**

1. The general lack of adequate financial support (or information about available support) provided to kinship carers.
2. The lack of participation in planning of future care and aims offered to kinship carers. Kinship carers referred to feeling like "unpaid babysitters".
3. Lack of non financial supports such as counselling provided to kinship carers.
4. Lack of information provided to carers, regarding future plans and aims. Carers are often excluded from best-interest meetings.
5. Carers do not understand the system and are not provided with enough information so as to be able to navigate through all the different services.
6. Children spending most of their life in out-of-home care yet they are approaching the age of ten and reconciliation is still the underlying focus of case planning.
7. Concern that once a child is placed in permanent care all supports are withdrawn - this is a particular concern in relation to children with special needs.
8. Kinship carers are concerned with the high turnover of caseworkers within Child Protection Services as this often leads to a lack of consistency and continuity.
9. Lack of experienced caseworkers within Child Protection Services.

*Case study 1 (hypothetical case study based on similar experiences, no real names are used)*

*Sarah was woken early one morning by a knock at her door. Sarah opened the door and was confronted by child protection worker and her three granddaughters. Sarah was asked if she would provide care for her three granddaughters who had been removed from the care of their mother, Sarah's daughter. Sarah agreed but was not provided with any paperwork or documentation which acknowledged her position as carer nor was she provided with any information regarding the access of services or financial support. Sarah found the system bewildering and had no information regarding how long the children would remain in her care. Sarah also found it difficult getting services such as the school and doctor to recognise her role as carer of the girls.*

### **C 3.5.3 Out of Home Care**

1. More funding is needed to provide more consistent educational, health and mental health needs to address the needs of children in out of home care.
2. Kinship carers are concerned with lack of ongoing counselling particularly specialist counselling services available for children. This is a particular concern given that some children have experienced significant abuse and often display severe behavioural disorders.
3. The importance of a child in out of home care to be exposed to their culture and have an opportunity to participate in all elements of their culture including religion, language, food and customs.
4. Kinship carers are often concerned about contact arrangements between parents and children, particularly where the protective concerns have not been sufficiently addressed.
5. Kinship often bear a heavy onus in facilitating contact between the child and parent often kinship carers feel that parents should have to provide a greater commitment to maintain the relationship with their protected child.
6. Kinship carers are concerned when children are being compelled to maintain contact visits with a parent when the protected child is unwilling to do so.

*Case study 2 (hypothetical case study based on similar experiences, no real names are used)*

*John and Betty are kinship carers for their grandson Jason. Jason was been removed from his parents care over protective concerns regarding his mother's substance abuse and subsequent neglect of Jason. Jason is nine years old and has displayed severe*

*behavioural problems. Jason is a big boy for his age and has smashed holes in the walls of his grandparent's home and has experienced difficulty socialising at school. Jason has attended counselling in the past and John and Betty feel that Jason would benefit from ongoing counselling from a specialist service. John and Betty have both approached the Child Protection Services caseworker about specialist counselling. They have been told that it will be considered, however, after waiting over twelve months no further counselling has been organised. Jason's difficulties and behaviours continue.*

### **3.5.4 Views of Children**

1. The views of children and young people are important and should be given appropriate weight depending on the age and maturity of the child.
2. It is sometimes difficult to determine the views of the child when a child is vulnerable to manipulation.
3. The views of kinship carers are important and can be obtained if greater participation of carers within the whole process is encouraged.
4. Carers should be included in the planning process as well as during any adjudication. The current system provides a mechanism under section 522 of the Children Youth and Families Act 2005 for carers to be joined as parties to any proceedings in the Children's Court however despite numerous applications under this section, LCCLC is yet to have supported a successful application. Consequently, carers are unable to raise their concerns other than with the relevant caseworker. In turn this means that the Court may not be privy to all relevant information. The carer may raise concerns with the caseworker who may omit that information from the court report.

*Case study 3 (hypothetical case study based on similar experiences, no real names are used)*

*Doug is the carer for his grandson Mark. Mark is the son of Doug's daughter who is now deceased. Mark has been in Doug's care formally since he was four years of age when a protective application was made by DHS and Mark was placed on a Custody to the Secretary Order. Doug was heavily involved in Mark's care as a primary carer prior to the Department's involvement. Mark is now ten and the Department are applying for the sixth extension of the Custody to the Secretary Order. Doug has made two previous applications under section 522 of the children Youth and Families Act to be made a party to the proceedings. Doug is concerned that Mark's mother Debra is still using drugs and is abusive both verbally and physically to Mark while he is in her care. Doug has raised these issues with the DHS caseworker but Doug's concerns have not been documented in the previous court reports.*

*The Court has previously dismissed Doug's application on the basis that if made party Doug would have access to sensitive material such as the reports relating to mother's mental health. Doug will make a further application to the Court under section 522 because he is concerned the Court is adjudicating in the absence of all relevant information.*

### **3.5.5 Reducing Placement Instability**

1. More funding for better services for children in care.
2. More information and supports for carers.
3. More services and funding available to address (in the lives of parents and children) the underlying issues around substance abuse, mental health and poverty.
4. Greater adherence to conditions contained in Children's Court orders, particularly concerning use of illicit drugs and alcohol.
5. Greater adherence to parenting courses prescribed by Children's Court orders.

### **3.5.6 Achieving Permanent Care in a timely manner**

1. More realistic consideration of concerns and the parent's ability to address those concerns.
2. More realistic assessment of best interest in terms of reconciliation being the ultimate goal
3. Ongoing supports both financial and non financial support for children placed in permanent care particularly when those children have special needs or ongoing behavioural problems

### **Concluding Remarks**

Should the Inquiry require further information regarding any aspect of this submission LCCLC is happy to provide this at the Panel's convenience.