



Parliament of
South Australia

REPORT

OF THE

SELECT COMMITTEE

ON

FAMILIES SA

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Third Session, Fifty-First Parliament 2008-2009

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1. Select Committee on Families SA

1.1 Appointment and Terms of Reference

On 14 March 2007 the Legislative Council of South Australia appointed a Select Committee to examine and report on Families SA, and any predecessor entity in existence since proclamation of the Children's Protection Act 1993, with reference to:

- (a) The policies and procedures of Families SA in dealing with children, and in particular:
 - i. where reports of suspected substance abuse by the parents or carers of children have been made;
 - ii. where reports of suspected substance abuse of a child by the parents or carers of children have been made;
 - iii. where reports of suspected abuse and neglect of children have been made;
 - iv. the circumstances in which children are removed from the parents or carers of children and the criteria, assessment and follow-up of the persons designated to subsequently care for those children at risk (and the priority with which the natural parent, grandparents or other family members are considered as the primary carers of choice for those children);
 - v. the medical and psychological evaluations undertaken of the parents or carers of children where allegations of abuse or neglect have been made, including appropriate assessment of the levels of addiction that may exist and the support provided by the Department to rehabilitate and reunite the family;
 - vi. the models, methods and processes used to preserve the family unit prior to removal of children;
 - vii. the procedures used by the Department to prove allegations made against parents or carers through psychological evaluation of parties concerned and other investigative processes;
 - viii. the frequency of implementation, monitoring and evaluation of Family Preservation Plans, the effectiveness of such plans and the means and timeframe of implementation; and
 - ix. the obligation of the Department and any of its predecessors to abide by orders of the Court for ongoing assessment and supervised visitation and reunification.
- (b) The compliance of staff with the practices, policies and procedures of Families SA and any predecessor entity.
- (c) The involvement and/or interventions of Families SA as a part to any Family or Youth Court matters.
- (d) The substance, content and spirit of submissions made by Families SA and any predecessor entity to any authority, court or tribunal in relation to its duty of care.
- (e) The level of influence of the Department on independent professional assessors.
- (f) The obligations and duty of care of the Department in making decisions affecting the welfare of children and, in particular, to provide evidence (and the standard of that evidence) to any entity, including any court.
- (g) Any other related matter.

1.2 Membership

The Select Committee is made up of the following members:

- The Hon C V Schaefer MLC (Chairperson)
- The Hon A M Bressington MLC
- The Hon A L Evans MLC (inception to July 2008)
- The Hon R D Lawson MLC
- The Hon R L Brokenshire MLC (18 August 2008 to conclusion)

Secretariat

- Ms Noelene Ryan
- Mr Trevor Blowes
- Mr Guy Dickson

Research Officer

- Dr Pam Carroll

1.3 Process

Following its appointment, the Select Committee advertised in *The Advertiser* and all South Australian regional papers in April 2007, inviting submissions from interested persons and organisations. An approach was also made to various organisations inviting them to make submissions or to give evidence. The Committee passed a resolution at the first meeting that all written submissions be received in confidence. Ninety-two written submissions were received and evidence from 38 witnesses was heard. Hearings commenced mid 2007 and concluded mid 2009.

On 11 November 2008, the Select Committee tabled an interim report relating to the Department's relationship with the SOS Children's Village which operated as a licensed foster care provider at Seaford Rise between 1996 and 2004.

The Committee considered that the establishment, operation and ultimate closure of the Village raised significant concerns about the operation and attitudes of Families SA which were particularly relevant to Terms of Reference (a) and (g).

1.4 Nature of Evidence

The Select Committee allowed evidence of a retrospective breach in policy to be presented in camera and not on the record. However, individual matters relating to alleged perpetrators of child sex abuse and subject to a then current or past investigation by the Children in State Care Inquiry, or at that time being under review by SAPOL or before the criminal courts, were not considered by the Select Committee.

Given the serious personal nature of much of the information put forward, the Committee resolved to respect the privacy of individuals who presented evidence and not to publish their names or other details which might identify them. Similarly, the Committee have not named individual officers or Families SA District Centres. The same considerations do not apply to Departmental witnesses, academics and other specialists who did not seek anonymity.

1.5 Terminology

"The Department" means Families SA and includes its predecessors under various names including the Department for Family and Community Services and the Department of Human Services.

2. Executive Summary

Child protection is critically important for our community's most vulnerable. This Select Committee was appointed to examine and report on South Australia's statutory child protection body – the government department now called Families SA.

The Committee heard evidence that a culture of power and impunity operates within Families SA; that there is a “rotten culture of power without accountability”¹ in the Department. Many departmental officers behave in an unprofessional, biased and vindictive manner and they are permitted to hide from recrimination. Case-workers are bullied by supervisors. Departmental policy is developed without consulting with those working at the “coal-face”. Policy makers fail to support workers and readily shift blame for adverse events onto the workers rather than admitting to organisational failure.

This evidence painted a picture far removed from the Department's self-proclaimed culture: “*connected, ethical, brave and respected*”.² Any who come into contact with the Department would greet with cynicism the words of farewell from the former chief executive when she referred to a strong culture of “working together and putting our customers and their families first”.³

The passage of legislation with the cutely reassuring title of *Children's Protection (Keeping Them Safe) Amendment Bill 2005*⁴ and the publication of glossy brochures in response to the disturbing findings of the Layton Report have done nothing to change the ingrained culture of Families SA.

Undertaking child protection work is emotionally draining and can be traumatic to workers. This area of work requires very advanced skills. However, child protection is promoted to new graduates as an “entry pass” into work and is not well remunerated. The Department is inadequately staffed and there is a high turn-over of that staff. Low pay rates and unworkably high expectations have resulted in a workforce which has been leached of mature and experienced workers and mentors.

Many workers in the field are young and inexperienced yet have unfettered power, poor professional supervision and a lack of accountability. They often display an inability to work in partnership with families and foster carers who seek to address the emotional and psychological needs of children at risk. Many staff are untrained in child development and have little understanding of children's reactions to abuse and neglect. Staff also lack training in conflict management, case-conferencing and the skills necessary to productively engage highly emotional and disenfranchised parents, relatives and carers. Although much of the work undertaken requires, as a minimum, the skills of a qualified social worker, many caseworkers are underqualified for the tasks they are required to undertake. A better system of training is required.

Lack of experience and training may also explain why some caseworkers fail to adequately verify facts and case notes include conjecture as “fact”. Evidence was received that it is not uncommon for case records to be altered when they come under scrutiny.

The evidence established that the statutory child protection system in South Australia is in crisis. The total number of notifications has doubled in 10 years. The Tier system for isolating children at severe risk of abuse or neglect has failed. The Committee heard that Families SA investigates less than half the notifications. On some occasions, five to six notifications may be made about a child before a case manager is assigned. Those same workers stated that finding a serious case in the system is like finding a “needle in a haystack”.

¹ Supplement to evidence p117.

² Department of Families and Communities, *Annual Report 2007-08*

³ *ibid*, p4

⁴ The title of the Bill as introduced and promoted by the government. The title was changed by the Legislative Council to *Children's Protection (Miscellaneous) Amendment Bill*.

There are insufficient appropriate facilities in which to place children who are in state care. South Australia spends 35.4 percent less than the national average per child on out-of-home care yet has the highest per capita number of children in alternative care for a five year period or more. Most residential care facilities have been closed, and the quality of those remaining open is inadequate and overcrowded.

Families SA spent \$270,000 per child—over \$16 million in total in 2007-08—to care for a small number of children in motel type accommodation. This is unsatisfactory. Specifically dedicated accommodation facilities should be established to provide emergency accommodation for children at risk. The apparent antipathy of Families SA toward residential care facilities is misguided.

The current system of mandatory reporting requires a radical shakeup. Inappropriate procedures, poor practices and inadequate resourcing all contribute to the failure of the current system. It is responsible for causing further damage. Children are suffering due to multiple disrupted placements (as many as 40 within a twelve month period) and too many families are caught in the system when their problems would be better addressed by less formal means. In some cases it appeared that the delivery of support services for those in crisis was considered to be of a lower priority than the removal of children.

Many carers feel patronised, mistreated and afraid of being falsely accused of abuse. Many are no longer prepared to undertake the role of carer. Policy and legislation dictates that kinship carers (grandparent and other relatives) are to be given first preference when seeking an out-of-home placement for a child and 36 percent of children in state care are cared for in this way. While the system struggles to find appropriate placements for children who have been removed from their parents, many grandparents and relatives feel abandoned and ignored. They face obstructive resistance when applying to care for children with whom they have a family connection. Many continue to care for grandchildren in spite of a lack of funding and support.

South Australia relies more heavily than other states on foster carers to accommodate children in need: 49.5% of children in state care are placed with foster carers. Despite a twofold increase in children needing care, the number of foster carers in South Australia has remained static and many experienced carers have left the system.

The attempts of Families SA to recruit foster carers have failed. Foster carers require more access to information about the children in their care, greater freedom to make decisions about the children and access to services they deem necessary for the wellbeing of the children. Foster carers also require birth family access arrangements that are realistically in the best interests of the children as opposed to the best interests of the birth family.

Procedures for investigating complaints against foster carers and workers are not satisfactory. The competence of the Special Investigations Unit is questionable. The Committee was assured that the unit has been reorganised. However, serious questions remain about the fairness and efficacy of the investigative processes adopted within Families SA.

Many carers believe that the nature and complexity of their work will almost inevitably lead to a Care Concern being raised against them or that they will be the subject of an investigation. They have no confidence that their case will be given a proper, fair, independent and transparent investigation. They fear being left with a tainted record and being stigmatised by departmental staff even if the allegation is not confirmed.

Families SA lacks vision in the range of interventions it offers. It fails in its attempts to prevent or intervene in the lives of vulnerable families. Evidence suggests that many families requiring little more than respite care or support services are fragmented by the removal of children.

Although the manuals of practice promulgated by Families SA provide appropriate principles for removal of children at risk, in practice the principles are not applied consistently. The result is that, in many cases, removal of children is based on nothing more than a “snapshot” of a crisis rather than on a

proper evaluation of the case. Too often, Families SA fails to recognize that support, advice, guidance and a “less intrusive” approach would improve the long-term outcomes for children and their families.

Families SA policies for family preservation and reunification are not consistently applied. Often these policies are ignored. Some workers insist on numerous attempts at reunification between children and highly dysfunctional parents. According to the evidence of grandparents and foster carers, children are often forced to spend weekends with their parents against the child’s wishes. The effect can be traumatic leaving grandparents and foster carers to deal with unacceptable behaviour until the children settle back into routine. In other cases workers refuse to attempt reunification in spite of genuine efforts made by parents and carers to achieve this goal.

Planning and procedures used by Families SA for family preservation and reunification are at best inconsistent and at worst non-existent. Decisions as to the future of families are left to individual case workers many of whom are ill equipped and undertrained to make these decisions. Appropriate plans, properly implemented, would require parents to undertake specific courses of action to improve their parenting skills with an aim to eventually having children returned to their care.

Numerous inquiries since 1984 have documented complaints against Families SA. Successive governments have failed to implement all of the recommendations that may have seen improvement in practices and, over time, fostered a more cooperative culture and a higher level of accountability.

Despite the recommendations of earlier inquiries that there be greater interagency partnership, collaboration and communication, there is scant evidence of any improvement in the culture within Families SA. A comprehensive overhaul of the internal structure and management of Families SA is required if the culture is to improve. Strong leadership is also required to provide child protection workers with the training and professional development they require. Regular competency based assessment and evaluation should be introduced as part of that professional development.

3. Recommendations

The Committee recommends that:

1. The Minister must take steps to address the “rotten” culture within the Department.
2. The Department must adopt a more co-operative, accountable, transparent and inclusive approach to dealing with foster carers, families, non-government organisations and others.
3. An independent competency assessment and evaluation of minimum training and competency levels for child protection workers must take place.
4. An independent audit of the qualifications of workers within the child protection system be undertaken.
5. The mandatory reporting system be improved by the establishment of independent regional panels to determine appropriate responses to all notifications of child abuse. The panels are to consist of persons such as teachers, police officers and social workers, as well as Departmental officers.
6. Administrative staff be appointed in regional offices, as a matter of urgency, to ease the burden on case workers.
7. Greater efforts be made by the Department to respect the work of foster parents and carers and appropriate training and education courses be provided and encouraged.
8. There be an independent review of the performance and methods used by the Special Investigations Unit (SIU) and of the competence and qualifications of its personnel. That the review examine and report on the cases of Burgess, Easling and others where claims of false allegations have been made and acted upon by the SIU.
9. That family reunification practices and policies be re-examined and adjusted in light of research findings. In particular, reunification should not be universally demanded, but should be targeted, time-limited and subject to change if parents do not demonstrate sufficient progress for their child’s developmental and emotional needs.
10. That all relevant practice manuals, policy guidelines and proformas (e.g., for a Case Plan and Consent to Family Preservation Services) be published on the Department’s website and promoted to the public.
11. The Department should be encouraged to foster new and innovative models of care and service delivery. In particular, non-government organisations should be actively encouraged to participate in the field of providing care for children at risk.
12. To encourage the required culture change within the Department, an independent professional panel be established to deal with the complaints about the conduct of individual workers.
13. An advocacy service to assist parents and carers who are aggrieved by decisions and actions of the Department be established and adequately funded.
14. An on-line information service be established containing details of non-government organisations which provide information and support for families under pressure or in crisis.
15. That an independent investigation be undertaken to prepare a report on the operation of Section 38(1) of the *Children’s Protection Act 1993* (regarding substance abuse) with particular reference to the extent to which the department seeks orders under that section

requiring undertakings for parents and others, the nature of the undertakings sought and the actions taken to enforce and monitor compliance with such undertakings.

16. The reports from recommendation 3, 4, 8 and 15 be tabled in both Houses of Parliament within 14 sitting days of them having been received.

4. Interim Report

On 11 November 2008, the Select Committee tabled an interim report relating to the Department's relationship with the SOS Children's Village which operated as a licensed foster care provider at Seaford Rise between 1996 and 2004.

The Committee considered that the establishment, operation and ultimate closure of the Village raised significant concerns about the operation and attitudes of Families SA which were particularly relevant to Terms of Reference (a) and (g).

It concluded that the SOS village made a significant and worthwhile contribution to the South Australian child protection system during its 10 years of operation. The circumstances of its closure were deplorable and emphasized the Department's inflexible culture and practice with regard to models of care. The Department behaved appallingly through its overly rigid application of rules to staff-client relations and its disdain for, and devaluation of, the SOS organisation. The Department demonstrated its inability to work in true partnership with other organisations in caring for the state's most needy children.

Closure of SOS also reflects poorly on the Government. It underscores its blinkered approach to supporting children in its care and highlighting its lack of political leadership, financially and otherwise, in supporting an innovative and much needed model of care that has particular application to keeping sibling groups together. The Committee concluded that SOS did not close because it was a deficient model of care, but rather, SOS closed because neither the Department nor the Government were prepared to support it, even though the model has been applied successfully in many other countries.

The interim report made the following recommendations:

- 1 The Department should be encouraged to foster new and innovative models of care and service delivery. In particular, non-government organisations like SOS should be actively encouraged to participate in the field of providing care.
- 2 Departmental policies and practices should require that relationships between it and providers (whether they be an individual, an organisation or a family) should be based upon a true partnership in which the powers and responsibilities are more equally shared between the provider and the Department.
- 3 Departmental practices and policies in relation to family reunification should be re-examined and adjusted in light of the research findings of Dr Delfabbro and others. In particular, reunification should not be universally demanded, but should be "targeted", time-limited and subject to change if parents do not demonstrate sufficient progress for their child's developmental and emotional needs.⁵

Apart from reproducing the Committee's conclusions and recommendations in relation to the interim report here, this report does not revisit this aspect of the Committee's investigation. Instead, this report primarily focuses on a range of other recurrent themes raised as part of the Inquiry.

⁵ Delfabbro, P., Jennings, H., Rogers, N., Wilson, R. & Borgas, M. (2007). *Certainty for Children in Care*.

5. Current Report

In compiling this report, the Committee primarily drew on the written and oral submissions it received. It should be noted that the terms of reference for this committee were broad enough to allow for many aspects of the system to be brought under scrutiny. In spite of this, evidence with a number of recurring themes evolved. We have endeavoured to address these.

In spite of the breadth of the terms of reference, the Committee received very little evidence specifically relating to the Indigenous community.

It should also be noted that the Committee received some written and oral submissions from aggrieved persons who either expressed a hope or, by the nature of their voluminous, detailed and/or impassioned submissions, indicated an optimism that the Committee might help vindicate them from accusations and, in some cases, further their attempts to reclaim their children. One father whose children are in the alternative care system stated:

...I submit to this Committee...with total confidence that I can prove beyond doubt that [partner] and myself are victims...⁶

In these cases, the Committee gave witnesses a clear statement indicating that it was only able to deal with issues in a general sense and was not able to take up an individual's cause.

It should be further noted that there were persons who, in order to present evidence to the Committee, declined to accept a Departmental ex-gratia payment and sign a precluding discharge letter. One witness stated:

...I have had an Ombudsman inquiry going...it is now completed with some recommendations regarding how Families SA conducted itself during my time with them...These were the preliminary Ombudsman's findings...I undertook freedom of information to obtain these documents.

The document [dated 18 June 2007] is an offer of an ex-gratia payment in relation to the expenses incurred during the Ombudsman's inquiry. I have not signed the discharge letter, which would have precluded me coming to the select committee and discussing this with you.⁷

Another witness who had been falsely accused of perpetrating sexual abuse stated:

I do appreciate the committee's time. It has cost me a lot to be here. I have lost one home. I cannot afford [to lose] the second home to continue the battle, and that is what it would cost me.⁸

In cases such as these, the Committee wishes to extend to these people gratitude and respect for the effort and cost they expended in order to present their evidence. The Committee also wishes to assure these parties that it gave due consideration to their issues when writing this report.

Finally, it should be noted that there were far more requests to present oral evidence than the Committee could accommodate. In these circumstances the Committee did its best to canvas the broadest range of information before completing this report. The emergent themes were compelling and broad reaching.

5.1 Report Outline

This report is divided into two main parts. The first is an introduction. This provides an overview of the legislative framework within which Families SA operates and a review of:

⁶ Evidence p339.

⁷ Evidence p291.

⁸ Evidence p180.

- The statutory child protection system reforms that were instituted in response to the enactment of the *Children's Protection Act 1993*.
- Prior inquiries into, and reports about, the Department.
- Recent whole of state government realignment and Departmental restructure
- Information about the current federal context of statutory child protection of which the South Australian system is one part.

Part two of this report comprises the findings of this inquiry. It is divided into five main sections.

- The first - Section 7 - outlines the Departmental culture and its shortcomings as iterated to the Committee by those affected.
- The second - Section 8 - covers staff issues. These include staff training, staff supervision, workload, remuneration and support.
- The third - Section 9 - outlines the crisis within the statutory child protection system. This includes the blowout in numbers of abuse notifications and the crisis of where to place the growing number of children coming into state care. This section also covers the problems that grandparents, relatives and foster cares encounter as they seek to care for vulnerable children. Finally, this section outlines the problems and costs associated with residential care or motel style accommodation.
- The fourth - Section 10 - addresses preserving and strengthening families. It covers intensive family preservation services aimed at preventing a child's removal from the family, intervention services such as programs for reunification and maintaining best connections for children removed from their family. It also covers substance abuse, assessment and treatment issues—the latter being described as the “elephant in the lounge room”.
- The fifth - Section 11 - addresses other issues, namely Family Court matters.

6. Introduction

6.1 Relevant Legislation

Children's Protection Act 1993

The *Children's Protection Act 1993* (the Act) dictates that a child's safety is paramount. Nevertheless, supporting and assisting the family to fulfil its responsibilities towards children is accorded high priority. The objects of the Act⁹ are:

to ensure that all children are safe from harm; and

to ensure as far as practicable that all children are cared for in a way that allows them to reach their full potential; and

to promote caring attitudes and responses towards children among all sections of the community so that the need for appropriate nurture, care and protection (including protection of the child's cultural identity) is understood, risks to a child's wellbeing are quickly identified, and any necessary support, protection or care is promptly provided; and

to recognise the family as the primary means of providing for the nurture, care and protection of children and to accord a high priority to supporting and assisting the family to carry out its responsibilities to children.

The fundamental principles of the Act¹⁰ are:

Every child has a right to be safe from harm.

Every child has a right to care in a safe and stable family environment...or in some alternative form of care...

In the exercise of powers under this Act, the above principles and the child's wellbeing and best interests are to be given paramount considerations.

In determining a child's best interests, consideration must be given to the following:

- (a) the desirability of keeping the child within the child's own family and the undesirability of withdrawing the child unnecessarily from a neighbourhood or environment with which the child has an established sense of connection.
- (b) the need to preserve and strengthen relationships between the child, the child's parents and grandparents and other members of the child's family (whether or not the child is to reside with those parents, grandparents or other family members);

Under Section 8 of the Act¹¹, the Minister "must seek to further the objects of this Act". The Minister's obligations include:

- (a) to promote a partnership approach between the Government, local government, non-government agencies and families in taking responsibility for and dealing with the problem of child abuse and neglect;
- (b) to promote and assist in the development of co-ordinated strategies for dealing with the problem of child abuse and neglect;
- (c) to provide, or assist in the provision of, services for dealing with the problem of child abuse and neglect and for the care and protection of children;

⁹ *Children's Protection Act 1993*, Section 3.

¹⁰ *Children's Protection Act 1993*, Section 4 parts 1, 2, 3 & 4 (a & b only).

¹¹ *Children's Protection Act 1993*, Section 8.

- (d) to provide, or assist in the provision of, preventative and support services directed towards strengthening and supporting families, reducing the incidence of child abuse and neglect and maximising the well-being of children generally;
- (e) to assist the Aboriginal community to establish its own programmes for preventing or reducing the incidence of abuse or neglect of children within the Aboriginal community;

and

- (k) to encourage the provision, by tertiary institutions in relevant courses, of instruction about child abuse and neglect and its prevention and treatment;

Under the Act the Minister is responsible for supporting prevention services that reduce the likelihood of a child's abuse and neglect. The Minister is also responsible for supporting intervention services for children and families suffering as a result of abuse and neglect, ensuring that the Department applies these interventions where needed and seeing that families and children are encouraged to access the services available. The Act reads that the Minister must:

- (a) assist in the provision of—
 - (i) services directed at enhancing the quality of care of children and family life by strengthening and supporting families, and thus preventing or reducing the incidence of child abuse and neglect; and
 - (ii) support services to children who have been abused or neglected and their families; and
- (b) ensure that those support services are offered to children who are known by the Department to have been abused or neglected and their families and that genuine efforts are made to encourage such children and their families to avail themselves of the services.

(See Appendix A for full description of the general functions of the Minister)

Under Section 11 of the Act it is mandatory for persons who come into contact with children in the course of their paid or voluntary work or official duties, such as medical practitioners, pharmacists, psychologists, and teachers to report based on a reasonable suspicion, that a child is being abused or neglected.¹²

6.2 Statutory Child Protection System Reforms

The Department (currently Families SA), under the Minister (currently for the Department for Families and Communities), as the statutory body with primary concern for the protection of children,¹³ instituted extensive reforms in response to the initial proclamation of the *Children's Protection Act 1993* which underpins and primarily governs the Department's policies, procedures and practices.

The statutory child protection system involves identifying and responding to children who are abused or neglected or at risk of being abused or neglected. It also involves responding to the families of these children.

The system is intended to provide care for those children who are unable to live with their family due to abuse, neglect or family crisis. Children in the age group of 0 to 3 are the largest single category of children to which the statutory child protection system applies.¹⁴

6.3 Notification, Investigation and Response System

In 1997, the Department announced practice changes to its child abuse and neglect identification, investigation and response system¹⁵ in an endeavour to more adequately and appropriately conduct these functions.

¹² *Children's Protection Act 1993*, Section 10 & 11.

¹³ *Child Protection Manual of Practice*, Volume 1, Version 3, September 2008, p9.

¹⁴ Evidence p213.

The response system—the Child Abuse Report Line (CARL)—is a central 24 hour-a-day state-wide telephone intake system for the reporting of child abuse/neglect including notifications by mandated reporters. The changes included:

1. A three-tiered response system differentiating children who are:
 - in immediate danger (Tier 1)
 - at serious risk of significant harm (Tier 2)
 - in need but at low risk of harm (Tier 3)
2. Closer interagency cooperation, between the Department, South Australia Police (SAPOL) and Child Protection Services (CPS), in response to Tier 1 notifications.
3. A standardised Full Safety Assessment tool for assessing Tier 1 & 2 notifications.
4. A process called “structured decision making” whereby scores from a number of standardised assessment tools—Safety Assessment, Risk Assessment, Needs/Strengths Assessment—are used to help determine the level of intervention that is required and the focus of the services provided. This process was, however, designed to compliment rather than negate a child protection worker’s professional knowledge, expertise and judgement for making child protection and alternative care decisions.

6.4 Alternative Care System

In 1997 the Department also announced that it was restructuring its alternative care system. The system was designed to care for children who were removed from their families and to support and assist both those families and children’s carers. The restructure involved contracting out almost all alternative care services to the non-government sector through competitive tender. Successful contracted organisations included Anglicare SA, Aboriginal Family Support Services (AFSS), Anglicare Community Care, Port Pirie Central Mission/Centacare Whyalla. These are referred to as Alternative Care Service Providers (ACSPs).

When children require alternative care, the Department now refers them to the Central Alternative Care Unit (CACU) which liaises with the ACSPs to obtain an appropriate child placement for emergency, short-term, long-term or respite care.¹⁶ The ACSPs are also responsible for recruiting, assessing and training carers, and giving carers ongoing support.¹⁷ A similar process is followed for obtaining Family Preservation Services. These services range from strengthening families so that a child can remain at home or establishing and preserving best connections with birth families for children who continue in alternative care. These services are also supplied by ACSPs.¹⁸

6.5 Practice Manuals

In 1997 the Department set out its policies and procedures in practice manuals. The Department describes the manuals as a “work-in-progress”, and as:

...internal working documents (i.e., not published)...currently being reviewed and updated by the Families SA’s Child Protection Directorate to reflect policy changes...¹⁹

The Department gave the Committee several versions of these manuals, dated between 1997 and October 2008. Current versions are generally consistent with earlier versions except for changes of a

¹⁵ Layton, R. (2003), *Our best investment: A state plan to protect and advance the interests of children*. Government of SA, Department of Human Services, p4.10 and Heatherington, T. (1998). *Child Protection Reform in South Australia*, National Child Protection Clearing House, 6 (2), pp7-10.

¹⁶ Semple, D. (2002). *Review of Alternative Care in South Australia*, p8 and Department for Family and Community Services, (2006). *College for Learning and Development: Intro to Care and Protection: Learner’s Guide*, pp7-8.

¹⁷ *Child Protection / Alternative Care Manual of Practice*, Volume 2 Version 1, 6 May 1999, p 80.

¹⁸ Semple, D. (2002). *Review of Alternative Care in South Australia*, p9.

¹⁹ Supplement to evidence p57.

minor nature such as the inclusion of a few topics. Important proforma documents, however, have been deleted from the manuals, i.e. proformas for a Case Plan and consent to Family Preservation Services. The philosophy, principles, policies and procedures espoused in the manuals are consistent with the Act's objective and fundamental principles for working with children and young people, working in partnership with families and other agencies and preserving and strengthening families. A central principle in the manual reads:

Where possible, care and protection should be sought within the child's family context, and the child or young person should not be removed from his/her family unless there remains a serious risk of harm. Strengthening and supporting families adequately in their caretaking role is consistent with the belief that families are acknowledged as the best setting for the rearing of children. Families should be supported in ways that reflect their differing needs and which address the issues which have led to the child being at risk.²⁰

Further:

...[manuals]...do not stand alone as the only policy or procedures that inform practice; rather the Families SA intranet contains numerous other policy papers that supplement these manuals.²¹

The Department provided the Select Committee with a collection of policy papers dated between June 2000 & June 2007. However, the Committee notes that these supplementary papers are not readily available to the public.

The Department's practice manuals and policy papers are designed to outline the methods by which Departmental staff work with client families and children.²² However, evidence to this Committee indicates that whereas the Department is largely proactive in developing policy, it does not consistently and effectively transfer these developments to staff. The Department fails to adequately support and equip staff to operate in accord with current policy.

6.6 Prior Inquiries and Reports

There have been numerous inquiries into child protection, or lack thereof, both in South Australia and interstate. Some of the key reports are:

6.6.1 Select Committee Inquiry

In 1989, the Legislative Council of South Australia appointed a Select Committee to investigate the Department's child protection policies, procedures and practices in relation to mandatory notification, assessment, interviewing alleged victims, offenders and non-offending parents, uniting a child and his/her family. That Committee recommended that the laws relating to children be simplified and consolidated into one Act. This was achieved in the *Children's Protection Act 1993*. Other recommendations included:

- That the Government set up a inquiry into alternative approaches to the adversarial system, with the aim of making the law more effective in achieving justice for children,
- That the subject of child abuse and protection be incorporated into the core syllabuses in law in SA universities and that experts in the field provide in-service training for solicitors, barristers and judges working in the field.

6.6.2 The Semple Review

Des Semple was commissioned by the Olsen Government to review the Alternative Care system in the wake of its 1997 restructure. His 2002 report stated that the Department had failed to adequately manage the process of change to the purchaser/provider system and that this had contributed to deterioration in relationships between stakeholders. Semple found that relationships between stakeholders were adversarial, and a culture of blame had developed. There was also confusion

²⁰ *Child Protection Manual of Practice*, Volume 1, Version 3, September 2008, p10.

²¹ Supplement to evidence p57.

²² *Child Protection Manual of Practice. Introduction*. Volume 1, Version 1, 3 November 1997, pp 6-7

regarding stakeholder's roles and responsibilities and, although the Department had achieved adequate overall policy and planning, prior recommendations had not been implemented.²³

The Semple Inquiry handed down 40 recommendations covering a number of themes which included:

- clarifying responsibilities and communication strategies between the Department and stakeholders
- training of Departmental staff and stakeholders
- provision of more flexible alternative care services and packages
- prioritising family preservation and placement prevention
- setting up collaborative strategies for recruiting foster carers.

Semple's overarching recommendation was that the Department should develop more collaborative partnerships. His specific recommendations are reproduced where relevant in this report.

6.6.3 The Layton Report

In 2003, Robyn Layton QC undertook a review aimed at providing an overall framework for child protection in South Australia. The Layton report handed down 206 recommendations covering a broad range of themes including mandatory reporting, early intervention, alternative care, interagency coordination and relations, education and training in child protection and children and the courts.

Layton's overarching recommendation emphasised the Department's need to collaborate with other agencies and to commit to communicating more effectively—a “feeding down” and “feeding up” of information. Layton stated that:

[this]...is not a financially expensive commodity to provide, it requires instead a different way of working.²⁴

Layton recommended that the Alternative Care Service model be modified to “encourage realistic quality participation” by more Alternative Care Service Providers (ACSPs) in conjunction with the Department prescribing and monitoring the ACSPs performance standards.

Regarding the child protection system as a whole, Layton noted that considerable work in developing frameworks, strategies, protocols and policies had been undertaken in the past and recommendations made, but these had been largely ignored, not implemented or only partially implemented. Layton said that the child protection system had not seen advancement. She argued that:

...best practice in child protection had been difficult to implement and in many areas it had not been done for many years. The task of child protection had exceeded the ability of Government to deliver the support and services required, with the staff and resources it had made available. This was most evident in Family and Youth Services (FAYS). Yet...FAYS had developed best practice protocols and guidelines in a number of strategic areas, the problem was a failure to be able to implement them fully, due largely to the overwhelming workload.²⁵

6.6.4 The Mullighan Inquiry

In 2004, Hon Edward Mullighan QC was commissioned to conduct an inquiry²⁶ into the sexual abuse and death of children in state care. He found that the State had failed to protect many children in its care. Mullighan handed down 54 recommendations.

Recommendations relevant to this inquiry are referred to in the body of the report.

²³ Semple, D. (2002). *Review of Alternative Care in South Australia*.

²⁴ Layton, R. (2003), *Our best investment: A state plan to protect and advance the interests of children*. Government of SA, Department of Human Services, Forward.

²⁵ *ibid*

²⁶ Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*.

6.6.5 The Wood Inquiry

In November 2008, Justice James Wood AO QC inquired into the NSW child protection services, namely the Department of Community Services (DoCS). Wood stated that:

The contemporary challenge facing all child protection systems in Australia...is sufficiently resourcing flexible prevention and early intervention services so as to reduce the number of children and young people who require the state to step in to keep them safe...[and] to have adequate skills and tools with which to assess and identify those who need the full attention of the state...and those who can be assisted to remain in their homes with the necessary support being provided. Children who cannot live at home require carers who are financially, emotionally and practically supported by the system...They also need state assistance to access medical, dental and allied treatment when it is needed.²⁷

The following Wood Inquiry recommendations are relevant to the situation in South Australia:

- dealing with the “overload of abuse reports” that is crippling statutory systems nation-wide
- extending early intervention and family preservation services
- developing greater NGO capacity to deliver services
- providing “integrated, multidisciplinary and co-located child and family services” in service locations with greatest need including having specialists in substance abuse, mental health, domestic violence & others attending the statutory service centres and assisting case workers with case allocation, planning, assessment and interventions.

6.7 Departmental Realignment and Restructure

In July 2008, Departmental regions were realigned as part of a whole of State Government boundary realignment. This resulted in there being 12 State Government regions—4 metropolitan, 8 Country. In the past, Departmental staff had operated out of 18 state-wide District Centres supported by three regional offices. As a result of this realignment, several offices were closed.²⁸

In addition to realignment, the Department was also restructured. Previously, Departmental staff were assigned to a team whose task was to respond to new notifications, clients on short-term orders and clients under the guardianship of the Minister until age 18 years [GOM18].²⁹ After the restructure, teams had mixed roles such as alternating weekly between responding to new cases and managing allocated short term and GOM18 clients.³⁰ The evidence established that the realignment and restructure had created considerable discontent and hardship for Departmental staff and it was clearly stated that they were struggling to accommodate these changes. One Departmental worker stated:

...it is assumed that the casework will go on hold for a week and that families would not have needs and carers will have no troubles...as a result of that realignment, we have lost a lot of contract staff because we are actually amalgamating with other offices...We are using a structure that clearly is not working. We knew it would not work from the beginning. It seemed that it fell on deaf ears. No-one is listening to the base-line workers...it has impacted on our workloads significantly...My district centre lost nine [staff]...³¹

6.8 Federal Context

In 2005, the Federal Government addressed child abuse and neglect at a national level by establishing the Australian Centre for Child Protection (ACCP). For its first 10 years the ACCP is federally funded via the Department of Innovation, Industry, Science and Research. It is headed by Professor Dorothy Scott who is employed as its Director. The aim of the ACCP is to support child protection innovation

²⁷ Wood, J. (2008). *Report of the Special Commission of Inquiry into Child Protection Services in NSW*, Executive Summary, p i.

²⁸ Supplement to evidence pp383-401

²⁹ Evidence p386.

³⁰ Evidence p386.

³¹ Evidence p389.

and evaluation, and to disseminate and implement successful strategies (such as establishing the Homemaker model in the APY lands).³²

Professor Scott presented both written and oral evidence to the Committee in which she described this national framework as the ‘third wave’ in Child Protection. According to Professor Scott:

- The first wave was the deinstitutionalisation and “boarding out” of destitute and neglected children into foster-care which was pioneered in SA in the 19th century.
- The second wave comprised a forensic approach in the 1960’s—identifying battered babies using X-ray evidence of old fractures—and in the 1980’s with the recognition of child sexual abuse.
- The national third wave in child protection is a public health model—“not a child protection system but a system for the protection of children”.

Professor Scott envisages this as going “way beyond the statutory child protection system”.³³ She describes it as “catching children who have fallen off the cliff and building cliff top fences to prevent children falling”.³⁴

It is noted that the “third wave” is only halfway through its funding period. It is therefore difficult to assess whether this tranche will be any more successful than previous attempts to reform the system.

The Committee notes that in spite of the numerous inquiries outlined in this section and their voluminous recommendations, there is little evidence that the situation has improved for children at risk, parents, carers or workers. Further comment is made in the body of the report. However, the Committee – like those who generated previous reports – despairs that while many words have been written, there have been few, if any, positive outcomes.

³² Evidence p197.

³³ Evidence p199.

³⁴ Evidence p198.

The Inquiry

7. Departmental Culture

There is a marked discrepancy between the practices of the Department on one hand and its formal policies and procedures on the other.

The overwhelming evidence suggests that a culture of arrogance, mistrust, bullying and dishonesty is endemic within the Department. The Committee received evidence on this matter from foster carers, family members, advocacy agencies, staff and experts in child protection. All concurred with the opinion that there is a pervasive and “rotten culture” within the Department. A sample of the evidence pertaining to this culture follows. However, it is not suggested that all Departmental staff are part of corrupt behaviour. In fact, many work extremely hard under very difficult conditions and make every effort to support those in need.

7.1 Evidence from Foster Carers

Foster carers reported:

...the department can (and does) do such things with impunity...the rotten culture of power without accountability is endemic...we...started out merely wanting to do something to help others and have ended up with such devastation and pain and such harm to two innocents...the full weight of the department converged on us: simply because we believed (passionately, it is true) that the children needed more help than we could give and we believed it was the department’s responsibility to provide that help.³⁵

They added:

...foster carers are bullied into providing nothing more than a motel service for the State. There can be no meaningful family life when a family knows not, from one day to the next, what its members will be required by the State to “agree” to. The Minister need look no further for clues as to why this State has lost two-thirds of its foster carers in the past couple of years...and is still losing them.³⁶

One foster mother who cared for a young child who was a ward of the state described his unannounced removal by the Department:

They went to school at lunch-time and took him away. I didn’t get to say goodbye...I cannot make sense of this and do not understand why we are being treated this way.

She asserted that assistance and support from different District Offices and different workers varied greatly.

Families SA have no accountability and each individual that you deal with has a different set of rules and the goal posts keep shifting.³⁷

Regarding some staff, another carer stated:

With [worker] from [District Office] we cannot have a say in matters affecting us...We feel as though we are treated as volunteers of no account...³⁸

Yet others, describing experiences with the Department stated:

They appear to not wish for anyone else to have any view or opinion or rights to any decisions.³⁹

³⁵ Supplement to evidence p117.

³⁶ Submission 30.

³⁷ Submission 2.

³⁸ Submission 60.

³⁹ Submission 28.

The department can do anything because it is the guardian of the children, and there is no mechanism in place for it to be accountable. It has the ultimate power. It uses the court by saying, 'We have a court order that says that we can do this. Fight the court; go ahead, make my day.'⁴⁰

Another carer claimed that a social worker's unprofessional behaviour had serious consequences for one state ward and the state and Departmental lawyers colluded so that important relevant evidence was omitted from a coronial inquiry. The carer stated:

...it was not in the states interest to have a finding of negligence on the part of the Department.⁴¹

7.2 Evidence from Grandparents

A grandparent with custody of a grandson asserted lack of independent and objective scrutiny of worker's practice:

The workers to whom we were first assigned were abusive, unprofessional and not at all concerned with the children's welfare.

Their attitude was that they were in charge and we would accede to their demands, or else. This opinion was born out by threats made directly to us and innuendo during our presence at meetings, etc.

The upshot of all of this is that the Department's workers see themselves as beyond question, for good reason, they are effectively self regulating and they are asked to report on themselves should concerns be raised. It's a nonsense, the outcome of any matters being raised is obvious.⁴²

Others said that Families SA's mode of operating amounts to a culture marked by arrogance and bullying:

There is arrogance with some of them...that, 'We hold all the cards so, therefore, you will do what we tell you to do.' There is very little empathy...The general feeling that I have seen in the time I have been involved is that case workers see their role as the major role; they are in complete control and don't you dare try to tell them that they are going down the wrong road...We have been told by some senior members of Families SA that the case workers are the sole arbitrators.

We are having enormous problems with the senior people within Families SA, trying to get them to understand that the children's future and wellbeing are foremost...I think most of the problem is with the managers...I think it's easier if nobody else is involved.⁴³

Of Families SA social workers, they said:

Another thing that the grandparents complain about on a daily basis is that when they are going to court they are told that, one, they can't be inside the court; two, they can't have anyone with them; and three, they mustn't go and see a lawyer...⁴⁴

Another grandparent summed up the general feeling:

I understand that there is also a culture in Families SA. I think that is where the biggest problem in Families SA is—the culture.⁴⁵

7.3 Evidence from Parents

One parent, described a process whereby her children were wrongfully removed. She said:

⁴⁰ Evidence pp123-124.

⁴¹ Submission 16.

⁴² Submission 79.

⁴³ Evidence pp352-353.

⁴⁴ Evidence pp350-351.

⁴⁵ Evidence p350.

...they came to remove my children and at no stage was I given my legal rights. At no stage was I able to ring a lawyer. They told me that they had the evidence, and if they did not, they were going to get the evidence and that I would never see my children again....the manager of [District Office] is still there today...he said to the investigating officer... 'We didn't offer a voluntary consent, because we know she wouldn't have signed it.'

...there was massive confusion regarding whether or not they had section 17 [under the *Child Protection Act 1993* allowing for instant removal of children at imminent risk of harm]...[I] had a couple of Families SA workers who were overzealous and cowboyish...she was going to remove my children come hell or high water. I had put in a complaint against her previously, so I think it was a bit of a teaching me a lesson kind of thing...

Those FAYS workers involved in my case did not have any professional qualifications, and I struggle with that...They have no governing board, and they have no ability to have someone external say, 'You're not practising to best practice and evidence-based standards. Sorry; we're removing you from that process.'

The other thing is that the FAYS workers I have been involved with have a lot of power.

...the Ombudsman literally said that they abducted my children.⁴⁶

7.4 Evidence from Advocates

Advocates for Departmental clients claimed that workers do not engage with them, make referrals to them or support their work. Advocates emphasised that parents are being disadvantaged by Families SA's omission in this regard. They did not think the problem stemmed only from inexperience or poor training of staff but that the Department's culture is the main problem.

One advocate stated:

I think it is cultural within the department. I think that lack of training is very much an issue in the delivery of decisions and the engagement with the parents, but the actions are largely cultural.⁴⁷

Another reported that advocates must be very proactive in attending meetings concerning their clients. He stated:

...they [Families SA] really do wish we would go away. They will do everything they can that is not so heavy handed that it hits the front page of *The Advertiser* to keep us away.⁴⁸

An advocate found that questioning the Department negatively impacted on his ability to assist his client⁴⁹ and reported having difficulty accessing information pertinent to his client.⁵⁰

This advocate said:

...if it is the case that people lives can be impacted upon in fairly substantial ways by a bureaucracy, there need to be checks and balances.⁵¹

An advocate for a grandparent said of a Families SA social worker:

I had a personal experience where one of our clients was going to court...She was told she couldn't have an advocate there...I was not even allowed into the courthouse...⁵²

⁴⁶ Evidence pp294-295.

⁴⁷ Evidence p367.

⁴⁸ Evidence p103.

⁴⁹ Evidence p81.

⁵⁰ Evidence p80.

⁵¹ Evidence p89.

⁵² Evidence p351.

7.5 Evidence from Departmental Workers

One Departmental worker said:

I wish to report that there is a certain element in the Department, mainly women who do not like men that are into bullying, harassment and nepotism. Nepotism for positions of their own kind. The bullying and harassment not only extends to men but also to some women who have been very good workers. There has been some atrocious cover ups but...I have been bound to secrecy...the matters I have raised are to a very serious proportion and I hope that the poor victims of this bullying and harassment have had the strength and energy to lodge their complaints, especially some of the female staff.⁵³

An ex-Departmental manager and social worker claimed that certain behaviour and, indeed, mistakes, have become cultural in the Department⁵⁴ and that, as a manager, it was obvious that the Department is riddled with inconsistencies and unfair practices. It was stated:

...the hierarchy of accountability always used to intrigue me. If the ministerial comes to the desk of a reasonably senior policy worker, the way that they can interrogate that is, of course, to go to the source. But by the time it goes to Sue Vardon, to the minister, or, indeed, to anybody else, that accountability disguises a whole layer of things that have occurred, and I do not mean in any illegal or unconscionable fashion. To all intents and purposes, Sue Vardon is probably not going to want to say, 'Yes, my department is riddled with inconsistencies and unfair practices, and so on'...At the end of the day, accountability rests with the senior person who has to be scrupulous also in case that person is far more inclined to protect their patch or protect their own reputation...I do not see a lot of falling on swords...⁵⁵

Several Departmental workers claimed that the agency has shifted dramatically in the past two years, particularly in the policy driven style of its processes and the workers bear the brunt of this.⁵⁶

...there are more policy making people making policies in EDS [building, Families SA central office] than there are people in the front line...they will produce a policy to do something, but they will not give us the support to do it...So, it is placed back on the individual workers to follow direction without any extra resources, or without any direction in regard to that area.⁵⁷

One worker said:

...the department needs to change from policy driven style and work together.⁵⁸

Another stated that bullying is openly occurring in most parts of the agency:

...you are told, 'You should be doing as much as A'...'Why were you sick yesterday?' 'B was OK yesterday. You have let your workers down'—that kind of innuendo in regards to how you are performing. The burden is placed back on the individual worker...⁵⁹

Yet another said:

I think the department is now very good at shifting responsibility for adverse events that happen to children onto workers, rather than dealing with them as an organisational failing.⁶⁰

A staff member stated that the Department does not consult with the Public Service Association or Departmental staff that are working at the coal face. The staff member stated:

One example of this concerns the Magill Secure Care Centre. This is about to be replaced and at considerable costs. Nevertheless there has consistently been no consultation with the PSA or from the

⁵³ Submission 11.

⁵⁴ Evidence p89.

⁵⁵ Evidence p91.

⁵⁶ Evidence pp392-393.

⁵⁷ Evidence pp392-393.

⁵⁸ Evidence p400.

⁵⁹ Evidence p392.

⁶⁰ Evidence p391.

people who will use it. Safety is at issue and yet the executive or management, who have had no experience working in secure care, are making decisions about the building.⁶¹

An ex-Departmental social worker indicated that their career was threatened when they attempted to openly criticise reports that had been written by some senior psychologists in the state system. The worker claimed that:

...it was very brutal...The threat to my career...and made me feel particularly concerned about the way the department does its business.⁶²

This worker emphasised report writing issues within the Department. The worker criticised the dogmatic and threatening style of some staff who write reports and the youth and inexperience of other staff. There is a tendency for their opinions once on file to be taken fact. The worker reported:

...there is a cult of personality with some of the highly paid professionals who provide this kind of reporting...A cult of personality: people who are revered, even though I and many other people have found them to be completely objectionable people who are just intimidatory and pontifical...Their word is gold.⁶³

In terms of social workers, which includes very new graduates...their opinions on file become a fact...it can be the basis for all future prognostications, including the psych reports, which are afforded biblical fascination...they are just absolute gospel. The fact that this person has said X must simply be true as must the interpretation of the facts...it could be traced back to a very young graduate...⁶⁴

Notwithstanding these criticisms, the Department's manuals of practice claim that it works "in partnership" with stakeholders. The manual states:

Partnership is working with parents/caregivers and their networks to enable them to carry out the responsibilities shared by both the State and parents/caregivers to promote the welfare of children. It is ...about working together towards a common goal. It involves attitudes, skills, policies, decision making, services, accountability, and openness. It seeks to build on existing strategies of families, acknowledge power differences, and to work positively with difference.

Children and families are best served within a context of multi-disciplinary teamwork, co-operation and commitment to the protection and wellbeing of the child. Families SA should facilitate interagency collaboration and ensure clear communication between government, non-government and community services and networks to ensure best outcomes for children and families.⁶⁵

Despite this policy, the Committee received evidence that this is not what actually happens and that the Departmental ethos was in complete contradiction.

With regard to stakeholders' experiences in "partnership" with the Department, the Committee received evidence demonstrating the Department's lack of accountability and openness, failure to share responsibility or work in a multidisciplinary team or communicate effectively.

7.6 Evidence from Experts

Emeritus Professor Freda Briggs, Professor in Child Development, University of South Australia, emphasised that some Departmental staff were managing to hide in the system. She said:

When I have taken cases to her [Sue Vardon] that were obviously problematic, she has had every one investigated. But we think that her staff, to put it bluntly, is telling lies to her. She is being let down by her own staff, and some of them are senior staff. I have told her this, but she does not believe it.⁶⁶

⁶¹ Evidence p387.

⁶² Evidence p79.

⁶³ Evidence p88.

⁶⁴ Evidence pp88-89.

⁶⁵ *Child Protection Manual of Practice*, Volume 1 Version 3, 9 September 2008, p11.

⁶⁶ Evidence pp195-196.

She recounted three incidents in which Departmental social workers had acted wrongfully but were able to cover their backs and retain their positions within the Department.⁶⁷ About one case, she said:

...there was a lawyer representing the state and a lawyer representing the department, and the social workers were able to stand there and say anything they wanted and nobody could challenge them.⁶⁸

Professor Briggs reported that, in this case, the Departmental worker who engaged in professional misconduct is still working within the Department. Asked how this could be, Professor Briggs stated: “This is a mystery.”⁶⁹ Further, regarding information being removed from Departmental files, Professor Briggs stated that:

I often hear from people, when they have had their records from freedom of information, that documents are missing.⁷⁰

Dr Paul Delfabbro, Associate Professor, School of Psychology, University of Adelaide, said that the Department has “a culture where information tends to flow in one direction”.⁷¹ He also commented on the attitude of departmental workers stating:

You get some workers who can be very stubborn about seeing themselves as the one in charge: you are the one who receives information from them, and you are kept on a need-to-know basis.

In some cases, it can be due simply to the pettiness of the workers—they believe that they have their role, and they are not going to allow you to traverse territory that they see to be their responsibility.⁷²

Layton recommended interagency collaboration and a commitment to communicating more effectively. Layton said:

...[this] is not a financially expensive commodity to provide, it requires instead a different way of working.⁷³

Semple also states that the culture of the Department needs to change.⁷⁴

...a culture of blame has developed between different stakeholders⁷⁵ ...A structure is necessary that has stakeholders with specific expertise to help manage the culture...changes necessary...⁷⁶

7.7 Committee’s Comments

There is ample evidence of dysfunctional behaviour within the Department that may well be described as professional misconduct. Given that the evidence received came from a variety of sources it is clear that over the years this “pervasive culture” has become entrenched and widespread.

The Committee finds that the Department fails to meet its own objectives of truly protecting children. It believes this will continue until there is a consistent application of policies and practices, and staff are trained and supported appropriately. Both the Department and workers must be held accountable when they fail to act according to Government policy.

⁶⁷ Evidence pp195-196.

⁶⁸ Evidence p191.

⁶⁹ Evidence p191.

⁷⁰ Evidence p195.

⁷¹ Evidence p234.

⁷² Evidence p234.

⁷³ Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*. Government of SA, Department of Human Services, Forward.

⁷⁴ Semple, D. (2002). *Review of Alternative Care in South Australia*, pp3-6.

⁷⁵ Semple, D. (2002). *Review of Alternative Care in South Australia*, p8.

⁷⁶ Semple, D. (2002). *Review of Alternative Care in South Australia*, p14.

A “rotten culture” is often the result of individuals being required to work above their level of competency. This places workers under stress and is a common cause of burnout. The Committee agrees that this is, in itself, a form of workplace abuse and the Committee has made recommendations which it hopes will help to alleviate this abuse over time.

The Committee believes that we need a “more supportive and less forensic culture” and that a “cultural change is needed to bring the focus back to the strengths and needs of families.”⁷⁷ It agrees with Professor Scott that “We need a system for the protection of children and not a child protection system”.⁷⁸

The Committee has made a number of recommendations that require ‘independent’ intervention to establish systems, monitoring, assessment and evaluation to rein in unacceptable conduct.

It is the responsibility of the Minister, the Chief Executive, all managers and workers to effect cultural change. However, improvement will not occur without strong leadership, starting with the Minister.

We conclude that an internal mechanism to bring this dysfunctional and obstructive behaviour into line with best practice will be a futile exercise unless steps are taken to bring about a “culture shift” at every level of the Department.

⁷⁷ Higgins, D. & Katz, I. (2008). Enhancing service systems for protecting children: promoting child wellbeing and child protection reform in Australia. *Family Matters*, 80, pp48-49.

⁷⁸ Evidence p210.

8. Staff Issues

8.1 Introduction

Evidence was presented to the Committee that staff are not properly trained for the difficult work they have to undertake. They are asked to cope with extreme and highly emotive cases, yet rarely have the professional skills needed for child protection work. Departmental workers allege that their case loads are such that they cannot properly attend to the needs of children and families, and that their rate of pay is insufficient to attract those with the training, skills or qualifications needed. They also allege that a lack of administrative support keeps them desk-bound when they should be working with the most needy.

The Committee heard evidence from several experts that child protection work is emotionally draining, sometimes dangerous and requires an advanced level of skills. They raised their concerns about the difficulties of attracting and maintaining staff to this line of work. An expert in children's issues said:

It's very hard work. It's awful. Social workers have dreadful jobs...because they have to go into homes and say, 'I'm taking that child, now'....there is a big turnover and it's partly because it's so darn hard.⁷⁹

A lecturer/skills-trainer in the area of child protection told the Committee that:

What really concerns me is that the child protection field is often seen as the first job that your new graduates will get into. It's promoted that way: 'Here's your entry pass.' To me, again, that is to do with the level of funding—what the salary levels are and their job descriptions, or whatever. It's seen as the front-line workers can be what I call your novices. In fact, they are working with the most vulnerable in our population.⁸⁰

Professor Scott related her experience of once working as a social worker:

You knock on the door not knowing what is behind you. You can be verbally abused by angry, frightened people. In rural areas your own children can be threatened. This is work to which it is not easy to attract people.⁸¹

Another Departmental worker reported that there they are an estimated 40 percent under staffed. This results in unacceptably high caseloads. It was reported that whereas the recommended caseload is 12-13, some are as high as 38 cases at any one time.⁸²

These problems result in staff leaving because they cannot cope with the caseload.⁸³

Staff feel unsupported. An employee stated:

If someone goes on leave there is no-one to replace them...only three staff are doing the job of six...It is not just my office...it's everywhere that I go...you don't finish at five...[but] your supervisor, or manager, doesn't want you to put that time down and claim...it affects their budget...⁸⁴

A number of these issues have been further exacerbated by the recent Departmental restructure. One worker said that their team lost nine (13-15 percent of) staff.⁸⁵ As a result of the restructure, it is now more difficult to provide services.

⁷⁹ Evidence p405.

⁸⁰ Evidence p413.

⁸¹ Evidence pp212-213.

⁸² Evidence p386.

⁸³ Evidence p384.

⁸⁴ Evidence p386.

⁸⁵ Evidence p389.

Staff indicated that the new work mix has created an inequitable workload. Some clients require more complex work. For example, managing teenage girls requires workers to undertake numerous court dictated attendances. As a result, they have less time to undertake other work such as attending to clients' health and education needs. One worker said "some of these children are not attending school".⁸⁶

Restructure has also meant that the staff workload has significantly increased. One staff member reported that the workload has increased "astronomically" and disputed recent claims that staff gets through 56 percent of their workload and allocates (i.e., takes on) half of the Tier 2 cases. She said:

We are getting through far less than 50 percent of our work. Most Tier 2s are not allocated—well over 50 percent of them are not allocated; most of them are closed with no action—and even some Tier 1s are not being investigated because there is no capacity in the team to be able to do it.⁸⁷

She recounted that child protection workers could, in the past, be 80 percent "hands on" due to their having administration staff but, currently, report writing is "most of the work" and only 25 to 30 percent of the time is "hands on". She reported that:

If I had an admin person work with me as a team, I could go back to 50 to 60 percent [productivity] within a week...⁸⁸

Another worker described the difficulty of complying with court ordered access:

...It is seven days a week...this...was not in the [infant's] best interests...and these issues were presented to the court...

We were...told that if we deviate from that court ordered access that it will be back in court and there will be more access that we will need to be doing. Issues like that, with a complete lack of understanding and comprehension from the court, are then imposed upon us and we have to try to manage...⁸⁹

Staff reported that large caseloads along with diminished funding and reduced staff numbers have resulted in direct line managers bullying staff in an attempt to boost productivity.⁹⁰ This, in turn, resulted in workers making quick, ill-thought out decisions that caused them to worry at home about what they had left behind and to wonder if someone may be in serious danger. It was asserted that it is a "system fraught with danger."⁹¹

The Public Service Association claimed that whereas Departmental staff require more support and funding as a result of restructure, there have instead been cutbacks. Initially, two percent, then four percent and more. The PSA representative said he anticipates further budget cuts and staff losses over the next three to four years.

Despite the Departmental executives stated commitment to review the realignment and restructure process on an ongoing basis, staff claimed that the promised six months review which was due in December 2008 was not published. Instead, front line staff were invited to meet the executive to report on how the changes had impacted on their practice and were encouraged to confer with colleagues and bring questions to the executive. However, the review did not eventuate and nor were their questions answered. One staff member recounted:

...executive advised us that it would not be answering any questions we had. That is the extent of the review process that has taken place...⁹²

⁸⁶ Evidence p387.

⁸⁷ Evidence p394.

⁸⁸ Evidence p395.

⁸⁹ Evidence pp385-386.

⁹⁰ Evidence p384.

⁹¹ Evidence p386.

⁹² Evidence p393.

Professor Scott expressed her serious concerns about staffing:

Regarding workforce development, we have a parlous situation facing us in terms not just of statutory child protection—social workers are not going into the service, they are leaving it in droves, and the more they are publically criticised the less they will want to go in because they can go into so many other fields...we need very skilled professional practitioners...⁹³

Commissioner Mullighan advised that quality contact between a child or young person in care and their social worker should be the principle primarily determining a Departmental social worker's workload. He advised there should be enough staff for each child to be allocated a social worker and, regardless of the stability or nature of their placement, for each child or young person to have regular face-to-face contact with their allocated social worker at least once a month.⁹⁴

8.2 Staff Training and Development

All Departmental staff undergo four days training at the College for Learning and Development "Induction" module when they commence work.⁹⁵ This comprises one day each of "JIS Orientation" and "Child Safe Environment Training" and, over two days, 7 of 11 core units towards a Certificate III in Government. The seven units address Public Service issues such as upholding values and principles, complying with legislation, working effectively within the organisation, working with groups and workplace communication and safety.⁹⁶

Staff preparing to do child protection and guardianship work undertake a "Diploma of Statutory Child Protection".⁹⁷ This comprises 11 compulsory and five elective subjects and it is part of the Certificate III in Government. Within six to 36 months from initial employment, staff must complete the remaining four core and five elective modules.

However, the Committee heard complaints on numerous occasions as to the inadequacy and inconsistency of training for work in such difficult conditions. Even those giving evidence seem unable to agree on what constitutes adequate and effective training for a child protection worker.

One Departmental worker stated that the Department established the College for Learning and Development in December 2006 to address concerns about newly employed child protection workers. He stated:

...there was a real concern that workers starting in child protection did not have the necessary understanding of what that means, both in terms of legal responsibilities and in terms of protecting children. That was why it was established; it was part of a drive from that particular review [the Layton Review] to have risk management taking place in people's homes with front-line workers such as us, not risk management strategies taking place on the seventh floor of the EDS building when things have gone awry. The idea is to avoid making the mistake, not come up with new reasons for making it go away.⁹⁸

However, another staff member said that her training came too late:

Part of my diploma in child protection included a topic about pursuing guardianship orders in the Youth Court and about how to operate in a legal context. I did that unit eight months after I started, after I already had two of my children placed under guardianship orders. So, I had already walked a long way down the path professionally.

⁹³ Evidence p215.

⁹⁴ Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*, List of Recommendations, #14, pxxiv.

⁹⁵ Department for Families and Communities, (2006). *College for Learning and Development, Induction: Learners Guide*, p6.

⁹⁶ Evidence p68.

⁹⁷ Department for Families and Communities, (2006). *College for Learning and Development, Introduction to Care and Protection: Learners Guide: Families SA Care & Protection Program PATHWAY*, p5.

⁹⁸ Evidence p391.

... there are significant shortfalls in that college. That should not be a reflection on the people who work in it or how it is administered, but it does reflect this organisation's commitment to training our staff.⁹⁹

Another worker claimed that:

As front-line workers we all know that the College for Learning and Development has had a decrease in funding, and that it has steadily decreased since its inception.¹⁰⁰

A trainer said:

To me a whole restructuring needs to happen within child protection, because the complexity of the issues needs to be recognised...The level of skills required is very advanced. If you are looking at cost-effective ways of intervening, it has to be comprehensive and by experienced practitioners at the very beginning. That way, you're preventing the problems escalating, and so on. It's cost saving.¹⁰¹

Professor Briggs stressed:

...the people employed by Families SA are not appropriately trained for working with children and this accounts for a lot of the disasters we see.¹⁰²

Conflicting evidence emerged about training. Ms Elizabeth Dunning, Executive Director, Families SA, reported that:

...all child protection workers in the Department have a social work degree...with the possible exception of those working in country areas where work is conducted under a qualified social work supervisor and possibly also under a principal social worker.

She said:

The Department advertises for degreed qualified social workers to do child protection work...almost 100 percent of child protection workers putting cases before the Youth Court have a social work degree.¹⁰³

However, Mr Tony Tonkin, social worker reported that some staff are not qualified and do not understand basic social work principles nor the models inherent in social work training, such as conflict resolution and problem solving and this caused disarray within the Department and the making of decisions on the run.¹⁰⁴ He claimed that social work is a unique profession that helps view the world in a systemic way. It is about changing the systems that cause the problems and focuses on what is the best outcome for all clients.

Mr Tonkin said that social work training is a four-year Bachelor of Social Work degree or a two-year postgraduate Masters in Social Work, but there is no professional practical period of experience after the degree, no licence issued and no registration. He said:

We need social workers to be registered, we need them to be accountable to their profession and we need them to be accountable to their clients and organisations. At the moment they are not.¹⁰⁵

However, another expert witness had a different perspective and said:

It is not a matter of formularised training (which a diploma course would do) around how to assess, recognise and learn how to best intervene. It is not formularised. You have to have practice experience.

⁹⁹ Evidence pp391-392.

¹⁰⁰ Evidence p391.

¹⁰¹ Evidence pp413-414.

¹⁰² Evidence pp181-182.

¹⁰³ Evidence p35.

¹⁰⁴ Evidence pp330-331.

¹⁰⁵ *ibid.*

Without that, you can misjudge things: you can just go by the formula approach and make the wrong decisions.

What really concerns me is that the child protection field is often seen as the first job that your new graduates will get into. It's promoted that way: 'Here's your entry pass.' To me, again, that is to do with the level of funding—what the salary levels are and their job descriptions, or whatever. It's seen as the front-line workers can be what I call your novices. In fact, they are working with the most vulnerable in our population.¹⁰⁶

Another witness said that newly graduated social workers need older wiser workers to train them. Young ones “do not have enough depth to know that they are shallow”.¹⁰⁷ The witness said:

What you've got now is many younger ones, poorly trained, and they don't know that they are poorly trained. They believe in themselves, of course, and they are trained to believe in themselves and to be very powerful. ...I think there are not enough very senior people.

Professor Scott stated that, in most states, child protection workers do not have social work qualifications but might have an undergraduate psychology degree or have been a teacher, a nurse or a police officer. Professor Scott advocates for high-quality post-qualifying courses in child protection which have hardly begun in Australia. She said:

In-service education can go so far, but that is done within the silo of one service, and I think ideally you would want to broaden that.¹⁰⁸

Professor Scott suggested a multidisciplinary post-qualifying course model that is operating in Dublin as a possible model:

...it is covered by the health department, because child protection comes under health in that country, but police have to put a couple of people in a year, as does child protection, health services and education, and what you get is a cohort over time of people across the different sectors being trained together, and that strengthens their capacity to work together effectively. They are learning what the other professions or disciplines have that they cannot have, and this area becomes highly specialised.

Commissioner Mullighan similarly recommended that registration or accreditation for social workers be introduced including the requirement for ongoing professional development and training.¹⁰⁹

Departmental policy as outlined in its manual of practice states:

All professionals working with children/young people need particular skills to enable them to relate to them. They must have an understanding of child development, and to know how children function when distressed. They will require sufficient time to build rapport and to work at the individual child's pace.¹¹⁰

However, the Committee heard consistent evidence that even though these people are making decisions affecting children's lives, they lack understanding of or training in child development.

One expert witness said:

One of the worst things about the department is that the social workers are not trained in child development. I know that one lecture is given during their program and that the Department has set up a little course which is written by social workers...¹¹¹

¹⁰⁶ Evidence pp413-414.

¹⁰⁷ Submission 83.

¹⁰⁸ Evidence p219.

¹⁰⁹ Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*, List of Recommendations, #14, pxxiv.

¹¹⁰ *Child Protection Manual of Practice*, Volume 1, Version 1, Section 1, Voice of the Child/Young Person: Background, also in *Child Protection Manual of Practice*, Volume 1, Version 3, September 2008 p15.

¹¹¹ Evidence p402.

A departmental worker stated:

...One of the things that greatly concerns me, as well as my co-workers, is that although I think approximately 75 percent to 80 percent of our cases are infants or children under two there is not one topic in the Diploma of Statutory Child Protection that is about infants. There is no child development, there is no attachment training (there is attachment training, but it's not part of the diploma); there's no training whatsoever to do with infants—and they are clearly the most vulnerable children we deal with. It takes specialist skills to be able to work with families with tiny babies.¹¹²

It was also claimed that psychologists versed in child development should have had more influence in decisions concerning children. A witness explained:

...we need specialist social workers and specialist support workers who are fully trained in child development and in child protection...¹¹³

Professor Briggs said:

...we needed a degree course which covers both child development and social work...Sue Vardon created her own training course. However, our view was that we had more of the same because the people who wrote it were, I am sure, social workers; when we looked at the mention of child development it is clearly not written by a child development person...Although they are providing additional training, it is to try to make people more employable by the department rather than meeting the urgent needs.¹¹⁴

I have been on accreditation committees for social work courses up to masters level where the word 'child' has never been involved in any of the course content...yet these people are managing cases involving children.¹¹⁵

She explained that an ideal amount of child development training would be:

...at least a full academic year, because they need to be able to understand the difference between normal and abnormal child development. We often find that they don't know the difference.¹¹⁶

They need to know the difference between sexualised behaviour that could come from child abuse and sexual behaviour that is normal sexual curiosity, because sometimes they don't know how to differentiate... They don't know how children think in relation to abuse.....¹¹⁷

Professor Briggs emphasised the disparity between the training and power of Departmental workers, saying:

...if you are training kindergarten teachers, they have four years of child development, and they do not have to make the life-affecting decisions about children that social workers have to make.¹¹⁸

Commissioner Mullighan recommended that Departmental staff training in child sexual abuse should be comprehensive and mandatory for all social workers. He lists 19 aspects of abuse that should be covered including what constitutes child sexual abuse, the perpetrators tactics to secure a child's silence, understanding the dynamics involved in disclosure and caring for a child or young person who has been sexually abused.¹¹⁹

¹¹² Evidence p392.

¹¹³ Evidence p408.

¹¹⁴ Evidence p182.

¹¹⁵ Evidence p181.

¹¹⁶ Evidence p183.

¹¹⁷ Evidence pp181-182.

¹¹⁸ Evidence p181.

¹¹⁹ Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*, List of Recommendations, #15, pxxv.

8.2.1 Conflict Resolution Training

The Committee heard further evidence that staff are insufficiently trained to deal with conflict resolution, case conferencing and dealing with emotion:

[There is an] absolute essential need to develop their skills in conflict management...It is the most conflicted area when you are dealing with all these different key stakeholders and such an emotive area.¹²⁰

An advocate for a man who lost his children into state care wrote:

The father's aggression towards FAYS staff was largely due to his fear and anxiety about FAYS motives regarding him and the child...the Department is not adequately skilled when dealing with aggressive men; it all too soon takes them to Court thus further inflaming their anger and inducing fear...FAYS does not have a good track record/history of dealing with fathers and parent's advocates.¹²¹

Mr Tonkin reported on the loss and grief experienced by parents whose children have been removed. He stated that:

...these two dimensions of social and emotional deprivation shed light on the difficulties of aggression or seeming withdrawal that workers frequently encounter in working with parents in the child protection alternative care systems. Clearly, such dynamics suggest the need for highly skilled approaches in order to engage parents in constructive ways for the benefit of their children.

I suppose that my major criticism of workers at Families SA is that they just do not have those skills...due to a lack of training.¹²²

An expert witness said:

What I've found as a...therapist...where there's supposed to be a very close working relationship between the individual therapist for the child and family, along with the child protection workers... [where] all aspects of the case and the family need to be addressed by different practitioners requires case conferencing...Try to get a child protection counsellor to come to your case conference or be available to give you up-to-date information about where things are up to, it's almost impossible. I think it is certainly under-resourced and, I think, under-skilled as well.¹²³

8.2.2 General Training

Of training in general, an ex-FSA social worker said:

If you are training child protection workers and not just generic social workers there needs to be a lot more...I think there are some very cutting edge areas in which the training should exist. It should be sourced. There should be a greater currency.

These people are dealing with people's lives and children's lives. Cutting edge stuff needs to be done. There should not be complacency. You should not become entrenched in a bureaucracy just because it is comfortable to say, 'This is very hard. We are dealing with thousands of clients every day.' Surely that behoves you to do the very best you can do.¹²⁴

This social worker argued that being familiar with policy and procedures and understanding why there is a flow of action are absolutely fundamental to doing the job well:

From my experience of working with social workers as their manager, there are some very competent supervisors and senior practitioners who I think have that stuff intuitively and they have entrenched it in their own practice. I am not altogether sure that there exists the time, the structures and the processes to

¹²⁰ Evidence p413.

¹²¹ Submission 14.

¹²² Evidence p330.

¹²³ Evidence pp413-414.

¹²⁴ Evidence p92.

pass that wisdom down, because people are so busy responding to Tier 1 dying babies that they do not have time to do that sort of thing.¹²⁵

To improve the system, an expert witness recommended the Department needs:

...resourcing...at a level where the expertise is there, and with ongoing training and development of contemporary practice. That requires input not just from within the system but external to the system, as well.¹²⁶

In her report, Robyn Layton QC described staff training and support as one of the critical ingredients for a well functioning child protection system. She stated:

In order to empower families in the protection of children, practitioners must first be empowered and supported by the organisation for which they work.¹²⁷

Layton's recommendations included that:

- The Department initiate discussions to develop with the universities and the Australian Association of Social Workers (AASW): 1) an accreditation process for social workers in child protection, 2) specific competency based child protection training for Departmental staff, 3) processes for monitoring the training needs of new social workers in the workforce and, 4) options for a more systematic approach to the provision of continuing professional education.
- The Department consider pursuing an interagency training agenda on topics of child protection, mandatory notification, child development, medical ethics and legal issues.
- The Departmental develop specific training to increase the knowledge, skills and competency of non-Indigenous staff in working with Aboriginal families and training needs specific to Aboriginal staff.
- Departmental staff receive a higher level of training in skills for: 1) engaging reluctant and resistant families, 2) interventions—brief and longer term—for families, 3) supervising social work students on field placement and, 4) managing and chairing complex interagency meetings.
- That training cover essential topics such as working with culturally and linguistically diverse families, mental health, drug, alcohol and disability issues..¹²⁸

Commissioner Mullighan recommended that sufficient resources be allocated to recruit and retain qualified social workers and an emphasis be placed on their professional development and support. This includes reducing team sizes to a maximum of seven or eight in order to improve the capacity for supervision and professional development and that it be mandatory for all supervisors to undergo training in supervision.¹²⁹

8.3 Committee's Comments

The Committee concludes that staff training is still "ad hoc" and that many of the issues raised and recommendations made by Layton still require action. It is clear that staff are under-resourced, overworked and under-trained.

It is obvious that capacity building has not been a priority of the Department. Rather there appears to be a trend to employ poorly trained and inexperienced workers in order to save expenditure on wages. The Committee understands that there are budgetary constraints within all areas of human service,

¹²⁵ Evidence p92.

¹²⁶ Evidence, p415.

¹²⁷ Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*. Government of SA, Department of Human Services, p21.12.

¹²⁸ Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*. Government of SA, Department of Human Services, p2.76.

¹²⁹ Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*, List of Recommendations, #14, pxxiv.

but is convinced that a more targeted approach is required. Evidence suggests that a significant slice of the budget is allocated to top level management executive positions rather than to staff at the “coal-face”.

Evidence suggests that the “restructure” has not been effective and the inability of the Department to appropriately prioritize is evident.

In order to achieve optimal performance in such a complex area, communication and constructive criticism, wherever it comes from, must be heard and acted upon.

It is hoped that the Minister and executives within the Department will accept that a restructure is not as necessary as a refocus of priorities and resources.

9. Statutory Child Protection: A System In Crisis

9.1 Introduction

The Committee received evidence from many sources indicating that the statutory child protection system is “completely overwhelmed”, “under siege”¹³⁰ and “in crisis”.¹³¹ The Committee agrees with Professor Scott who stated that:

...the current approach to child protection is failing, demand is outstripping the capacity of statutory child protection services to cope¹³²...It is a system under siege in every state and territory...These are systems driven by mandatory notification legislation, which were for very good reasons and which well intentioned people campaigned to introduce.¹³³

Although there has been a significant increase in the number of reports being received by the Department from those who are required by law to make reports (mandatory reporters), the evidence presented to the Committee discloses serious deficiencies in the Department’s policies and procedures for responding to children deemed to be at risk of abuse.

Current placement options for children who come to the attention of child protection agencies were also examined by the Committee. Although legislation dictates that grandparents and other relatives have a primary placement role for children in need of care, many face financial, legal and harassment problems. Foster carers also have a key role but the Department has difficulty recruiting and retaining them. Carers encounter many difficulties including insufficient remuneration, support, training and they are vulnerable to false allegations.

This section finally outlines many other concerns about the current system. Although the system is designed to protect abused and neglected children and preserve and strengthen their families, the system itself may be causing further harm. Many families are unduly entangled in the statutory system, children are suffering due to multiple placement breakdowns or placement in unsuitable accommodation, and carers feel used and abused by the Department.

This examination of the Statutory Child Protection system is divided into the following sections:

- Mandatory Reporting
- Placement of Children Separated from their Family of Origin
- Care by Grandparents and Other Relatives
- Difficulties Experienced by Grandparents and Relative Carers
- Foster Carers
- Difficulties Experienced by Foster Carers
 - Inadequate Training and Support
 - Given Insufficient Information
 - Poor Treatment by Departmental Staff
 - Capricious Removal of Children
 - Branded Troublemakers
 - Lack of Psychological and Other Services
 - Lack of Funding
 - Birth Family Issues
 - Vulnerable to False Allegations
 - Lack of Respect
 - Exposure to Violence
- Recruiting and Training Foster Carers

¹³⁰ Evidence, p208.

¹³¹ Sammut, J. (2009) *Fatally flawed: The child protection crisis in Australia*. Policy Monographs, The Centre for Independent Studies, pvii

¹³² Evidence, p206.

¹³³ Evidence, p209.

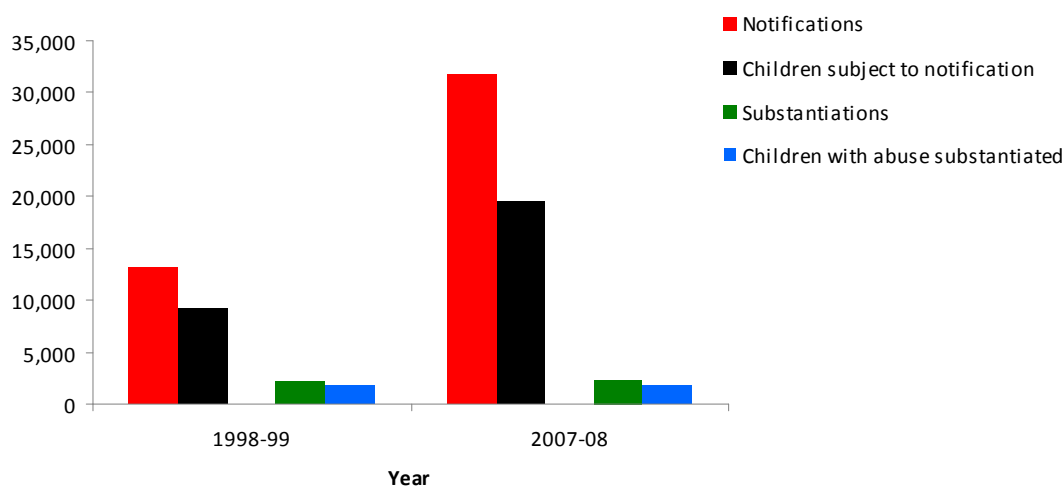
- Supporting and Retaining Foster Carers
- Special Investigations and Care Concerns
 - Special Investigations Unit
 - Care Concerns
 - Suggested Improvements
- Residential Care
- Motel-style Accommodation
- The Future of Residential Care Facilities
- The Potential of the System to cause harm to Families, Children and Carers
- Committee Comments

9.2 Mandatory Reporting

South Australia, along with other Australian jurisdictions, has a system of mandatory reporting of child abuse.¹³⁴ The purpose is to ensure that children who are neglected, abused or at risk of being abused, are responded to quickly and are supported to achieve optimal wellbeing. We have increased the number of people who must notify. Ministers of religion and employees and volunteers in sporting and recreational organisations have now joined doctors, teachers, psychologists, police officers and others as mandatory reporters.

Evidence submitted by the Department in February 2009 to the Legislative Council Budget and Finance Committee (B&FC) indicates that abuse and neglect notifications have doubled in ten years; in 2007-08 31,700 notifications were made compared with 13,132 ten years ago.¹³⁵ The figure of 31,700 notifications given by the Minister to a Committee in Estimates¹³⁶ and also accepted by the Department in the B&FC is substantially more than the 18,593 notifications reported by the Department in its Annual Report.¹³⁷ No satisfactory explanation for the disparity has been provided. Whatever the figure, it is clear that notification numbers have doubled but the number of cases where abuse/neglect has been substantiated by investigation has remained static at about 2,000 over the same ten year period. (see Figure 1 below)

Figure 1: Numbers of notifications, children with a notification, notifications substantiated and children with abuse substantiated within each time period.



Source: Based on figures presented to the B&FC, 16 February 2009, Hansard, p769.

¹³⁴ *Children's Protection Act, 1993*, ss10-14

¹³⁵ B&FC, 16 February 2009, Hansard p769, Q4240 and written response subsequently tabled.

¹³⁶ Minister Weatherill, Estimates Committee A, 30 June 2008, Hansard, p231.

¹³⁷ Department of Families and Communities, Annual Report 2007-08, p65.

According to research commissioned by the Department, one in five South Australian children born in 1991 had been the subject of one or more child protection notifications by the age of 16 years. Each child which was the subject of one notification received, on average, a further two notifications; the maximum number of notifications for one child was 48.¹³⁸ The same research shows that notification rates for children born in 2002 are double that of children born in 1991. If this trend continues, a greater proportion of these children—more than one in five—will have been the subject of at least one notification by age 15.¹³⁹

The Layton Report noted that data in Victoria in the 1990's indicated that an increase in mandatory notifications was partly driven by an increase in notifications from the community as opposed to mandated professionals.¹⁴⁰ The Committee heard evidence of some non-mandated reports. For example, a father with shared custody of his four year old son reported having made, over a period of three and a half years, 33 reports of neglect and physical, verbal, emotional and sexual abuse against the boy's mother and the mother's family. The father said that Families SA have "trivialised" and dismissed the reports as merely 'fighting over a child'.¹⁴¹

Professor Scott attributed the increase in notifications to a number of factors. She told the Committee that the definition of abuse has broadened and things previously not considered abuse now fall within that definition.

Further, the community has become increasingly aware of abuse/neglect and is now far more willing to notify on suspicion. Professor Scott also told the Committee that the "front page" media attention given to abuse has driven a community perception that there is an abuse epidemic and this has led people to feel morally and legally obliged to report, but their threshold for notification is much lower than the threshold for statutory intervention and this has driven the system to collapse.¹⁴²

Professor Scott argued that the mandatory notification legislation has driven the system into overload.¹⁴³ She stated that in Britain, where there is no mandatory reporting, the statutory service deals with one tenth the number of notifications received in Australia yet has an equivalent proportion of children in out-of-home care.¹⁴⁴ This was attributed to their having a very integrated service system.¹⁴⁵

Professor Scott claimed that at least two out of three notifications in South Australia are for emotional abuse—commonly the witnessing of domestic violence or conflict between separating parents—and for neglect.¹⁴⁶ She said:

Cases of emotional abuse can be very serious, but many are cases which do not come anywhere near the legitimate threshold for the state to remove children from their families, and nor should it.¹⁴⁷

She expressed her concern that finding the serious cases in the overwhelmed statutory system is like 'finding a needle in a haystack'.

It is like saying any child in the community with a sore throat, tummy ache or cough must go straight to casualty; and then we expect casualty to sift through and deal with the case where there might be a case of meningococcal disease. You can't do it.¹⁴⁸

¹³⁸ Hirte, C., Rogers, N., & Wilson, R. (2008). *Contact with the South Australian Child protection system: A statistical analysis of longitudinal child protection data*, South Australian Department for Families and Communities, p2.

¹³⁹ *supra*, p3.

¹⁴⁰ Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*. Government of SA, Department of Human Services, pp10.1-10.20.

¹⁴¹ Submission 32.

¹⁴² Evidence p209.

¹⁴³ Evidence p209.

¹⁴⁴ Evidence p202.

¹⁴⁵ Evidence p212.

¹⁴⁶ Evidence pp209-210.

¹⁴⁷ Evidence p209.

Professor Scott argued that emotional abuse should be in some alternative service such as a family relationship centre, drug treatment or a support service for an impoverished and stressed single mother.

One witness argued that the *Children's Protection Act 1993* should include a penalty for making a false notification of abuse.¹⁴⁹

The Committee received evidence from a mandated reporter who witnessed her neighbour's grandchildren exhibiting extreme behaviour. The witness said that the children's mother and the mother's partner abused substances and the father worked interstate and was applying for custody of the children. She said:

My dutiful reporting to FAYS received no response and when I inquired...they had assessed my notification as NOC [Notifier Only Concerned].¹⁵⁰

The Committee heard that staff assigned to investigate notifications are under "enormous pressure" and only have the capacity to investigate less than half the notifications. One staff member said:

We are getting through far less than 50 percent of our work. Most Tier 2s are not allocated—well over 50 percent of them are not allocated; most of them are closed with no action—and even some Tier 1s are not being investigated because there is no capacity in the team to be able to do it.¹⁵¹

and another said:

Well, we can't get to it this time because we don't have anyone. We will wait until it comes back next time...¹⁵²

A Departmental worker reported that, sometimes, five to six notifications about the same child are made before the case is assigned a manager and that, in spite of it being mandatory for medical practitioners and teachers, among others, to report suspicious events, there is a very good chance that no action will be taken in response to their reporting.¹⁵³

Departmental staff consider the Tier system quite ineffective and, further, dangerous for children subject to a Tier 2 classification. One worker said:

A Tier 1 has police crawling all over it, Child and Youth Health, high-risk infant workers from hospital—the family is essentially surrounded by people...a Tier 2 is an indication of a family where something significant has gone wrong but we don't know whether that happens on a regular basis or whether it is a one off...and on at least one occasion every day [my supervisor] will say, 'I'm uncomfortable about that. I expect that we'll hear from that family again...'¹⁵⁴

Given the growing number of reports being received by the Department, its capacity to appropriately resource and fund the investigation of high priority cases is questionable.

The mandatory reporting policy developed in an era when it was thought that child abuse was rare (even though sexual abuse of children was recognised as a real problem and not a figment of children's minds). However, given the current, more inclusive, definition of child abuse and the

¹⁴⁸ Evidence, pp212-213.

¹⁴⁹ Submission S1.

¹⁵⁰ Submission 4.

¹⁵¹ Evidence p394.

¹⁵² Evidence p394.

¹⁵³ Evidence p394.

¹⁵⁴ Evidence p394.

recognition that child abuse is a common occurrence, mandatory reporting may clog the system with inappropriate referrals.¹⁵⁵

Professor Briggs stated:

Initially...with mandatory reporting, all cases were investigated within 24 hours...the department last year announced that it would only investigate serious cases. The whole point of the structure was that, if they had early reports...they would be able to put in non-government services to help families, to keep families together and to provide the assistance that parents need when they are under stress.

Now they are saying that they will not even investigate those cases, and yet there is conflict, because their aim now is early intervention. But how do you intervene early if you are not going to investigate it? They are only investigating by phone; they are assessing people by phone.¹⁵⁶

Professor Scott told the Committee that:

...the most current child protection systems in Australia are unsustainable and potentially harmful...I think people are fairly united on the diagnosis that this is completely unsustainable...We will differ in our solutions, but the statement that it is unsustainable and that it could be harming children, as well as helping children, is now not disputed.¹⁵⁷

The Layton Report made recommendations to extend, improve and refine the process in order to improve its effectiveness but gave no advice on how to deal with the huge increase in notification numbers.¹⁵⁸

The situation in South Australia is not unique. In New South Wales, Commissioner Wood recommended that the “overload” of abuse reports to the relevant department in that State (“DoCS”) be reduced by amending the legislation to reduce the statutory threshold for reports to include only those where there is suspicion, on reasonable grounds, that a child is at risk of “significant harm”. Woods recommended the creation of a sifting mechanism in the form of a “Regional Intake and Referral Service Unit”. These units would be a regionally based non-government organisation comprising representatives from health, hospital, education, police, dept ageing/disability/home care and juvenile justice services and also should include one or more child protection caseworkers seconded from DoCS. Their function would be to advise whether the notification should be handled by DoCS or whether the child ought be referred to other services appropriate to their needs. The Committee considers that the Minister should examine the introduction of similar measures in South Australia.

In spite of the weaknesses in the current system, the Select Committee was firmly of the view that mandatory reporting of all forms of serious abuse is necessary and justified. We conclude that poorly considered allocation of resources by Families SA, inappropriate procedures and poor practices due to lack of appropriate training and supervision have all contributed to the failure of the system.

9.3 Placement of Children Separated from their Family of Origin

The number of children in alternative care placements and the type of care is shown in the following table published by the Department:

¹⁵⁵ Higgins, D. & Katz, I. (2008). *Enhancing service systems for protecting children: promoting child wellbeing and child protection reform in Australia*. Family Matters, 80, p48.

¹⁵⁶ Evidence p192.

¹⁵⁷ Evidence p21.

¹⁵⁸ Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*. Government of SA, Department of Human Services, pp10.1-10.20.

Table 1: Children in alternative care placements as at 30 June¹⁵⁹

	2003-04	2004-05	2005-06	2006-07	2007-08
Foster Care	878	890	902	911	911
Relative/Kinship Care	262	341	467	553	663
Financially Assisted Adoption	6	4	3	3	4
Families SA Residential Care	52	83	86	93	102
Non Government Residential	6	6	4	12	29
DFC Housing	N/A	N/A	2	27	26
Non Government Emergency	N/A	N/A	3	17	26
Interim Emergency Accommodation	N/A	5	30	62	80

According to Professor Scott, the numbers are double that of 10 years ago. In her view, the current system “cannot be sustained; there is nowhere to put the children.”¹⁶⁰

Professor Scott also stressed that it is enormously challenging for the state to adequately provide for the emotional needs of the children placed in state care. She said:

The state can be the legal guardian, the state can financially provide for children but the state cannot be an emotional in loco parentis: it can only find people who will love and care for children if they are available.¹⁶¹

According to the Mullighan Report, South Australia spent the least of all the States on child protection and out-of-home care in 2005-06—\$185.50 per child—compared to than the National average of \$287.11 per child.¹⁶² Semple found that South Australia has the highest per capita number of children in Alternative Care for a period of five years or more (39 percent compared with a national average of 20 percent).¹⁶³

Professor Scott said:

Overall in the country now...About 40 to 50 percent of children are in what's called relative or kinship care across the country—South Australia less than other states...Often they get very little support...About 40 to 50 percent of children in any state or territory will be in foster care, and a small minority will be in what's called residential care...That is out-of-home care.¹⁶⁴

Grandparents, relatives and foster carers fill a vital role in caring for our state’s most vulnerable children. According to the Guardian for Children and Young People, 1 in 200 South Australian children are in the custody or under the guardianship of the Minister. Half of these children are under the age of 10 years, 1 in 4 are indigenous, 1 in 11 have a moderate to severe or profound disability and 1 in 3 have a developmental delay or a learning disability.¹⁶⁵

The Layton Report stressed that the role of caring for these young people cannot be reduced to the provision of accommodation and nutrition. That Report acknowledged that carers provide “intangible services”—a sense of belonging, enhancing self-esteem and nurturing, yet no-one in the care system is resourced or acknowledged to meet these needs.¹⁶⁶

¹⁵⁹ Department for Families and Communities, *Annual Report 2007-08*, p65.

¹⁶⁰ Evidence p208.

¹⁶¹ Evidence p211.

¹⁶² Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*. p360.

¹⁶³ Semple, D. (2002). *Review of Alternative Care in South Australia*, p 47.

¹⁶⁴ Evidence p208.

¹⁶⁵ Guardian for Children and Young People (SA), *Annual Report 2007-08*.

¹⁶⁶ Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*. Government of SA, Department of Human Services, p11.6

9.4 Care by Grandparents and Other Relatives

According to the Department's own Manual of Practice, family members are to be given first priority when it comes to placing a child that cannot be maintained within the family home. Extended family resources are to be considered and other family members consulted. Workers are to "ensure that assessments consider and document all extended family options prior to placement into non-familial foster care." The manual further states:

Placement with relatives or significant others is a major priority in placement planning for children who need to be separated from their family of origin.¹⁶⁷

Although policy and procedure dictates that priority for child placement remains with family members, the Committee received evidence from grandparents that this often does not occur in practice. Although grandparents and other relatives are increasingly caring for children who have been removed from their parents, only 22 percent of children in alternative care in 2003-04, and 36 percent (about 700 children) in 2007-08, were cared for in this way.¹⁶⁸

Further, evidence from grandparents indicates that, contrary to the Department's stated practice, the Department does not always approach them to care for their grandchildren. The Department rejected one grandparent on the basis of a rigid rule about having children in separate bedrooms resulting in the granddaughters being placed with foster carers under a GOM18 order.¹⁶⁹

An advocate for grandparents said:

...we have all these grandparents out there saying, 'Please, let us have our grandchildren.'...The thing I don't understand is that we have so many children in caravans, hotels and motels...¹⁷⁰

Grandparents and relatives also indicated that they are not being adequately supported in their endeavours to care for [grand]children. Twenty-one percent of grandparents/relatives received no reimbursement from Families SA.¹⁷¹

When grandparents and relatives are not adequately supported or are asked to undertake a task that is too difficult for them to handle, placement breakdown can result and this is very damaging for the child concerned. Professor Scott told the Committee that kinship carers, especially grandparents, need more support.¹⁷²

Grandparents and relatives face a number of difficulties when endeavouring to care for children.

9.5 Difficulties Experienced by Grandparents and Relative Carers

One grandparent told the Committee:

Families SA...make it so difficult for grandparents...It's easier to deal with a foster family than having a grandparent crying at the end of a phone...There is a very strong current of them saying, 'Don't bother us. We've had it easy for so long. We've done it this way. You people are real pains in the so and so'.¹⁷³

Another grandparent stated:

...grandparents financially are having hard times and they are living off their pension. The parents of the children get all the payments for the children...The money that is going to the parents of the children

¹⁶⁷ *Child Protection/Alternative Care Manual of Practice*, Volume 2 Version 1, 6 May 1999, p101.

¹⁶⁸ Department for Families and Communities, *Annual Report*, 2007-08, p65.

¹⁶⁹ Evidence p304.

¹⁷⁰ Evidence p359.

¹⁷¹ Department for Families and Communities, *Annual Report*, 2007-08, p65, Figure for 2007-08.

¹⁷² Evidence p211.

¹⁷³ Evidence p359.

ought to be going for the support of the grandchildren through the grandparents. Families SA has a tendency to say, 'Well, no, that's up to the parents of the children to activate that.'¹⁷⁴

The Committee heard that Departmental workers are arrogant toward grandparents, bully them and are not sympathetic to their interests.

One grandparent asserted that:

Case workers see their role as the major role; they are in complete control and don't you dare try to tell them that they are going down the wrong road. The worker is correct: we have come across some wonderful case study workers who really work hard. Unfortunately, we tend to come across the ones who don't more often, and their attitude is, 'Grandparents, why do you want to look after the grandchildren? You should be out enjoying yourselves.' I think that permeates through their thoughts. We have been told by some senior members of Families SA that the case workers are the sole arbitrators...¹⁷⁵

The Committee was told that, when inquiring into a grandmother's proposed care arrangements, a Departmental worker made irrelevant, intrusive inquiries and insisted on an inspection of a neighbour's house and its sleeping accommodation, despite the fact that the grandchild was to sleep at the grandmother's home. It was said:

...our personal life is being invaded. We don't mind being asked questions, but they are coming into our home. They are going through our cupboards and going through the rooms...¹⁷⁶

An indigenous paternal grandmother of two children (aged 12 and 10½ years) said that their father died of a drug overdose and their mother abused drugs and alcohol, gambled, neglected the two children but retained custody of their infant sibling. The grandmother, complained about this situation to the District Centre. Since then, she has had "no end of trouble" gaining visits, overnight stays or access to her grandchildren, and the District Centre Manager put her on supervised visits.

This grandmother explained that her grandchildren were placed with their mother's foster relatives—a man with a drug related mental illness and prison record and his partner who is non-indigenous. The grandmother stated that Families SA has:

...behaved with the utmost insensitivity and cultural incompetence...This has caused a lot of distress for both me and the children...

I named the persons employed at Families SA who have, acted with disregard of [sic] the Family Reunification Guidelines, and behaved towards me with the utmost disrespect and insensitivity in my complaint to the Health Commissioner Complaints Office.

As an indigenous person I am very concerned about the welfare of my people, and I would like to contribute to their welfare, why am I being hindered at every turn by Families SA.¹⁷⁷

A grandmother, qualified as a "young person specialist", asserted that the Department takes the view that if one family member is dysfunctional then the whole family—grandparents, relatives—is also dysfunctional. She wants the Department to change that notion and for the Department to give grandparents and relatives first consideration for placing children so that the family can be kept together as much as possible.¹⁷⁸

Grandparents who had custody of their grandson sought an apology from two Departmental workers who were involved in their case. They rued the lack of independent and objective scrutiny of workers' practices. The grandfather claimed:

¹⁷⁴ Evidence pp354-355.

¹⁷⁵ Evidence pp352-353.

¹⁷⁶ Evidence p351.

¹⁷⁷ Submission 55.

¹⁷⁸ Submission 78.

The workers to whom we were first assigned were abusive, unprofessional and not at all concerned with the children's welfare.

Their attitude was that they were in charge and we would accede to their demands, or else. This opinion was born out by threats made directly to us and innuendo during our presence at meetings, etc.

The upshot of all of this is that the Department's workers see themselves as beyond question... they are effectively self regulating and they are asked to report on themselves should concerns be raised. It's a nonsense.¹⁷⁹

Professor Briggs recounted a sad story whereby a grandmother lost her grandchildren. She stated:

...I know the Minister was aware of...[a grandmother] who had brought up her two grandchildren from birth because both parents were drug addicts. She, of course, received no money for this and was becoming very impoverished and was having to leave a rented house because she couldn't afford the rent anymore because she had to stay at home to look after these kids.

[The grandmother] ... approached the Department for help, seeking state housing. The social workers took a dislike to her and said they were going to remove the children, and they did, and sent the children back to their mother, despite the fact that there was evidence of sex abuse by the mother when the child was a baby and ... the child had reported again that on weekend contact mother had done things to her, in bed, with her latest boyfriend. This was disregarded. So, without any warning, despite the fact that those children stayed with grandma all those years, they were removed and packed off to mum. Grandma has not seen them since because the social workers threatened that this would happen.¹⁸⁰

Some grandparents have difficulty coping financially while trying to gain and retain custody of their grandchildren. Legal fees in particular are difficult for them to pay. Some cited mortgaging their houses for collateral. If they attempt to access the Centrelink benefits or disability allowances, assigned for the care of their grandchildren, they are threatened by their adult children that they will be physically assaulted or that their grandchildren would be taken from them.¹⁸¹ One adult child was deemed to have said:

'You touch that money - that money is ours, you can't have it.'...[the children] put him in hospital...They bashed him up. So, there's no way he will ever go back and try to get that money...Financially, most of the grandparents are finding it tough.¹⁸²

Even further invalidating of their important role in caring for their grandchildren, grandparents said that the Child Support Agency (CSA) recently omitted to invite grandparents to attend a recent CSA conference.¹⁸³

An aunt, who initially took in her nephew for six weeks, said that this extended to permanent care when the boy's mother died. She also said:

I don't get much money for the [boy], not on the pension as I am already getting the pension for caring for Mum...because he is a boy they want heaps [sic].¹⁸⁴

Grandparents recounted that they need to pay unfairly high court costs to help their grandchildren. Parental substance abuse was a main reason for the children's need. One grandmother claimed that costs were too high. She wrote:

I am a 53 year old grandmother, currently on a government disability allowance because of a back injury...I own my own home in a suburb of Adelaide...My daughter (mother) had epilepsy...and

¹⁷⁹ Submission 79.

¹⁸⁰ Evidence p191.

¹⁸¹ Evidence p356.

¹⁸² Evidence pp354-355.

¹⁸³ Evidence p356.

¹⁸⁴ Submission 77.

sustained brain damage...She has an IQ of about 70-75. She has three children...I have been compelled to spend over \$20,000 in the Family Court...to attempt to ensure these children have some semblance of life that is anything above squalor and cruelty...I have been to several 'Family Care meetings'...the parents do not even attend. The welfare system has used and abused family members, who are taken for granted when helping these children...The children who are the subjects of the report line are insignificant. The parents are given all the consideration and help, but in most cases are unable to change their habits...I have now signed my house away as a statutory charge, to obtain legal aid. The other parties do not have to pay anything.¹⁸⁵

Another issue that grandparents raised relates to attending the Youth Court. It is said that grandparents are told that they can't be inside the court, they can't have anyone with them, and they mustn't go and see a lawyer.¹⁸⁶

Another grandparent said she spent \$20,000 on court fees in an effort to save her grandson whose mother abused substances, suffered mental illness and committed statutory offences. She said that, over five years while living with his mother, the grandson had suffered living out of a car, being suddenly abandoned to strangers, living in filth and witnessing a man strangle his mother and push her out of a moving car. She wrote:

He is now safe and living with me but I don't feel I should have had to step in, in the manner I did, at such personal financial cost when there are supposedly systems in place to protect such children.

If Families SA has stepped in to protect him, then an allocated carer would have been entitled to a Foster Care Allowance. But as his grandmother it appears that I do not qualify, but rather have an alternative massive out-of-pocket expenses for legal bills and to keep him.¹⁸⁷

Other grandparents reported that they have, by her own choice, cared for their 13 year old granddaughter for some six years. Their son officially had residency but, in his care, the girl was subjected to neglect, witnessed ongoing domestic violence and, further, her mother breached a court order to refrain from drinking alcohol while the girl was in her care. The grandparents said that the high costs of applying for residency through the Family Court precluded them applying. They also claim that there is no policing of court orders, no central register of court orders to inform police called to intervene in an incident, and it is too slow and costly to take a breach of court order to the Family Court.¹⁸⁸ They see a role for Families SA in such circumstances.

Professor Scott illustrated the difficulty facing some grandparents and relatives by reference to her own experience when conducting intensive family preservation work with a family and a four year old boy. She said that the boy experienced four different placements in six months while his mother, who suffered a long history of mental illness, was an inpatient in a psychiatric hospital. Professor Scott explained:

[the boy had] two months with his grandparents, who tried valiantly but could not cope with his behaviour; two months with his maternal uncle and aunt, who similarly could not cope; then a short-term foster placement because it was expected that mum would come out of hospital within four to six weeks, but that did not happen; and then he went on to another foster placement, from which I helped to return him to her care. He had never been abused or neglected. He was in state care because of the mental illness of his mother.¹⁸⁹

In Professor Scott's view, the child's multiple placements may have been avoided if the grandparents had been better supported from the outset.

A Departmental worker reported that, contrary to policy and procedure, accessing funding for a child's care is sometimes a higher priority than placing the child with family. The worker reported that it is

¹⁸⁵ Submission 22.

¹⁸⁶ Evidence pp350-351.

¹⁸⁷ Submission 20.

¹⁸⁸ Submission 1.

¹⁸⁹ Evidence p21.

common for social workers to remove a child without a court order and place the child immediately into foster care without investigating or even considering available family members as carers. The worker stressed funding is a major consideration that influences whether a child is placed with family members or on a GOM18 order. The staff member stated:

...the first thing we wonder about when we decide whether or not we pursue an order on a child is how much more funding we would get if an order is placed on the child—not how we protect that child most effectively; not what kind of impact that will have on the child. If we place a child under a guardianship 18 order, the funding arrangements for that child are huge compared with taking the risk on the aunty who is safe and who was, say, a midwife for 20 years but who is getting on in years and cannot handle a full-time child. The amount of scrabbling for money we have to do to keep that child out of court is huge compared with getting a guardianship 18 order, which means weeks and weeks of paperwork and about 40 seconds in court. However, that child's life is changed forever in quite a significant way, all because we can get more money.¹⁹⁰

Advocates for grandparents claim that whether or not a child is reunited with the parent depends on the individual social worker—whether the social worker is or is not in favour of reunification. Further, the grandparents are seen by the case workers as a nuisance, that case workers would rather use foster care than kinship care as there is less emotion to negotiate.¹⁹¹

Professor Scott, in her capacity as national patron of the Australian Foster Carer's Association, stated that foster carers need respect and skilful response and all sorts of support. She stated

...The model of support is basically not working for foster care across the country. There are a few isolated alternative models. I think Child and Adolescent Mental Health Services in the southern region has a lovely program that supports foster carers, particularly around children with attachment and behavioural problems. The foster carers speak extremely highly of this program.¹⁹²

Professor Briggs mentioned a British program that has been adopted in other States. It was rejected out-of-hand in South Australia. When she mentioned the matter to a senior social workers, she was told:

...we rejected it, because our social workers [do] not want to have to relate to the foster carers.¹⁹³

These observations suggest that an overhaul of the model may be required. However, for the many foster carers who complained of the Department's attitude towards them, it is not merely the model that requires adjustment: it is the underlying culture of the Department.

9.6 Foster Carers - Introduction

Foster carers are the first placement preference for children in need of emergency and short-term care.¹⁹⁴ Foster carers also provide long-term care for children in state care including those under a GOM18 order. The Committee was also told that, compared with other Australian states, South Australia relies more heavily on foster carers to accommodate children.¹⁹⁵

In recent years, there has been a steady decline in the proportion of children in foster care. Seventy three percent of children were placed with foster carers in 2003-04 compared with 49.5 percent in

¹⁹⁰ Evidence p401.

¹⁹¹ Evidence p358.

¹⁹² Evidence pp218-219.

¹⁹³ Evidence pp188-189.

¹⁹⁴ Mr Waterford, Exec Director, Families SA, Evidence to B&FC, 16 February 2009, Hansard, p768.

¹⁹⁵ Evidence p225.

2007-08.¹⁹⁶ However, about half of the children in alternative care placements are in foster care as shown in Table 1 appearing earlier in this Report.¹⁹⁷

Despite the large increase in children needing care, the number of foster carers in South Australia has remained static. According to the evidence, the family-based foster care system is in crisis, with severe consequences for children within that system.¹⁹⁸

Professor Scott who is also national patron of the Australian Foster Care Association, reported that foster carers are under enormous pressure and, on average, are aged in their 50s and caring for double the number of children they were caring for 10 years ago.¹⁹⁹ The Committee further heard that many of the more experienced carers have dropped out over the last 10 years.²⁰⁰

Ms Nina Weston, past President of the South Australian Foster Care Association and founding member of Children in Crisis Incorporated, stated:

We are at a point where the foster care system is collapsing before our eyes, and may well be almost extinct in the next 10 years.²⁰¹

9.7 Difficulties Experienced by Foster Carers

9.7.1 Inadequate Training and Support

Carers reported their training was inadequate and came too late. One carer asserted:

...the training was wholly inadequate to deal with a placement of this nature - wholly inadequate for carers of our limited skill.

...we took placement of the children before we were halfway through training; it was that urgent to the department.

These carers said they were not taught how to manage a child affected by abuse or neglect and that they, underwent no psychological assessment except a personality profiling.²⁰²

Ms Weston told the Committee:

Until authorities wake up and realise that they cannot expect families to provide placements for traumatised and needy children on a voluntary basis, we will continue to see a decline in numbers. Nowhere else in the child-care industry do we allow minimally trained and unskilled care givers to provide child care on a voluntary basis—nor should we. However, when it comes to providing care for the most vulnerable and needy children in South Australia, the government and the community are prepared to leave them with minimally trained and minimally supported volunteers.²⁰³

9.7.2 Given Insufficient Information

A foster carer told the Committee that the Department did not adequately inform her about the severe extent of the child's behaviour problems and did not give her sufficient training and support in ways of dealing with extreme problems:

...the Department's internal memo providing the child's history failed to mention the child's sexualised behaviour (at age seven years)...there was no way I wanted to give up on her...but one time she bounced me off the passage walls, kicking and punching me. She was taller and stronger than me when she was 13...I was becoming desperate for some help...[worker] asked me if I was aware a report had been

¹⁹⁶ Department for Families and Communities, *Annual Report, 2007-08*, p65.

¹⁹⁷ *ibid.*

¹⁹⁸ Evidence p248.

¹⁹⁹ Evidence p218.

²⁰⁰ Evidence p227.

²⁰¹ Evidence p248.

²⁰² Evidence p125.

²⁰³ Evidence pp245-246.

written about me stating that I was mentally ill and a danger to foster children...at first I thought that it was some sort of joke...²⁰⁴

A number of other carers claimed that the Department generally gives insufficient information to carers about the prior history of children placed in their care and that this can put carers at risk.²⁰⁵ It was stated on numerous occasions that the Department used the excuses of “privacy and confidentiality” to exclude foster parents from important information. Others said they suffered disrespectful treatment, lack of services and support, inappropriate decisions and inadequate case planning and reviewing for children in their care.²⁰⁶

9.7.3 Poor Treatment by Departmental Staff

A carer expressed her frustration when she explained that the Department criticised her for providing a foster child with a poor standard of care. She said she felt “put on” by the Department as she agreed to provide only a weekend of emergency respite care but ended up caring for the child for at least a month. She stated:

If the agencies concerned had respectfully listened to me and acted to find an alternate placement earlier, this situation would not have occurred.²⁰⁷

She explained that she was asked to work under difficult circumstances; she was told the child had no emotional difficulties but, in reality, the child was grieving the death of a brother and separation from the mother at such a painful time. There had been no official meeting by all parties to discuss the child’s needs and she was provided with no case plan and no alternative care placement agreement.

A foster carer claimed that, when she was endeavouring to negotiate with Families SA to have ongoing contact with a foster child, social workers documented what was said at meetings poorly and to their advantage. She said that the social workers inadequately understood matters such as attachment, the effects on children of trauma and abuse and did not know how to support foster parents. She suggested that the Social Work degree be revamped to cover attachment disorder and the effects of trauma and abuse on children, as well as how to properly support foster carers in their role.²⁰⁸

Foster carers report that Departmental workers vary in the way they treat foster carers. One carer said:

Under the [District Office], at all times the workers listened, advised, suggested, shared, assisted and supported us with every requirement needed by [foster child]...we all worked collaboratively, respectfully and as a team. It was a pleasure.

With [worker] from [a different District Office] we cannot have a say in matters affecting us...[The worker] will not hear our point of view...We feel as though we are treated as volunteers of no account...we have 24 hours a day, 7 days a week, 56 months of care for this child...we are very qualified to comment on the needs and fears of this child...we feel that [worker] is taking over without the necessary information to know what is best for this child.²⁰⁹

These carers claimed that the officer who was involved with this case discriminated against the carers, breached confidentiality, communicated poorly, talked over the carers, invalidated their perspective, typed up case plans with no carer consultation and acted with secrecy.

Ms Julie Hallifax, member of the Care Worker’s Coalition, stated that Departmental staff have an ad hoc and inconsistent interpretation of legislation and lack knowledge and understanding of the Acts. She said:

²⁰⁴ Submission 10.

²⁰⁵ Evidence p283.

²⁰⁶ Evidence p245.

²⁰⁷ Submission 26.

²⁰⁸ Submission 76.

²⁰⁹ Submission 60.

...a social worker moved to stop me having any contact [with a previous foster child, now in Magill]. I sought reversal, quoting all the relevant Acts...a letter came from the District Office quoting regulations that did not exist...as soon as they are challenged about certain rules in the department, they invent their own to cover their backs and certainly in their own interests and not in the interests of the young person...²¹⁰

One carer said, “I was forced out by the system and a lack of trust of the people in it”.²¹¹

Another stated that:

Nothing in the system has significantly changed to ensure that foster families and the children placed in care are receiving the support that they need.²¹²

That carer claimed that workers sometimes place children in ways that avoid workers being scrutinised:

...when foster carers provide full time 24 hour care in a family placement for a child [for some 2 years], they generally have more knowledge about the child’s needs and a greater emotional attachment to the child, and therefore have more expectations than the workers who come and go in a residential environment...[and] it is possible that case-workers may actually prefer that a child be placed in a residential care facility...where they can avoid the day to day scrutiny and expectations of a foster ‘parent’.²¹³

9.7.4 Capricious Removal of Children

One long term carer stated that two children, who had been in her care for substantial periods of time—one for six and a half years and another for three years—were “virtually kidnapped”. She said that a social worker returned one child to the biological father and his new wife without considering how “being cruelly torn away” would impact on the child. The worker provided no ongoing counselling for the child or continuing contact with the foster family. Another child was reunified with relatives that the child had not met and the foster mother was not consulted regarding the child’s needs.²¹⁴

Another carer whose six year-old foster child was removed unannounced claimed:

They went to school at lunch-time and took her away. I didn’t get to say goodbye...I cannot make sense of this and do not understand why we are being treated this way...Families SA have no accountability and each individual that you deal with has a different set of rules and the goal posts keep shifting.²¹⁵

Another carer asserted that the Department did not listen to her side of a story, did not offer her help with caring for two teenage girls and unfairly deregistered her as a foster carer. She recounted:

One girl had behaved very badly at home, screaming and shouting, because she thought she was not going to get her way (we had had lots of problems with her behaviour). This started the other girl swearing, screaming and shouting, her behaviour could be equally bad for different reasons. I...told her I was not going to put up with this behaviour again...she rang Families SA and told them she was not happy and wanted to move out...[a worker] interviewed them and removed them the next day.

At no time did anyone ask myself or my husband what had happened or if they could offer any help with the situation. It appeared [worker] had made up her mind before she came to our home that she was going to remove the girls.²¹⁶

²¹⁰ Evidence p267.

²¹¹ Submission 17.

²¹² Submission 36.

²¹³ *ibid.*

²¹⁴ Submission 24.

²¹⁵ Submission 2.

²¹⁶ Submission 53..

A foster carer reported that the Department removed from her care a boy with an intellectual disability and reactive attachment disorder without considering what was best for him. She explained:

...he [was] taken away from my placement...by FSA saying that I was 'too burned out' to continue caring for the child. Instead of putting in extra supports like a couple of weekends respite or some counselling or a support group or something else, they terminated the placement against [advice from his psychologist] and further traumatised the child. I hadn't been provided with regular planned respite for over 12 months and my foster child was only in attendance at school for approximately 50 days for the whole year...²¹⁷

Dr Delfabbro stated that there is a lack of consistency regarding the Department removing children from foster carers. Sometimes they are moved too quickly. At other times they are left too long in dangerous positions. He said that, based on what these young people have said, sometimes their placements have been working quite well but they were moved for bureaucratic reasons. Also, he said that there have been cases where a carer was classified as short term, where it was working, and it could have worked long term, but they were told without warning that they were moving on. Often this contravened the wishes of the carer as well.²¹⁸

He said that one of the problems with the whole system is inconsistency. Risk assessment methods have been developed but workers have not always been informed about these developments. This accounts for the inconsistency.

9.7.5 Carers Branded as Trouble-makers

Dr Delfabbro reported that foster carers can develop a certain stigma and be seen as trouble makers. He said:

Some carers can be quite competent but can be truculent towards the case workers because they do not necessarily agree with everything they are being told and they are seen as troublemakers and often will receive the rough end of the stick when it comes to decision making regarding children in their care...[they]...do not fit the model of a good carer—and, even though they have done nothing wrong, they have lost children.²¹⁹

He recommended that foster carers be allowed to make basic decisions.²²⁰ He also suggested that pseudo-adoption may assist the retention of carers.²²¹

Ms Hallifax expressed similar sentiments:

...as a carer, if you do not accept the decision from the district office and you query it, and eventually seek a hearing from a higher level, you are labelled as a trouble maker...Success of a placement does not depend only on the skills of a carer and the challenges or behaviour of the child: success depends on social worker support...some are always available to aid and assist, it is team work...others take over and all the decisions are made behind the carers back...Decisions about the daily care and child support should be done by the carer.²²²

9.7.6 Lack of Psychological and Other Services

Others complained that the Department fails to provide psychological and other services for children in need thereof. One foster couple asserted that the Department wrongly labelled the children in their care as intellectually disabled, probably autistic, and incapable of learning. However, the Department had not assessed the children nor provided them with appropriate services. These carers said:

...there needs to be a mechanism to make the department accountable for denial of service, that it has a duty of care to the children for whom it is the guardian, yet it has the power to deny service to those

²¹⁷ Submission 76.

²¹⁸ Evidence p239.

²¹⁹ *ibid.*

²²⁰ Evidence p231.

²²¹ Evidence p227.

²²² Evidence p276.

children with impunity. If that could be changed, I think a lot of children could be helped within the system. Denial of service with impunity does not exist anywhere else in society.²²³

Dr Delfabbro argued for more psychological services for young people in care. He said, “even those fairly stable kids in care have very high levels of psychological problems”.²²⁴

Professor Scott argued:

I would like to see post-placement support services, particularly coming out of the Child and Adolescent Mental Health Service, because the children have got child and adolescent mental health needs.²²⁵

Commissioner Mullighan recommended that there be a review of therapeutic services for children and young people including the ability to provide, and the structures required to increase, therapeutic service provision so that at least 60 percent of the children and young people in care, who have been abused, can receive an appropriate level of counselling and services.²²⁶

For children and young people in out-of-home care in NSW, Commissioner Wood recommended that they have a comprehensive multi-disciplinary health and developmental assessment within a month of entering care. He proposed this be repeated six monthly for children aged five years or less, yearly for older children and also be monitored, evaluated and reviewed against achievement outcomes developed by the State health department and DoCS. Wood also recommended that the departments for health and education each appoint an out-of-home-care co-ordinator in each health and education region.²²⁷

One witness asserted that foster carers are inadequately funded for necessary items such as mattresses and that case workers respond to carers in a much delayed fashion.²²⁸ Another complained that they are not sufficiently supported with funds—e.g., petrol for taking child to school—are unfairly (due to their not being paid) expected to attend foster care education sessions and are labelled by FSA staff as trouble makers if they complain.²²⁹

9.7.7 Lack of Funding

Payments to foster carers have increased in recent years. The Department claims that, in 2007-08, financial support for foster, relative and kinship carers increased by an average of 26%.²³⁰ In the 2008-09 Budget, \$4.6m was allocated to increase carer payments and “restructure the alternative care payment system”. However, as the allocation is over four years, it is unlikely to make a significant improvement.²³¹

9.7.8 Birth Family Issues

Another area which provides a further example of the difficulties experienced by foster carers arises where a birth family is given access to a foster child in inappropriate circumstances.

One foster couple claimed that the Department was allowing birth family access to young children to a degree that constituted systemic abuse of the children. This was worse than the birth family abuse that the children were being saved from in the first place. The carer stated:

²²³ Submission 30.

²²⁴ Evidence p227.

²²⁵ Evidence pp218-219.

²²⁶ Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*, List of Recommendations, #21, pxxvii.

²²⁷ Wood, J. (2008). *Report of the Special Commission of Inquiry into Child Protection Services in NSW*, Executive Summary, p xxviii.

²²⁸ Submission S4

²²⁹ Submission 36.

²³⁰ Department of Families and Communities, *Annual Report*, 2007-08, p12

²³¹ *supra*, p63

[the children] rarely experienced a week at home with the carers...they lived from the arrival of one government car to the next and with every removal their behaviours deteriorated.²³²

The carers claimed that staff justified the amount of access saying it was court ordered but the court had not ordered specific access but simply ordered the Department to make arrangements that were in the best interests of the children. These carers claimed that the Department commonly used the “court order” as a strategy to deny carers requests to alter access arrangements. The carers claimed that:

The extreme difficulty of raising any child when they are so often removed from their familiar home environment and routine should be obvious to anyone...but these children were no “ordinary children”, either in terms of the life they were required to lead or in their behaviours and emotions...the carers were not only required to meet the needs of these severely traumatised children...to impose such utterly disruptive and undefined access arrangements on the family, and then expect the carers to reverse this harm and raise happy and well-adjusted children was...absurd.²³³

The carers said:

...foster carers are bullied into providing nothing more than a motel service for the State. There can be no meaningful family life when a family knows not, from one day to the next, what its members will be required by the State to “agree” to. The Minister need look no further for clues as to why this State has lost two-thirds of its foster carers in the past couple of years...and is still losing them.

The same carers also claimed that there is a lack of policy and direction for birth family access to foster children and that it is not always in the children’s best interest for family to have unfettered access.²³⁴ They recommended that there be more flexibility around birth family access, with carers allowed to make some alterations to access. They suggested that access sometimes take place in the carer’s home so that children did not always have to go somewhere.²³⁵

9.7.9 Vulnerable to False Allegations

The vulnerability of foster carers to false accusations of abuse is another major difficulty. This topic will be dealt with in a later section of this Report relating to Special Investigations and Care Concerns.

9.7.10 Lack of Respect

One foster carer stated:

The reason quoted in the media as to why the minister or government representatives are not participating in this inquiry, in that it would further harm foster parents, shows only contempt by the minister for us as foster parents...This government has failed in its responsibilities.²³⁶

9.7.11 Carers Exposed to Violence

Based on research, Professor Briggs reported that:

Over 70 percent of carers reported significant damage to property. Over a third reported being threatened/intimidated by adolescent foster children; 83 percent described intimidating behaviour from children or their parents; 56 percent experienced ongoing harassment, obscene phone calls or obscene correspondence; 48 percent of carers said they had been physically assaulted; 20 percent of assaulted carers record to 12 or more violent incidents and another 10 percent refer to it being between six and nine.²³⁷

9.8 Recruiting and Training Foster Carers

Ms Weston told the Committee:

²³² Submission 30.

²³³ *ibid.*

²³⁴ Evidence pp126-127.

²³⁵ Submission 30.

²³⁶ Evidence, p169.

²³⁷ Evidence p186.

...many who have considered fostering are no doubt reluctant to enter a system which is at crisis point and which is unable to adequately support foster families and the children for whom they care. How can we expect to recruit new foster families when we cannot resolve the issues for those who are currently in the system. People are not stupid—many of them know the system is in crisis and will not come near it.²³⁸

The Department itself acknowledges its failure to recruit foster carers and, as always, has in mind “processes to improve...recruitment of [both] foster and relative carers”.²³⁹

Dr Delfabbro told the Committee that foster carers are difficult to recruit. He said that an \$800,000 promotional campaign using television, radio and newspaper advertisements over a 12-18 month period in 2005 and 2006 received more than 700 calls but fewer than 20 foster carers were actually recruited.²⁴⁰ He said that a diversity of factors accounted for the low number of foster carers being recruited. They included:

- Pettiness of Departmental workers regarding role delineations with Departmental workers being territorial about their role and not allowing carers to traverse the worker’s perceived territory
- The recruitment process was too drawn out
- People feared being falsely accused of abuse
- Lack of consistency in role and expectations—new practice manual still has inconsistencies
- Wanting more standardised procedures for reimbursements
- Wanting more access to information about the children in their care
- Carers wanting/needing more responsibility and greater sharing of information.²⁴¹

Delfabbro suggested that foster carers be recruited through existing foster care networks and be initially engaged via day care, respite care and play groups to give them a taste for foster caring. He also suggested there be different types of recruitment processes, faster approval to get them into the system and more follow-up with careful checks.²⁴²

With regard to recruitment, Ms Weston stated:

...The significant problems regarding the recruitment and retention of foster families have been explored many times over many years, yet little has been done to adequately and promptly address these problems...²⁴³

Authorities must recognise that foster carers are frustrated and fed up...in reality, they are treated very poorly. Most foster carers just want to get on with the job, have access to the support and services they need and be treated with respect—they are not interested in being patronised. When all foster carers are treated well and are able to enjoy working in a positive rewarding, respectful environment, they will tell others, and others will come, and then more will follow, until we have a robust foster care system we can be proud of and, most importantly, that will meet the needs of our most vulnerable children.²⁴⁴

Dr Delfabbro referred to research conducted in Queensland which indicated that carers divide into three main groups:

- One third had no interest in professional foster care training and wanted to be like a parent to a foster child.
- Another third wanted additional training.

²³⁸ Evidence p 246.

²³⁹ Department for Families and Communities *Annual Report, 2007-08*, p 70.

²⁴⁰ Evidence p236.

²⁴¹ Evidence p227 & pp234-235.

²⁴² Evidence p228.

²⁴³ Evidence p244.

²⁴⁴ Evidence p246.

- A final third, who tended to be younger and more highly educated people, wanted a formal professional foster carer qualification and to look after children with more demanding needs.²⁴⁵

He further reported that:

...not all foster carers want to do it for money but there is a certain proportion who would be willing to be paid more on the assumption that they take on more training and were willing to take on more challenging children.²⁴⁶

Commissioner Mullighan recommended that it be mandatory for all carers of children and young people in care to undergo comprehensive training about child sexual abuse and in children and young people with disabilities. He also urged that adequate resources be directed towards recruiting and retaining foster carers including providing them with adequate support such as respite care and ongoing consultation. He also proposed providing carers with therapeutic support when a child or young person in their care makes a disclosure of sexual abuse.²⁴⁷

One witness stated that the Department should support foster carers with counselling, medical back-up, full background information about their foster child, sufficient funding to cover the child's food and clothing, education and other reasonable expenses and be subjected to checks to ensure that the funds are being used as intended.²⁴⁸

The Report of the Guardian for Children and Young People acknowledges the Department's difficulty in recruiting and retaining foster carers.²⁴⁹

Ms Vardon, Chief Executive, stated that the Department put foster carers:

“front and centre of our business”.²⁵⁰

She said:

...foster carers who have looked after a child for three years can make all the decisions (just about) in relation to those children; and we are bringing that up into much more focus than it has been. Part of the whole of our reform is to value carers more and to make sure they are seen to be valued.²⁵¹

The Committee agrees with these sentiments but the overwhelming evidence is that it does not occur.

In May 2009, the Department prepared a new Foster Carers Charter. This colourful publication pays lip service to the government's gratitude to foster carers, describing them as “valued partners”. The evidence presented to the Committee demonstrates the hollow nature of the so-called Charter.

9.9 Special Investigations and Care Concerns - Introduction

A number of foster carers gave evidence about being vulnerable to false accusations of abuse or neglect against a fostered child in their care. Ms Weston stated:

Due to the nature and complexity of the alternative care system, foster carers are particularly vulnerable to false allegations of abuse and neglect.²⁵²

²⁴⁵ Evidence p236.

²⁴⁶ *ibid.*

²⁴⁷ Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct.*, List of Recommendations, #16, #17, #18 and pp xxv-xxvii.

²⁴⁸ Submission 30.

²⁴⁹ Guardian for Children and Young People, *Annual Report 2006-07*

²⁵⁰ Evidence p13.

²⁵¹ *ibid.*

²⁵² Evidence p245.

Foster carers expressed grave concerns regarding the ways in which the Department responds to such accusations. One long-time carer stated:

A special investigation, I believe, into a foster parent is only a matter of time. Do it [fostering] for long enough, have enough children and you will have one [investigation]. That does not bother me whatsoever. What does bother me is when it is not investigated properly, fairly or with natural justice.²⁵³

A long-serving foster care couple stated:

We have had difficult teenagers with inherited behaviours that have created problems...then...someone made allegations towards my husband of a serious nature...The child made up stories and got a lot of attention from a school officer...when the child was taken to the office she told the worker that she lied...and, 'I want to come home'...

...when we had our first allegation, it was a very frightening experience that affected the whole family. Then, to have to go through this process time after time, when some things could have easily been sorted out at a table discussion. What is even harder to take is [that] we had so much more to offer.²⁵⁴

The same carers claimed that there is no support for foster carers undergoing investigation and that the Department "leaves them extremely vulnerable and provides inadequate information".

Another long-term foster carer reported that investigations of abuse leave the accused with a "tainted record...that might be used against them at any time". She argued that the accused should be "provided with a fair, independent and transparent investigation as would be the case if he had a lawyer and the case was heard and judged in the court system".²⁵⁵

A lawyer, representing a carer who was accused of sexually abusing a child in his care (but later exonerated) expressed his opinion to the Committee that:

...the easy bureaucratic course of action is to say, 'Where there is smoke there must be fire. Therefore, we will involve ourselves in an investigation of the allegation.' What FAYS does not then do is settle down to the hard work of investigating according to the principles that our legal system has rightly evolved over many hundreds of years...The reason we have evolved principles of natural justice is to ensure that everyone gets a fair go and that people are not hung out to dry...FAYS never got to doing the hard yards, which begins with initiating your investigation on a sound footing, which is to make sure the people you send out as investigators are trained. You do not lead your witnesses. You investigate, obviously, thoroughly and carefully.²⁵⁶

The lawyer continued:

...it is only through your [Parliamentary Committee] work that we can get through to the bureaucracy...to encourage the bureaucracy to realise that there are proper ways of going about these things and that even though FAYS is charged with the responsibility of regulating the welfare of those children and the urgency to protect children who are at risk...that does not mean that anything goes. It is not a cowboy mentality and, indeed, the cowboy mentality will only then reverberate badly, as it has here.²⁵⁷

The carer stated:

Foster parents are in the firing line as these young people often vent their anger and frustration at those around them. Allegations must be investigated, but by a truly independent and accountable

²⁵³ Evidence p180.

²⁵⁴ Submission 23.

²⁵⁵ Submission 24.

²⁵⁶ Evidence p177

²⁵⁷ Evidence p177.

organisation. This is not the case at present. Foster parents must have legal representation made available to them by the state.²⁵⁸

9.9.1 Special Investigations Unit

The consequences for a carer who is the subject of a false allegation can be devastating. One carer reported that, though he was cleared of perpetrating sexual abuse, he was thereafter stigmatised by a Departmental staff member:

Approximately 12 months ago we were offered a placement of two young people. There was some history between us and the family. We knew the family, so they specifically asked for us. The allocation of these children had been approved. The allocation was then cancelled under the instructions of [worker], who was the manager of the special investigations team. Basically, we were refused an allocation because she knew us. We have been unable to gain any further information about that - only hearsay, which was that she would never place a child in our home.²⁵⁹

The Department's Manual of Practice outlines procedures that apply when foster carers are alleged to have abused or neglected a child. A "Notification of Special Investigation" is raised via a relevant District Centre.²⁶⁰ If the carer is alleged to have committed a criminal offence—sexual abuse or serious physical abuse/neglect—SAPOL are also notified.

When less serious allegations are made against carers, a "Care Concern" is raised. A rating is assigned, according to the seriousness of the allegation. The Care Concern process will be examined later in this section of the report.

Prior to 2004, Special Investigations were conducted by a departmental/agency investigation team of four comprising the Departmental District Centre Manager, the carer's supporting agency manager and a manager-appointed social worker from each agency. One carer gave an horrific account of an investigation conducted by this team. The carer's file contained information that would have absolved him if only the team had read it.²⁶¹

The Special Investigations Unit (SIU) was set up in 2004. Chief Executive Sue Vardon promoted it saying:

A Special Investigations Unit of investigators—some of whom happen to be former social workers and some ex-police officers (they report to the DECS policemen)—was set up. So, when a complaint was made about the care of a child not with their parents but in the foster care system, or in the residential care system, this independent unit would go out and investigate. That took a lot of heat out of the system...it gave people the confidence that a proper investigation was happening. They were very thorough... and they have a standard practice.²⁶²

Ms Vardon said that the SIU reported directly to her.²⁶³

Evidence presented to the Committee left no doubt that carers have no confidence that the Special Investigations process has changed. Nor are they convinced that the SIU is truly "independent". One carer stated:

I do not believe the new system is working... the system is no different. It is still biased, dishonest and corrupt. If they want to have, and need to have, a special investigations unit, it needs to be totally independent of the Human Services Department. It has to be totally funded and housed in a different building and, preferable, not staffed by former Families SA staff.²⁶⁴

²⁵⁸ Evidence pp168-169.

²⁵⁹ Evidence p166.

²⁶⁰ Child Protection Manual of Practice Volume 1 – Version 3 September 9 2008, p103

²⁶¹ Submission 37.

²⁶² Evidence pp46-47.

²⁶³ Evidence p70.

²⁶⁴ Evidence p177.

Other carers and lawyers told the Committee that the process should be independent. They recommended that foster carers should be provided with legal representation. Investigator McKenzie recommended that the Special Investigations Unit be closely managed and that a project team consisting of staff from the Department and the Special Investigations Unit be actioned to research and make recommendations on the writing of reports for special investigations.

Commissioner Mullighan proposed that it be mandatory to notify SAPOL of sexual abuse allegations, that investigation strategies be discussed between SIU and SAPOL, and that the strategies be recorded and signed by both parties. He recommended that SIU takes action only in accord with what was agreed in writing and that SIU take no action that would prejudice a police investigation or potential prosecution. In particular, that SIU not speak to a child, alleged perpetrator, potential witness or other potential complainant without gaining approval from SAPOL in writing.²⁶⁵

A barrister who defended a foster carer accused of sexual abuse but who was later cleared by an Ombudsman's investigation, recommended that a protocol be established whereby an accused person can "meaningfully" respond to the Department even while a police investigation is proceeding. He recommended that the Departmental should improve staff:

- training in relation to forensic interview
- understanding of the basic natural justice process whereby an accused person has a right to know the allegations against them in sufficient detail to be able to rebut the accusations and be given the opportunity for rebuttal, and
- understanding of the consequences of, and the damage caused, by false allegations.²⁶⁶

The Committee was made aware of the case of Mr Tom Easling, a former foster carer, who was charged with several counts of sexual abuse of children in his care. Mr Easling was acquitted of all charges. His legal counsel have raised serious questions about the competence of both departmental and police investigations. The Committee sought from the Minister certain material in relation to the case but did not receive that material. The Committee is not in a position to make specific findings on this issue except to say that the complaints of Mr Easling about the competence of the Special Investigations Unit are consistent with those received from a number of witnesses.

9.9.2 Care Concerns

Less serious allegations against carers give rise to a so-called "Care Concern".

There are different levels of Care Concerns:

They can be very small; it might be that you have given a child too many sweets, for example. They will sit down and have a talk with you. So, it is listed as a care concern, and it is addressed with you.²⁶⁷

Ms Hallifax told the Committee that a group called the Care Workers Coalition was formed to support care workers and foster carers facing false allegations²⁶⁸. Carers alleged to have perpetrated inappropriate behaviour yet with the accusation unproven, thereafter had a stamp on their name—an unresolved stigma.²⁶⁹ Ms Hallifax indicated that, in one small community, there were 40 foster carers against whom complaints had been made.²⁷⁰

One foster carer with long term fostering experience reported:

²⁶⁵ Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*, List of Recommendations, #20, pxxvii.

²⁶⁶ Submission 37.

²⁶⁷ Evidence p297.

²⁶⁸ Evidence p276.

²⁶⁹ Evidence pp164-165.

²⁷⁰ Evidence p179.

The handling of Care Concerns seems to me to be abusive and certainly threatening to the carer. You have no rights, you are certainly not advised you can have an independent person with you...the carer should receive the concern in writing prior to the interview...according to the SIU this is only at the social worker's discretion...[Carers] feel Care Concerns are [never] finalised...they hang over heads for a long time.²⁷¹

Ms Vardon explained that a protocol previously dictated that a child be removed from a carer's home immediately an allegation was made and until the issue was resolved. However, foster carers claimed that children are removed from their care based on a rumour. This practice led to complaints about disrupting a child's placement unnecessarily and sometimes for minor issues. The protocol has now been changed. Ms Vardon explained:

... if it's a Care Concern, [we] leave the child there in the home...

...we have also set up a new system for disruption of placement. Before any social worker can move a child out of those placements, it has to go to the manager of the office and there has to be a case conference. So, it has tightened it up.²⁷²

Ms Hallifax said that although the handling of Special Investigations and Care Concerns may have changed, they are still handled poorly and secretively. Carers are not told and cannot have access to records. They may not even know that they have an un-erasable 'unsubstantiated' matter recorded against their name which forever mars their record. Ms Hallifax further explained that when a Care Concern is raised, the carer is not told what the issue is.²⁷³ She referred to a case where

the children were taken with no reference to...the mother. They were just taken on a suspicion, on a rumour. Two years later the carer was given back her licence, which had been lost, and the rumour was baseless.²⁷⁴

One couple, who are parents of children in care, alleged that the Department created a smoke screen when allegations arose of their child having been sexually abused:

Instead of telling us that our daughter had been what I call raped while in care, [the Department] gave us a \$7,000 holiday ... over \$1,000 spending money and accommodation - and did not say a word to us about this. We received [a] letter that 'it has been reported to the special investigations unit'.

One carer couple found that the only way to achieve having "allegation of abuse confirmed" struck off their record was to employ an investigator. They stated:

We really feel that there needs to be a mechanism independent from the department that has the power to investigate or advocate on behalf of carers and children, even though we recognise that the children are wards of the state. That, in itself, would prevent the department doing anything it likes...²⁷⁵

9.9.3 Suggested Improvements

Ms Weston said that foster carers need specific training in the light of possible allegations of abuse. She stated:

There is no accredited competency-based training module for foster carers to access in order to ensure that they have the knowledge and skills required to prepare them for this [allegation of abuse] and, where possible, prevent these situations from occurring.²⁷⁶

Ms Hallifax said that there is no independent appeals group for carers. She stated:

²⁷¹ Submission 17.

²⁷² Evidence pp46-47.

²⁷³ Evidence p107.

²⁷⁴ Evidence p46.

²⁷⁵ Evidence pp123-124.

²⁷⁶ Evidence p245.

One of the things that I see sadly lacking today is that there is no independent foster care advocate any more. That position was disbanded. It was a role that Connecting Foster Carers started to take over: to sit beside carers in meetings and to advocate for them, but they have been stopped from doing that...[by]...the department. They received written instruction that it was outside the bounds of their premise and that they were not to continue doing it...[it was] at least three years ago; it may be four years ago...she was really working nearly five days a week, it was such a heavy call. She - like the person before her—was overworked and overdone by it, and she resigned. It was when she resigned that the policies of it were written and an information system was introduced. So, there is an information officer whom you can call, but there is not someone to actually sit beside carers to advocate and support them through an issue.²⁷⁷

9.10 Residential Care

Although a large proportion of the children in care are in foster care or relative/kinship care, about one-tenth are in some other form of residential care. Families SA has six residential care units and ten transitional accommodation houses. There are another 15 residences operated by non-government organisations. Motel-style accommodation is provided for some children in care. (That topic is covered in the next section of this Report.)

Evidence from a number of sources indicated that South Australia's existing residential care units are institutional and not helpful to clients. They lack experienced staff and have no social workers or one-on-one care available.²⁷⁸

The Committee also heard that in some cases, children are given curfews that allow them to stay out late at night, with some not returning to the unit until the next morning.²⁷⁹ There was evidence that residential care units contain both males and females, that underage sexual activity is occurring and that residential staff had allowed girls on GOM 18 orders to have a male visitor stay overnight. In at least two cases, pregnancies occurred.²⁸⁰ One Departmental staff worker reported that:

It does not work for these children. Once they step into the residential unit structure, they usually end up in the youth justice system. If they were not before they certainly do after. They usually end up using drugs, or trying drugs, once they are in that particular system.²⁸¹

Dr Delfabbro said:

Adolescents would tend to go into residential care ... you could see them getting worse and worse because they are all hanging out with other kids with similar problems, learning bad habits, often being placed with the correctional kids²⁸².

Professor Scott reported that high quality residential care is very difficult to deliver. She stated:

...it is expensive and it is very hard to recruit and retain staff to work in such settings; and many residential care settings can become abusive care settings where children are exposed to other children who have greater levels of pathology than they do.²⁸³

The Guardian for Children and Young People, Ms Pam Simmons, in her annual report for 2007-08, said:

I am deeply concerned that the government has contradicted what is known about safety in residential care by accommodating even more young people in some residential care units because there were 'spare' beds. In my earlier report on preventing sexual abuse in care I pointed to the already high

²⁷⁷ Evidence p275.

²⁷⁸ Evidence p388.

²⁷⁹ Evidence p247.

²⁸⁰ Evidence p405.

²⁸¹ Evidence p388.

²⁸² Evidence p224.

²⁸³ Evidence p211.

number of residents per unit. Evidence about safe congregate care puts a maximum at six residents in any one unit. In the past year two units have had to increase their numbers from 10 to 12 and two other residential facilities are planned, each accommodating 12 residents. This decision to increase the number of children per unit is wrong and must be reversed.

... About a quarter of the children in care have very significant problems as a result of their histories of abuse and neglect. They need specialised alternative care and strong therapeutic support which have hitherto been lacking in South Australia.²⁸⁴

Dr Delfabbro said that there are better models of residential care. For example, in America where family-based arrangements in residential care units exist along with supporting professional and social networks. In that country, children can go into:

- traditional family-based foster care
- professional foster care
- day care—children don't sleep there overnight but go to day treatment centres, often do classes there and receive psychological intervention
- village-style, small scale residential care
- large residential care
- secure care.

South Australia does not have the same range of services and, according to Dr Delfabbro, does not fully utilise day care.²⁸⁵

9.10.1 Motel-Style Accommodation

In cases where accommodation in foster care residential care facilities is not available, children needing placement are accommodated in bed & breakfast/motel style lodgings.²⁸⁶ This accommodation may be the first emergency preference for sibling groups, in order to keep them together.²⁸⁷

Sometimes there are no other options. Sometimes accommodation is full in every sector, whether it be the NGO sector or our own residential settings, and there is no alternative...it [B&B or motel style accommodation] is a measure of last resort.²⁸⁸

In May 2008, 87 children were housed in motels. 59 of them had been in that form of accommodation for over 60 days. Although, by June 2009, the numbers had reduced (49 in motels, with 37 staying for over 60 days), this form of accommodation is most unsatisfactory.²⁸⁹ Moreover, the quality of other residential care units is poor and they are seen as a last resort.²⁹⁰

Between December 2005 and June 2008, 401 children were placed in motel type emergency care at an annual cost per child of \$270,000 per child—\$226,000 for commercial carers, \$44,000 for accommodation. Each child's median time in care was 2 months. There were 140 children in this style of care and the total cost for the year ending 30 June 2008, interim emergency care—motel type accommodation—was double (\$16.004 million) that of NGO care cost (\$8.913 million).²⁹¹

A Departmental worker said that emergency placements in motels means that:

[children] never really get to have the relationship building that is absolutely necessary. When a child has been removed, they need to have consistency. It is a terrible time for them.²⁹²

²⁸⁴ Guardian for Children and Young People, *Annual Report*, 2007-08, p 5.

²⁸⁵ Evidence pp225-226.

²⁸⁶ Waterford, Exec Director, Families SA, Evidence to B&FC, 16 February 2009, p768.

²⁸⁷ *supra*

²⁸⁸ Ms Mazel, CEO, Department of Families and Communities, Evidence to B&FC, 16 February 2009, p766.

²⁸⁹ Guardian for Children and Young People, *Annual Report*, 2008-09

²⁹⁰ Evidence pp225-226.

²⁹¹ Mr Ullianich, Director, Finance, Department for Families and Communities, Legislative Budget and Finance Committee, 16 February 2009, p764.

²⁹² Evidence p400.

Commissioner Mullighan recommended that adequate resources be directed towards ensuring that no child or young person ever needs to be placed in emergency accommodation such as serviced apartments, hotels, motels and bed and breakfast type accommodation.²⁹³

9.10.2 The Future of Residential Care Facilities

Dr Delfabbro does not consider that a return to residential care on a large scale would be either cost-effective nor beneficial to children but that, for a small portion of children, to be in a residential supported arrangement may be better than being kept in motel type accommodation.²⁹⁴ He said:

If you looked at the cost of these packages [motel accommodation packages], having some dedicated, specialist residential units would probably be more cost-effective than the current system of motels...²⁹⁵

Based on research findings, Dr Delfabbro said that there is a need for residential care facilities. He explained to the Committee that there is a role for short-term residential care for the purpose of assessing a child over a few days before placing the child in foster care.²⁹⁶

Professor Scott stated:

I strongly believe that, right across Australia, we have swung too far away from intensive therapeutic residential care. There is a need—particularly for the group of children whose psychological needs are such that they are so difficult for a foster family or a relative family to be able to contain—for high quality therapeutic residential care...I think that the mix across Australia, including South Australia, is deficient in high quality residential care.²⁹⁷

She said that, in some cases, residential care may be the only option.

Particularly with older children where you have very serious attachment and conduct disorders - the inability to form a healthy and secure attachment with an adult and serious behavioural problems - you will have very high rates of placement breakdown, because it would be almost impossible for some families...to be able to sustain that level of behavioural disturbance within a family situation, particularly if you have got alcohol, drug misuse and even self-harming behaviour. We are asking some foster families and some grandparents to cope with situations which are really above and beyond what we can expect.²⁹⁸

Over recent years, residential facilities have been closed. Professor Briggs commented that “we may have thrown out the baby with the bathwater”. She now supports some residential facilities.

...providing they have a therapeutic approach.²⁹⁹

However, Ms Weston expressed an opposing opinion. She believes that children need a healing environment and that can best be provided under the supervision of specialist foster carers in home-based care.³⁰⁰

Commissioner Mullighan recommended that a secure therapeutic facility be established as a last resort placement for the care of children who are exhibiting behaviour that is placing them at high risk. He

²⁹³ Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*, List of Recommendations, #16, pxxv.

²⁹⁴ Evidence p226.

²⁹⁵ Evidence p226.

²⁹⁶ Evidence p236.

²⁹⁷ Evidence p211.

²⁹⁸ Evidence p211.

²⁹⁹ Evidence p196.

³⁰⁰ Evidence p247.

further recommended that the Minister appoint a panel of suitably qualified persons to select and design this therapeutic facility and determine the therapeutic services to be provided.³⁰¹

9.11 Potential of the Current System to Harm Families, Children and Carers

Disturbing testimony was heard that, although the current statutory system may be designed to protect abused and neglected children and to preserve and strengthen their families, it is, in fact, causing further damage to both children and families. Professor Scott spoke of “...the capacity of our system to do further harm...”³⁰²

She argued that the statutory system walks a tightrope between under and over intervention and that families are getting caught up in a statutory system when it is not appropriate for them. As a consequence, they are being damaged—stigmatised, hurt, humiliated and alienated. Professor Scott explained:

...the threshold for making notifications down here is suspicion—and woe betides you if you don't and something really tragic happens. But the threshold for statutory intervention—actually taking a case to the Youth Court—quite rightly, is much higher than that.³⁰³

She told the Committee that it is now a mainstream view that mandatory reporting has done a lot of damage to the system and that it is hurting children:

What we have is the child protection net catching in it families who are stigmatised, hurt, humiliated and alienated by that and who may have had some need which could have been better met by other services; or may not have had a need at all.

My critique of this system is that we harm families who do not need to be in the system by getting them caught in the system—and I am concerned about those families.³⁰⁴

The Committee heard that many children within the system are in a predicament.³⁰⁵ The system is harmful to them because the state cannot give them the emotional support that they need.³⁰⁶

Dr Delfabbro reported research evidence indicating that some children are not suitable to live in foster care. They may experience as many as 30 placements in one year and often come out of the system more damaged than they were when they entered it.³⁰⁷

Professor Scott told the Committee that “placement instability corrodes [children] at the very core”.

Placement instability...is an enormous assault on the psychological development of children. Placement instability is rife in our current child protection systems...[it] is damaging large numbers of children. That is not to say that foster carers are not doing a valiant job...³⁰⁸

Dr Delfabbro said that the highest number of placement changes in the population of children he researched was 40. He said:

... the level of placement instability is becoming worse. In the past, I would have said that 15 percent to 20 percent of the population in care would fall into the category of being very unstable, but now you are getting these choppy, short-term emergency placements occurring more and more, because there are increasing difficulties associated with finding desirable long-term placements. They are trying out one

³⁰¹ Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*, List of Recommendations, #43, pxxx.

³⁰² Evidence p208.

³⁰³ Evidence pp207-208.

³⁰⁴ Evidence p212.

³⁰⁵ Evidence p 248.

³⁰⁶ Evidence p 212.

³⁰⁷ Evidence p223.

³⁰⁸ Evidence p210.

short-term placement after another while they try to find a suitable long-term placement. The harder that is to do, the more short-term placements you get..³⁰⁹

...the quality of the foster carers made a big difference...We...found that children who came into care early, where the placement was almost like a pseudo adoption, tended to do a lot better in the care system than did those who were sent home repeatedly and brought into care later. We found, when compared with stable children, they had a lot of problems psychologically in their teenage years compared with children who were doing well.

If children are going to come into care, it is better they come in earlier rather than later.³¹⁰

The Committee heard evidence that the current system not only harms some families and children but is also damaging foster carers on whom it heavily relies. One foster carer said:

...the weight of the Department has engineered the destruction of my professional career...

That we two people started out merely wanting to do something to help others and have ended up with such devastation and pain ... the full weight of the department converged on us:...simply because we believed that the children needed more help than we could give and we believed it was the Department's responsibility to provide that help.³¹¹

One foster carer was asked to describe in one word the experience of being a foster carer under the current system. The response was, 'heartbreaking'.³¹²

Another carer stated:

...what happened to us was wrong and caused tremendous harm to [my wife], my family and me. ... the treatment we received has been, and is being, meted out to other foster parents. I believe it is the cause of the exodus of foster parents from the system....³¹³

9.12 Committee's Comments

There can be no doubt that the system is overwhelmed, under siege and in crisis. Poorly-considered allocation of resources by Families SA, inappropriate procedures and poor practices due to lack of appropriate training and supervision have contributed to the failure of the system.

The mandatory reporting should be improved by the establishment of independent regional panels to determine appropriate responses to all notifications of child abuse. The panels are to consist of persons such as teachers, police officers and social workers, as well as Departmental officers.

Although care by grandparents and other relatives is supposed to be accorded "first priority", grandparents especially continue to face difficulties and are not as supported by the Department as strongly as they should be.

The Committee believes that family carers, particularly grandparents, should be treated with greater respect and as an integral part of any family plan.

The Committee considers that the Department's lack of empathy for grandparent and relative carers is evidence of the "rotten culture" which is endemic within the Department and which is referred to earlier in this Report. It further reflects the inadequacy of training and experience of Departmental workers.

³⁰⁹ Evidence p239.

³¹⁰ Evidence pp239-240.

³¹¹ Supplement to evidence p117.

³¹² Evidence p127.

³¹³ Evidence p186.

The Department's Manuals and Practices read well (and are in a state of continual improvement). However, too often they are either ignored or not implemented in the field.

Foster carers presented to the Committee compelling evidence of poor treatment, inadequate rights and support and they expressed frustration, anger and disillusion along with grave concerns about the alternative care system.

In our view, foster carers are victims of the "rotten culture of power without accountability" which is rife within the Department. Most expert witnesses who presented evidence expressed similar concerns to those expressed by foster carers about the alternative care system.

In the face of such compelling evidence and condemnation of the current system, the committee is at a loss to understand why the Department has not been more pro-active in adopting programs which have proved successful elsewhere.

Contrary to the assertions of Ms Vardon, the Committee received consistent evidence that foster carers feel unsupported and taken for granted by the Department. They and the children that they foster feel vulnerable to abuse and poor treatment. Foster carers fear retribution, deregistration and having their foster children removed and are reluctant to make formal complaints about the treatment they receive from Departmental officers.³¹⁴ They are also reluctant to make requests for support services for fear their foster children will be removed.

The Committee believes that a higher level of accountability and supervision of caseworkers is necessary and that a truly independent grievance process should be established for both foster carers and relative/kinship carers.

The Committee recognises the fundamental principle that allegations against carers of abuse and/or inappropriate behaviour should be properly investigated and dealt with. Commissioner Mullighan's recommendations on this subject should be followed. However, acknowledging the paramount obligation to protect the interests of children does not mean that the legitimate interests of carers should be overridden, nor that their reputations be trashed by untrained or incompetent investigations.

The Committee believes that there is much to be said for the suggestion of Nina Weston that foster carers have access to an accredited, competency-based training module to equip them to appropriately address issues around allegations of abuse. It also agrees that foster carers should have access to a dedicated advocate to assist in responding to Care Concerns and allegations of abuse.

The lack of respect towards foster parents must be addressed. Those workers who have, for whatever reason, caused emotional distress and trauma should be held to account.

The Department and Minister must develop better working relationships with foster parents in order to begin to repair the damage done to their lives and their reputations. Irrational and obstructive behaviour perpetrated against good, honest people attempting to assist those in need should be no longer tolerated.

Motel-type accommodation is both inappropriate and costly. Although the Department has reduced its reliance upon this form of "care", the Committee does not consider that it has been sufficiently active in finding a permanent solution. Part of the problem is a result of the Department's failure to recruit, train and support foster carers who are prepared to manage children with difficult issues.

³¹⁴ Evidence p245.

The Committee agrees with the expert evidence which supports the need for additional “therapeutic” residential care facilities and more “home-like smaller residences”³¹⁵ to accommodate children at risk.

The Committee does not support ideological opposition to residential care facilities. However, the evidence establishes that the current system with great reliance on inappropriate emergency accommodation, coupled with a high level of placement instability is harmful to children.

³¹⁵ Guardian for Children and Young People, *Annual Report 2008-09*, p5, and Evidence p247, and Submission 78.

10. Preserving and Strengthening Families

10.1 Introduction

This section addresses the role and effectiveness of interventions designed to preserve and strengthen families. These include intensive family preservation services, programs for reunification and maintaining best connections for children remaining in alternative care. The Department's overarching policy of family preservation and reunification is brought into question, especially where it involves very young children.

Also outlined is the extremely detrimental impact of parental substance abuse on families. The Department's current approach to the assessment and treatment of substance abuse is examined. While the evidence indicates that substance abuse is one of the largest problems and reduces the effectiveness of parents to properly care for their children, it is also a major cause of the need for children to enter care. Legislation allowing assessment of parental abuse and addiction and protocols for treatment of that abuse and addiction are only recent developments and lack effectiveness.

Highlighted is the Department's piecemeal approach to prevention and intervention; its lack of clear guidelines and training of staff to work in partnership with providers of relevant services. Also of concern is the lack of solid evidence regarding the effectiveness of most interventions applied to young people. There is a clear need for the Department to commit to both the delivery of a range of programs to address a diversity of needs and to evaluating the effectiveness these programs.

10.2 Background to Family Preservation Services

The *Children's Protection Act 1993* established that a greater emphasis needed to be placed on keeping children who are at risk of abuse or neglect with their families. Reasonable efforts to prevent the removal of children were to be implemented. The objects of the Act³¹⁶ include:

to recognise the family as the primary means of providing for the nurture, care and protection of children and to accord a high priority to supporting and assisting the family to carry out its responsibilities to children.

The fundamental principle of the Act states that, in the best interests of the child, consideration must be given to preserving and strengthening family relationships. The fundamental principles³¹⁷ read:

In determining a child's best interests, consideration must be given to the following:

- (c) the desirability of keeping the child within the child's own family and the undesirability of withdrawing the child unnecessarily from a neighbourhood or environment with which the child has an established sense of connection.
- (d) the need to preserve and strengthen relationships between the child, the child's parents and grandparents and other members of the child's family (whether or not the child is to reside with those parents, grandparents or other family members);

These objectives reflect a change in Australian society's thinking about child protection. Some argue that this change influenced a drop in the number of children coming under care and protection orders in Australia over the 20 year period from 1972 to 1991.³¹⁸

The number of children in Australia under care and protection orders halved between 1972 and 1991 from 26,846 to 12,456 (the latter being over a larger population base). Over the same period, the profile of children under care and protection orders shifted from children to teenagers. By 1991, the

³¹⁶ Children's Protection Act 1993, Section 3, printed 8 October 1996.

³¹⁷ Children's Protection Act 1993, Section 4 parts 1, 2, 3 & 4 (a & b only), printed 8 October 1996.

³¹⁸ Cashmore, J., & Paxman, M. (1996). *Family preservation services: A review of selected literature*, p6.

teenagers who met the criteria of impending removal were truly at risk and from very, very troubled families.³¹⁹

10.3 Intensive Family Preservation Services

In 1993, coinciding with the proclamation of the *Children's Protection Act 1993*, the South Australian Government invested \$2.4 million in an intensive family preservation initiative entitled "Keeping Families Together". This was conducted as a joint initiative between the Department, Anglican Community Services, Centacare Adelaide and South East Anglican Community Care. Where a child's care and protection was at issue, the service objectives were to prevent and reduce unnecessary out-of-home placement of the child and to promote family self sufficiency by increasing parenting, life skills and coping abilities.³²⁰

Intensive family preservation services have the following characteristics:³²¹

- Comprehensive, individually tailored and flexible services delivered to a family in their home and community and addressing behavioural, emotional and concrete needs.
- Small case-loads so that the worker can work intensively with the family.
- Extensive worker availability over a time limited period e.g., 24 hours a day seven days a week for four to six weeks.
- Treating the family as a unit.

The "Keeping Families Together" initiative used two intensive family preservation models based on these characteristics:

1. The "Home Based Model" which was implemented in suburban Adelaide in October 1993.
2. "Homebuilders" which commenced in outer suburban and rural South Australia in May 1994.

The Departmental evaluation of Keeping Families Together showed that the program improved a family's functioning and standard of care for the children. However, it was not possible to ascertain whether it reduced the rate at which children entered alternative care. This finding was consistent with interstate and overseas results and read:

The effectiveness of the Keeping Families Together program on the numbers of children in care cannot be declared with confidence. There are significant limitations in the extent to which the impact of intensive family preservation programs in affecting outcomes such as placement rates can be isolated or accurately measured.³²²

Overall, research results indicate that family preservation services may postpone rather than prevent placement.³²³

Results also show that family preservation services work more effectively with families that are experiencing a short term crisis that is putting a child at risk, and less effectively with families with chronic problems and where children are neglected.³²⁴

The evaluation handed down ten recommendations which include:

- Establish a mechanism whereby referral to a Keeping Families Together program is actively considered before a child is placed into alternative care.
- Prioritise entry into a Keeping Families Together program on the basis of those most likely to benefit from it—children at acute risk as opposed to chronically neglected.

³¹⁹ *ibid.*

³²⁰ Interagency Keeping Families Together Evaluation Steering Committee. (1996). *Report on the evaluation of "Keeping Families Together"*, joint initiative of DFCS; Anglican Community Services; Centacare, Adelaide and South East Anglican Community Care.

³²¹ Cashmore, J., & Paxman, M. (1996). *Family preservation services: A review of selected literature.*

³²² Interagency Keeping Families Together Evaluation Steering Committee. (1996). *Report on the evaluation of "Keeping Families Together"*, joint initiative of DFCS; Anglican Community Services; Centacare, Adelaide and South East Anglican Community Care

³²³ Cashmore, J., & Paxman, M. (1996). *Family preservation services: A review of selected literature.*

³²⁴ Interagency Keeping Families Together Evaluation Steering Committee. (1996). *Report on the evaluation of "Keeping Families Together"*, joint initiative of DFCS; Anglican Community Services; Centacare, Adelaide and South East Anglican Community Care, p vii.

- Program funding should not be tied to the expectation that numbers of placements into alternative care would be reduced but to the notion that the program would form part of a network of services aimed at reducing abuse and improving standards of care of children in vulnerable families.³²⁵

Subsequent to this report, the Department enshrined family preservation principles into its practice manuals. Principles include:

Where possible, care and protection should be sought within the child's family context, and the child or young person should not be removed from his/her family unless there remains a serious risk of harm. Strengthening and supporting families adequately in their caretaking role is consistent with the belief that families are acknowledged as the best setting for the rearing of children. Families should be supported in ways that reflect their differing needs and which address the issues which have led to the child being at risk.³²⁶

The Department defines Family Preservation as an:

...umbrella term used to describe a continuum of services provided. These range from strengthening families to enable children and young people to continue to live at home or establishing and preserving best connections with birth families when children or young people remain in alternative care.³²⁷

Practice guidelines, under the heading "Preserving and Strengthening the Family", highlight that the Department must have a modulated approach to child protection, weighing and balancing child protection with preserving families. The section reads:

[there are]...those who would argue for child protection services to remain totally child focussed, with the consequence that work with families concentrates on investigation and risk assessment (and no further intervention to prevent the reoccurrence of abuse). Others argue that child protection needs to be seen in the wider context in which child abuse and neglect takes place, and advocate for intervention services to address the issues which have led to the child being at risk.

The Children's Protection Act, 1993 places the child's safety and wellbeing as the central focus, but adds every effort must be made to preserving and strengthening the family.³²⁸

The Manual states that Family Preservation Services will be offered when:

- the family is experiencing a current crisis
- an allegation of child abuse or neglect has been made
- Families SA determines intensive intervention is required to ensure a child's care and protection
- Families SA considers a Family Care Meeting or Care and Protection Order may be needed
- Families SA's case planning process recommends family reunification, for a child or young person on a long term order, or for establishing a best connection.³²⁹

10.4 Departmental Family Preservation and Reunification Practice

Ms Ros Wilson, Departmental Manager for Business, Planning and Development, indicated that family preservation is an overarching Departmental policy. She stated:

Family preservation would be the goal of everything we do, and we use a case plan and assessment tools. Certainly, we have a plan that will help the family to remain together.³³⁰

Ms Beth Dunning, then Executive Director of Families SA, explained:

³²⁵ Interagency Keeping Families Together Evaluation Steering Committee. (1996). *Report on the evaluation of "Keeping Families Together"*, joint initiative of DFCS; Anglican Community Services; Centacare, Adelaide and South East Anglican Community Care, p ix

³²⁶ *Child Protection Manual of Practice*, Volume 1, Version 3, September 2008, p10.

³²⁷ *Alternative Care Manual of Practice*, 1999.

³²⁸ *Child Protection Manual of Practice*, Volume 1, Version 3, September 2008, pp33-34.

³²⁹ *ibid.*

³³⁰ Evidence p74.

The case plan works you through a variety of steps, one of which is preservation, if preservation is part of it...[there are] policy guidelines for staff...how the case plan works, how the preservation part of it works, the reunification part, the placement part... Every family has a case plan...³³¹

A 16-step case plan procedure (see Appendix B) features in the Procedure Manual under the subheading, “Working with families to maintain the child at home”.³³² However, the case plan procedure makes no direct reference to preserving families; case workers are directed to, among other things, identify three priority family needs, formulate goals to address these needs and decide whether to use an external agency to meet the needs.

Reporting on programs designed to meet such needs, Ms Sue Vardon, Chief Executive of the Department, reported that, for some time, there were no family preservation services to which caseworkers could refer clients. The Department had withdrawn family preservation services. Ms Vardon stated:

When I came back to South Australia 2½ years ago I was surprised to learn that...All the family preservation programs, which I was part of setting up a million years ago, had disappeared. I am a great believer in family preservation programs. I sent people over to America and England some years ago to set them up in South Australia.³³³

Ms Georgina Papagiannis, Reunification Program Manager, Centacare [non government provider of services], confirmed that, for a long period up to 2004, there were no family preservation/reunification services available. She said,

I think there was a real black hole from probably the late 1990’s until 2004, when our program was funded; in terms of services for reunification and family preservation. I cannot even really think of any services that were—³³⁴

Ms Margaret Blake, Reunification Program Case-worker, Centacare, reported that the Keeping Families Together program that started in about 1993, continued for only a few years then stopped.³³⁵

Regarding intensive family preservation services currently available in South Australia, Ms Blake and Ms Papagiannis reported that there is one small program supported by gambling money and servicing the Onkaparinga area.³³⁶ It is the Corner Store Reunification Program³³⁷ offered by Centacare via Community Benefit SA, a branch of DFC. She described it as a small, medium-intensity program with four full-time social workers visiting families three times a week and with some after-hours flexibility, providing reunification services from Gawler to Onkaparinga.³³⁸

About the results of this program, Ms Papagiannis said:

In 2007-08 I think our success rate was about 60 percent of children reunified with their parents [on a permanent or more or less permanent basis]...One of the reasons it is quite low here in Adelaide is that the Homebuilder model says that reunification should begin at removal and that we should only take cases where the children are out of home for three to six months...

We are getting families where kids are out of home for three years...families move on when their kids are not there...it is much harder to reunify kids after three years.³³⁹

³³¹ Evidence p157.

³³² *Child Protection Manual of Practice*, Volume 2, Version 3, 14 October 2008, pp 4-11.

³³³ Evidence p15.

³³⁴ Evidence p312.

³³⁵ *ibid.*

³³⁶ Evidence p31.

³³⁷ Evidence p320.

³³⁸ Evidence p316.

³³⁹ Evidence p321.

Ms Papagiannis and Ms Blake reported that only Departmental workers can refer clients for family preservation/reunification services. Ms Papagiannis said:

...we have four full-time social workers and we receive referrals from the metropolitan Families SA offices. We aren't overloaded with referrals; I guess in 2007-08 we received 25 referrals from all those offices...³⁴⁰

Some offices are better than others, basically. I think a lot of it is personality-driven within those offices. Workers on the ground answer to their supervisors, who sit back and make a lot of decisions. Workers are not empowered to make decisions for themselves. They have to always put it back to the supervisor. I think that getting referral from anywhere is personality-driven. Certain offices may not have even referred to us at all in a 12 month period, and some of them are the busiest offices. It is about trying to work in partnership with government and NGOs.³⁴¹

About the attitude of Departmental workers to this work, Ms Blake said:

The other thing, too, is that there is a nervousness about, 'Well, if we let these kids go home something might happen.' That's why they need to attend the training, to understand what we are actually going to be doing. Once they refer one we tend to get them re-referring, which is interesting.³⁴²

Ms Papagiannis emphasised the importance of training. She said:

It is about the NGO working in partnership with the Department and everyone being trained together so that everyone is on the same page about what we are doing.

I believe there is a culture in Families SA whereby workers are not trained in this area and they don't know what they are doing. Really, they are just so overworked and so overwhelmed that to sit down and actually plan and think about making a referral is just way too much for them.³⁴³

Mr Tonkin expressed concern that reunification rates are very low:

We know that not every family is perfect and we know that, in some cases, the children need to be removed. However, we also need to work with every stakeholder to ensure that the child can be removed to a safe environment.

I was working with a group of social workers in a district centre on Friday, and I asked them what their percentage of reunification was. They said that it is so low it is not even worth mentioning, and I have had percentages like 5 percent thrown at me.? How do we have a program of reunification if we cannot reunify these children with their families?³⁴⁴

Evidence indicates that, in spite of the recommendation to actively consider family preservation services prior to placing a child in alternative care, and in spite of enshrining the principles of family preservation in the practice manual, very limited services have been available and staff training to support the delivery of those services has been very poor.

In its Annual Report, the Department for Families and Communities reported its strategy to develop and implement intensive family preservation services to support families with children aged 0 to 12 years at risk and to help reunify children in alternative care with their birth family.³⁴⁵

This will increase South Australia's annual expenditure on intensive family support services from \$1.69 million in 2006-07 (\$4.81 per child aged between 0 to 17 years) to \$4.79 million in 2007-08 (\$13.69 per child). This compares with Victoria's per child expenditure of \$18.86 in 2006-07.³⁴⁶

³⁴⁰ Evidence p320.

³⁴¹ Evidence pp321-322.

³⁴² Evidence p321.

³⁴³ Evidence p321.

³⁴⁴ Evidence pp331-332.

³⁴⁵ Department for Families and Communities, *Annual Report, 2007-08*, p 62.

Ms Papagiannis expressed concern with regards to the proposed services. She said:

I guess our concern is that it would be bastardised, and that the level of training required for Families SA staff would not happen. It is really necessary for Families SA to be on board with this program and for workers to know what it is all about otherwise it will be an absolute failure. It is going to be a big job to try to change the current way of working.³⁴⁷

It is about the NGO working in partnership with the Department and everyone being trained together so that everyone is on the same page about what we are doing.³⁴⁸

Based on her experiences with the Department, Ms Blake also expressed concerns:

...everyone who is involved really needs to be involved in the training...'All referring staff' means all the Families SA workers who could be involved in referring a family to our agency and their supervisors and managers, so they all know and are all working from the same page. That is really important. As well as that, the Placement Services Unit staff need to be there...That is really important.³⁴⁹

Ms Blake described the process of intensive family preservation work as getting in with the family quickly, having a certain time frame of 60 to 90 days of intensive working with the family and then moving them on to step-down services such as a family support worker who can then monitor the situation for a period of time.

They envisaged intensive family preservation work assisting the decision as to whether the child remains in the family or is moved to alternative care. Ms Blake explained:

One of the things we also do is make it very clear at the first meeting what the bottom line is; what it is that, if they don't achieve it, their children don't go home. We use basic sort of terminology so that the family is clear that, if they don't do this, the kids won't go home. We also make sure that the goal posts don't move during that time. So we have to be quite specific about what we are doing and why.³⁵⁰

Ms Blake expressed the view that, prior to 60-90 days elapsing, it is usually clear if the intervention is not helping. If it is unsuccessful, she said:

Then you would look at best connections for that child with the family, or you would look at permanently removing that child. You get a better outcome for the child, because the child is not in limbo floating around in the system any more. There are decisions usually made, and that is really important.

Ms Papagiannis said:

Then there is the importance of the permanency planning for that child.... you will find out really quickly whether they are able to be with their birth family or not, then that child can move on with their life if it is deemed they cannot be with their parents, and the department can find a permanent place for them to be, rather than going on the alternative care roundabout.³⁵¹

Dr Delfabbro stressed the importance for an infant's wellbeing that decisions about their placement occur earlier while they are young. He said:

We also found that children who came into care early, where the placement was almost like a pseudo adoption, tended to do a lot better...those who were sent home repeatedly and brought into care later...had a lot of problems psychologically in their teenage years compared with children who were doing well...If children are going to come into care, it is better they come in earlier rather than later.

³⁴⁶ Guardian for Children and Young People, *Annual Report, 2007-08*, p 3.

³⁴⁷ Evidence p322.

³⁴⁸ Evidence p317.

³⁴⁹ Evidence p313.

³⁵⁰ Evidence p321.

³⁵¹ Evidence p317.

... There is no surprise...children who come into care because the parents were physically abusive—particularly those who stay in contact with the system because of respite—have something like a 90 percent probability of getting subsequent Tier 2 notifications.³⁵²

The Committee also heard that the Department was unhelpful and unsympathetic to calls for help from parents.

Two mothers said they requested Departmental help to assist their parenting. One, a single mother of twin girls aged 12 years who left her husband due to domestic abuse, reported that she asked the Department for respite and was told, ‘If you can’t control your children who else could’.³⁵³

Another single mother, with two children aged 10 and 11½ years, stated:

I originally asked them for help to deal with the children's behaviour, and I also wanted one weekend a month respite care, which, apparently, they don't do.³⁵⁴

This mother asserted that the Department provided inadequate help then finally took the children into care for several years before returning them. She claimed they returned to her in a worse state than when they left her. Of the workers she said:

They were coming out once a week for about an hour during the school day while the kids were at school, so they never saw how I interacted with the children and how things were going; they were just going on what I was telling them.³⁵⁵

...children [are] removed from families without good reason and there are children who need to be removed who aren't. Families SA's money would be better used to help families with children while still in the parents' care and home. It would free up a lot of their money and a lot of their workers to deal with real issues.³⁵⁶

A mother, whose two year old child was placed in foster care for one and a half years while she attended rehabilitation, says she is suffering in a number of ways. The costs—financial, emotional, social and of damaged reputation—still affect her and she has large debts from transport costs that accrued while travelling to visit her daughter in care. Her “nerves are battered”. She is “paranoid” over any bump or bruise on the child and always gets a doctor to document the smallest of injuries.³⁵⁷

A father and prior ward of the state, said the Department treated him, his wife and children unfairly. He asked for help with his mental health issue, parenting assistance for his wife and family reunification strategies to be put in place. He claimed that, instead, “FSA ignored all prospects of my rehabilitation”. They were rigid, unresponsive, did not listen to facts. They gave false information in the Youth Court, maintained a rude and intimidating attitude, treated his wife in a degrading and humiliating manner and the FSA social worker lied, was focussed on punishment and would not work with him. He said that, in contrast, the Court and case worker accepted him into the Mental Health Diversion Program under which he attended therapy and made good progress. He concluded:

What is the point of rehabilitation when in our case, you are constantly being punished and do not have the chance to move on with your life?³⁵⁸

A psychologist concurred saying that:

³⁵² Evidence pp239-240.

³⁵³ Submission 73.

³⁵⁴ Evidence p262.

³⁵⁵ *ibid.*

³⁵⁶ Evidence p268.

³⁵⁷ Submission 73.

³⁵⁸ Submission 81.

It appears that many social workers find it difficult to appreciate or acknowledge that humans are capable of change.

In some cases, where reunification is considered, the parents who are straining to recover their children are so oppressed by Families SA demands on their time and finances that there is no chance that they would be able to follow through...Sometimes there is no access to the course or there is no ongoing course, but the parent is punished for failing to fulfil the requirement...Very often a parent is prevented from taking up work, or keeping their job because of the Departmental demands.³⁵⁹

An advocate for Departmental clients said:

It depends on who the social worker is and whether they believe in reunification and they will do it regardless, or they don't believe in reunification so, no, they won't. They won't negotiate. That's it.³⁶⁰

A worker stated:

We quite often make decisions based on resources not based on what may be in the best interests of the family. Quite often the two things never line up. In fact, on a daily basis, I make decisions about: which phone call I reply to; which family I visit; which investigation I might go out on, based on how many I can respond to and how many I cannot respond to; what poses the most immediate threat; which case is of more consideration to the Family Court, for example? All of these things impact on our ability to assess what is safe for our clients and what is unsafe and, obviously, how to increase their safety.

We also struggle with the ability to meet the demand placed on workers in the hours that are provided in each day.³⁶¹

The Committee was told that keeping the family together is not always possible or desirable. Sometimes the child is better away from a destructive family environment and family preservation services may only serve to delay placement rather than negate the need for it.³⁶² One view was:

The flaw of family preservation is not that it is ineffective; the flaw is that it is not a generic panacea for child maltreatment and thus should not be embraced as a single, generic solution to the problem...Child protection and child advocacy need to replace family reunification as a guiding policy...³⁶³

Another view was:

Devoting disproportionate amounts of time and effort to uncertain prevention of some placements may inevitably short-change the majority of children referred for protective services...³⁶⁴

An advocate for Departmental clients said:

We have a case where dad was imprisoned for interfering with a minor. We knew that he was getting out of prison. We notified Families SA that that was going to happen...They are working with the father on reunification. To me, that is wrong. It is my personal opinion that that's wrong. The mother has five boyfriends, all have been in prison as paedophiles, and they are working on reunification with this mother. The grandmother is beside herself.

I think the reunification program is great, where it works and where it can work, but I have grave doubts about this one and several of the others. These are the types of things that come to us on a daily basis.³⁶⁵

A grandmother with post graduate qualifications suggested that the models, methods and processes used to preserve the family prior to removing a child should be strengthened and followed

³⁵⁹ Submission 83.

³⁶⁰ Evidence p353.

³⁶¹ Evidence pp386.

³⁶² Cashmore, J., & Paxman, M. (1996). *Family preservation services: A review of selected literature*.

³⁶³ Gelles, (1993), quoted in Cashmore, J., & Paxman, M. (1996). *Family preservation services: A review of selected literature*, p13.

³⁶⁴ Magura, (1981), quoted in Cashmore, J., & Paxman, M. (1996). *Family preservation services: A review of selected literature*, p13.

³⁶⁵ Evidence p352.

consistently, rather than varying according to case worker/supervisor whims and Family Preservation Plans be monitored at least twice a year.³⁶⁶

By contrast, Professor Briggs was of the view that the Department's insistence on family reunification is damaging children and that the Department leaves children in dangerous homes for too long. She said:

The department ignores re-abuse of foster children on contact visits to parents [and] forces children...against their wishes...to return home to dangerous parents...because of the emphasis on their policy of family reunification...

Some children have had 46 different placements although we have known since the work of John Bowlby [Attachment Theory] and James and Joyce Robertson...that children need stability. Multiple carers and placements lead to lifelong damage. Workers seem to ignore this research and that of Professor Bruce Perry showing that trauma in early childhood prevents the immature brain from developing normally.³⁶⁷

Professor Briggs argued that the current welfare perspective of keeping families together is ignoring that, in some cases, crimes against children are being committed.³⁶⁸ She said that reunification, as an overarching policy, is not proven as best practice. She stated, "...there is no research evidence to prove that a good foster home is not better than a poor home."³⁶⁹

The Committee received evidence that the majority of children do well in foster care. However, there is inadequate monitoring of foster care placements, inadequate training of foster carers, unrealistic case-loads for case-workers and a general shortage of resources in the area of child welfare.³⁷⁰

Professor Scott said:

We do not know very much about what is effective, in terms of prevention...We know even less about what you can do after it has occurred: putting children back together again. We know almost nothing about how helpful or harmful therapeutic interventions are. The one thing about which we know the best and which seems very simple is that neglected children do very well in higher quality childcare...Children of nought to three in neglectful families (which is the largest single category in the child abuse and neglect statistics) are not getting high quality childcare; the single intervention that we do know works.³⁷¹

In her report, Layton recommended increasing and/or developing early intervention and prevention services.³⁷²

10.5 Substance Abuse

The Committee received evidence that substance abuse potentially impacts on almost all aspects of a child's health and development. It is generally associated with multiple and complex family problems that pose major challenges for child protection workers. Change in the family is likely only if substance abuse is addressed along with a complexity of other issues:

Among the clear lessons to emerge when working with families who have a substance misuse problem is that there are no simple answers – what works for one family may not necessarily work for another.

³⁶⁶ Submission 78.

³⁶⁷ Submission S5.

³⁶⁸ Evidence p195

³⁶⁹ Evidence pp188-189.

³⁷⁰ Cashmore, J., & Paxman, M. (1996). *Family preservation services: A review of selected literature*, p5.

³⁷¹ Evidence p213.

³⁷² Layton, R. (2003). *Our best investment: A state plan to protect and advance the interests of children*. Government of SA, Department of Human Services, pp1.3-1.11.

Flexibility and comprehensiveness are essential and intervention needs to be individually tailored and targeted to address the unique needs of each family.³⁷³

In the context of family preservation and reunification, numerous grandparents reported having extreme concerns in relation to their grandchildren's care. A grandparent stated:

...illicit drugs and alcohol [are] the biggest problem we face as grandparents. The children of the grandparents do some terrible things. The thing that makes us angry is when certain sections of Families SA support the children in their actions.³⁷⁴

One grandmother claimed that repeated attempts at reunification were servicing parents but not grandchildren. She wrote:

...every effort has been made to reunite the family, but to very little avail. The father was made a ward of the state as a child, and is an alcoholic and drug user...numerous agencies and charities are involved in their assistance...This case has been in the family court system for nearly four years, and dangers to the children have been continuously ignored by FAYS.³⁷⁵

Another said that she had been to court in an effort to save their grandson due to his mother abusing substances (crystal methamphetamines). She said:

He is now safe and living with me...to protect the child from his mother who was trying 'to sort herself out', I needed to go into hiding in hotels...if systems to protect children were in place, I would not have needed to step in in such a way.³⁷⁶

Concerned grandparents said that they looked after their grandchildren as babies after one was hit on the head. The father abused alcohol, gambled, and "lived in squalor".

...the priority given, on multiple occasions, to reunite our two grandchildren with their parents is damaging the children.³⁷⁷

However, another grandmother told the Committee that her six year old grandson does not have enough access to his parents who, in spite of abusing substances, "have made considerable personal improvements".³⁷⁸

In October 2006, amendments to the Act granted the Department and the Drug and Alcohol Services of South Australia (DASSA) increased power to compel a parent, guardian or other person to undertake drug and alcohol abuse assessment and treatment.

Professor Scott stated that parental alcohol abuse is a key—yet inadequately addressed—problem in child protection—"the elephant in the room",³⁷⁹ that it is associated with the most severe forms of child abuse and neglect starting in utero and is a major factor determining children entering care. Further, Professor Scott said that the witnessing of family violence fuelled by alcohol is currently the most common form of emotional abuse in Australia. It is "very traumatising for children to witness".³⁸⁰

The Australian National Drug Council recently reported that almost one in eight (13 percent) of children in Australia are raised by adults who misuse alcohol and drugs and this figure is higher than

³⁷³ Jefferys, H., Hirte, C., Rogers, N. & Wilson, R. (2009), *Parental substance misuse and children's entry into Alternative Care in South Australia*, p14.

³⁷⁴ Evidence p354

³⁷⁵ Submission 22.

³⁷⁶ Submission 20.

³⁷⁷ Submission 6.

³⁷⁸ Submission 25.

³⁷⁹ Evidence p204.

³⁸⁰ *ibid.*

the estimated international figure of ten percent.³⁸¹ Professor Scott said that 451,000 Australian children are living in households where at least one adult is binge drinking.³⁸² She said that one half to two-thirds of children in state care have at least one parent with alcohol and/or drug dependence.³⁸³

In the Australian National Drug Council's report (2009), South Australian statistics on parental substance abuse and child abuse notifications/children in foster care are notably absent. The Department explained that the Client Information System, used in the mandatory notification process, is inadequate and drug and alcohol issues are not automatically recorded. There is also no agreement about what child-impacting level of substance use warrants recording.³⁸⁴

The most current Practice Manual³⁸⁵ does not contain any policy and procedure for dealing with a parent's/carer's substance abuse. However, questions about substance use and abuse are included in the Child Abuse Report Line (CARL) Initial Safety Assessment,³⁸⁶ Risk Assessment³⁸⁷ and Needs-Strengths Assessment³⁸⁸ tools. Thus, parental substance abuse may be flagged during case planning as a focus for treatment. The case worker would provide some intervention and/or broker for an alternative service provided intervention. However, the Committee received no evidence to indicate that this is occurring on a consistent policy based level. It seems that intervention of, or acknowledgement of, a substance abuse issue is left entirely to the discretion of individual workers.

The Department provided the Committee with three policy papers about this issue.

One policy paper outlines amendments made in 2006 to the *Children's Protection Act 1993*. These grant the Department and Drug and Alcohol Services of South Australia (DASSA) increased power to compel a parent, guardian or other person to engage with Families SA and DASSA for assessment and treatment of their drug and alcohol abuse.³⁸⁹

The initiative is called Mandatory Intervention of Drug and Alcohol Services (MIDAS). The paper states that the court ordered approach is not the first choice option and all reasonable efforts should be made to negotiate drug assessment for parents/caregivers, but only the Department can request a court order requiring assessment and only after all voluntary options have been explored.³⁹⁰

A second policy paper is a practice guide for the periodic drug Testing of Parents/Caregivers. It outlines the process for requesting a drug test and is aimed at ensuring testing is conducted consistently across Families SA.³⁹¹

The third paper outlines voluntary and court mandated drug and alcohol initiatives.³⁹²

Given that the three papers were produced in 2006-2007, the Committee is unable to comment on the effectiveness or otherwise of any of these initiatives. However, no evidence was received indicating any improvement in these matters.

Explaining the Department's response to substance abuse problems, Ms Dunning stated:

³⁸¹ Jefferys, H., Hirte, C., Rogers, N. & Wilson, R. (2009), *Parental substance misuse and children's entry into Alternative Care in South Australia*, p9.

³⁸² Evidence p213.

³⁸³ Evidence p205.

³⁸⁴ Undated Policy paper, "Overview of Families SA Drug and Alcohol Initiatives".

³⁸⁵ *Child Protection Manual of Practice*, Volume 1, Version 3, September 2008.

³⁸⁶ *Child Protection Manual of Practice*, Volume 1, Version 3, September 2008, p 141.

³⁸⁷ *Child Protection Manual of Practice*, Volume 1, Version 3, September 2008, pp 228-229.

³⁸⁸ *Child Protection Manual of Practice*, Volume 1, Version 3, September 2008, p 237.

³⁸⁹ "Mandatory Intervention of Drug and Alcohol Services (MIDAS): a collaboration of Families SA and Drug & Alcohol Services South Australia (DASSA)", March 2007

³⁹⁰ "Mandatory Intervention of Drug and Alcohol Services (MIDAS): a collaboration of Families SA and Drug & Alcohol Services South Australia (DASSA)", March 2007, p9.

³⁹¹ "Periodic Drug Testing Guidelines.doc", October 2006.

³⁹² Undated Policy paper "Overview of Families SA Drug and Alcohol Initiatives".

We have a non-investigative response which focuses on the child's needs. We try to engage the parents in a way in which we can work with them to strengthen the family so that the child can stay with the family. One of the ways we may do that is with a number of our programs working with Drug and Alcohol Services where workers from Drug and Alcohol Services work in our district centres with our social workers to work cooperatively with families to increase their parental capacity. In the six months that we recorded, we made 62 voluntary referrals of parents and care givers with whom we are working to drug and alcohol services for treatment.³⁹³

Regarding compulsory intervention, Ms Dunning stated:

We have the ability if we believe that their parental capacity is impaired and obviously placing a child at risk. We have the capacity under the act to have that capacity measured, and we can order a drug assessment and drug treatment as a result.... As you know, this is new legislation for us. We have just started collecting this data and having a close look at it, so I am not sure that we have that yet. It is a little early, because it has really only just come in; it only started in October...History shows that voluntary programs are more successful, so our approach would be to work with the family to get them engaged, wanting to do that and wanting to succeed at it.³⁹⁴

Professor Scott stated that substance abuse problems have to be dealt with way beyond a statutory child protection service. She stated:

We need major health promotion campaigns that accompany that sort of measure—"Alcohol and children do not mix". This state had a lovely campaign three years ago, called "Alcohol and Pregnancy Don't Mix", and I think that is about to be repeated. However, it needs to be much bigger

10.6 Committee's Comments

Interventions for preserving and strengthening families clearly require effective partnerships and good working relationships between the Department and Non-Government Organisations. The Committee believes that these relationships are at best, tenuous. Each party complains about the other.

Departmental workers criticise NGOs for being too parent focussed.

NGOs criticise the Department for:

- *Its culture whereby staff lack training, particularly in how to assess and refer for Family Preservation*
- *Not working in partnership with NGOs*
- *Lack capacity for undertaking referral*
- *Lack a consistent response across District Centres and individual staff members*
- *Referring too late for Family Preservation Services (sometimes after children have been out of home for three years).*

All departmental staff; on-the-ground workers; up to top management need training in assessment and referral for family preservation services.

Protocols to address substance abuse are clearly lacking despite legislation. Clear guidelines need to be developed, and leadership given in developing working partnerships in order for the Department to begin to tackle interventions such as would address drug dependence.

Clearly much work is needed in the assessment of suitable solutions for children at risk. It appears to the Committee that while family preservation is an admirable aim, there are numerous situations where this is not practicable. More respect needs to be shown to NGOs and carers. The development

³⁹³ Evidence p51.

³⁹⁴ Evidence p52.

of a suitable plan must include all those affected. The abuse of alcohol and drugs has proven to be a major factor in dysfunctional families, yet very little appears to have been done to eliminate this problem.

11. Other Issues

This section covers matters to do with the Family Court.

11.1 Family Court Matters

There are cases in which the Department is called upon to deal with issues which are also the subject of proceedings in the Family Court of Australia. The Department and the Family Court have entered into a formal Protocol to prescribe appropriate working relationships and exchanges of information between the two organisations which are consistent with the separate legislative regimes which bind each of them.

Despite the Protocol, the Committee heard that difficulties arise. For example, one mother recounted how the Family Court granted a man convicted of sex offences and acts of violence—the father of her child—custody of that child. She reported that the family Court had allowed the father to have unsupervised contact with their daughter. She said:

I knew...he had sexually abused other people and I did not want this to happen to [her]...I absconded to W.A., where, four months later, the Federal police took [her] away from me...and put her in foster care...The next day [the father] was given custody of this little girl, who was then three and three-quarter years old. He had never had the child in his care, not even to go to the shop alone with her...As a result of a trial in the Family Court, it became apparent that [the father] is a convicted sex offender (he twice raped an under age girl). His AIDS, he admitted was contracted from anal sex with men. [He] also has convictions for violence, and about fourteen gaol sentences....In my opinion, a most undesirable person to be a custodial person responsible for my child.³⁹⁵

This mother believes that the Department should have taken action in her daughter's best interests and that it avoided doing so because of a policy under which it deliberately avoids taking on cases before the Family Court.

About this case, Professor Briggs said:

...he had two convictions for child sex abuse and quite a few for violence. When he wanted shared parenting, not surprisingly, she objected. Two women judges from the Family Court both gave preference to him. At times they said, 'You cannot discriminate against someone because he has HIV or AIDS.' The fact that this man was in his 50s, had no previous experience of being a single parent and the fact that his own niece alleged abuse (and still alleges that he abused her) was ignored. So, mum did the worst thing you can possibly do if you have no money—she ran away to Perth with the toddler...The Federal Police snatched the baby and put the child into foster care in Perth with complete strangers. Then, along comes the father (who the toddler did not know) with a Family Court order and he had custody of her. Since then there has been a long trail of allegations of abuse. Even recently this girl's sister rang me and said that this kid is still being neglected. She is now about 12. She has not been given a voice in the Family Court. I have seen her. She looks neglected. She had a thick yellow crust on her teeth. Her clothes did not fit her and she had holes in her shoes because her feet had grown out of her shoes.³⁹⁶

Professor Briggs expressed the view that the Department should have exercised its powers to act in such a case given that the child was clearly at risk. She said that social workers have ignored incidents of child abuse when the child's case is before the Family Court and “successive CEO's said they couldn't act 'because it is a Family Court matter'”.³⁹⁷

Professor Freda Briggs also said that, “for years” she has been seeing people who are in desperation because their cases involve the Family Court and the failure of Families SA to intervene when children are being abused.³⁹⁸

³⁹⁵ Submission 35.

³⁹⁶ Evidence pp183-195.

³⁹⁷ Submission 5.

³⁹⁸ Evidence p193.

A grandmother wrote regarding the child abuse helpline:

I have rung that number many times concerning my own grandsons...but nothing was ever done because the case was going before the Family Court. That was the case for FIVE YEARS before it finally got to trial...

The Committee heard that Family Court orders sometimes result in children being handed back to known sex offenders due to things getting “a bit mixed up between the Family Court and the Youth Court”.

It's wrong that they should be dealing with some [child] abuses in the Family Court...the business of looking after the parent's decisions gets all mixed up with the abuse of the child. It seems to me, often, that the child's matters come last.³⁹⁹

This witness reported that, in Canada for example, cases are heard in a Court where an understanding of child development prevails and a judge and a psychologist do the whole case. She expressed her concerns about the Family Court as follows:

What worries me is that the business of looking after the parents' decisions gets all mixed up with the abuse on the child.⁴⁰⁰

Another asserted that the Department fails to take seriously and investigate notifications of abuse perpetrated by a non-custodial parent. As a result, during divorce proceedings conducted in the Family Court, there is no evidence with regard to alleged abuse. The witness stated:

...you pick up the phone and make the notification to the child protection authorities and they want the details, you say, 'This is a separated family, the alleged perpetrator is the other parent,' but those things don't get followed up. It's not just sexual abuse but, rather, all forms of child abuse, whether it be physical, sexual, emotional or neglect...The only ones I have come across where they do investigate is if they perceive there is an immediate sort of serious risk. If there is contact happening, or something like that, they say, 'We'd better look at that.' Then they say, 'But contact will not be for another month,' or something. It prevents you from getting on and being able to negotiate because you haven't got someone out there investigating this...As I said, if it does go to court, they have no evidence around it. So, it is a serious oversight and it is based, possibly, on the false understanding around what's driving the allegation.

This witness further stated that:

When there is involvement in the Family Court there is often poor acceptance by the Family Court of the child protection counsellor's opinions...⁴⁰¹

The Protocol between the Department and the Family Court does contain provisions about the exchange of relevant information between the Department and the Director of Counselling within the court. Section 8 of the Protocol provides (in part):

Section 8: Options for interacting with the Family Court

Interaction with the Family Court is limited by the provisions of the Family Law Act particularly as it relates to the presentation of evidence. The Family Court can only operate on evidence put before it by way of affidavit or evidence presented by parties in the court hearing. No information can be given directly to the Bench.

In addition to that outlined above, the following options for interacting with the Family Court exist:

- Information provided to the Child's Representative appointed for the child concerned;

³⁹⁹ Evidence pp303-304.

⁴⁰⁰ Evidence p403.

⁴⁰¹ Evidence p411.

- Family Court requested intervention by an officer of Families SA responsible for proceedings relating to child welfare – Section 91B(1);
- Department of Human Services (Families SA) initiated applications to intervene – Section 92A.

8.1 Families SA providing information to the Child Representatives for the child.

Where Families SA independently has information concerning a child's safety and it is considered the information should be put before the Family Court, it is Families SA's preferred option that this should be conveyed to an appointed separate legal representative for the child.

8.2 Where there is no child representative, it is appropriate to discuss with the Family Court Counsellor the advisability of child representation. A court counsellor may indicate to the court on Form 69 (Order 25 Rule 4A) that a separate legal representative should be appointed for the child.

8.3 Court requested intervention by a Departmental officer – Section 91B

8.3.1 Section 91B of the Family Law Act provides that in a proceeding relating to the welfare of a child, the Family Court may request the intervention of an officer who is responsible for the administration in that State of child welfare laws. The section further provides that upon such a request being made, the officer may intervene in these proceedings and if so will be deemed to be a party to the proceedings.

8.3.2 This provision provides a unique legislatively based procedure for the prompt involvement at an early stage in proceedings in the Family Court. It gives to the Family Court a procedure by which it may bring a particular case to the attention of Families SA for consideration and assistance, and will usually occur where the court has significant concerns about the welfare of the child/children. It gives Families SA the opportunity to consider the request and take such steps in relation to that case as it considers appropriate.⁴⁰²

11.2 Committee's Comments

Despite the options outlined in the Protocol and the extensive policies outlined in the Department's Child Protection Manual of Practice it appears from the evidence that the Department is not as proactive as it should be in relation to child protection issues which are relevant to Family Court proceedings.

The apparent attitude of the Department that it cannot act because it's a Family Court matter is deplorable. The Department should always act where children are at risk irrespective of legal proceedings between their parents.

⁴⁰² *Child Protection Manual of Practice*, Volume 2 Version 3, 14 October 2008, pp124-133.

12. Concluding Comments

It is necessary to place on the public record the frustration experienced during the course of this inquiry in relation to the performance of Families SA. Little to no evidence was received that could excuse, condone or rationalize the complaints that were received from all stakeholders, including current workers.

The Committee believes that it is time to investigate other approaches that have worked both internationally and interstate and to combine those approaches to make South Australia a leader in child protection reform.

All measures and approaches must be undertaken to ensure that our children are kept safe. Whether that means removing children from abusive and neglectful parents or assisting families to overcome short term circumstances or crisis, the work needs to be done.

Our children are indeed our future and we must move quickly to ensure that in another decade or so this state will have no need to call for another inquiry into the “Abuse of Children in State Care”.

Hon CV Schaefer MLC
Chairperson
17 November 2009

Material Received

Alternative Care Manual of Practice, 1999

Cashmore, J. & Paxman, M., (1996). *Family Preservation Services: What is their appeal?: A review of selected literature*. Australian Government Publishing Services.

Child Protection / Alternative Care Manual of Practice, Volume 2 Version 1, 6 May 1999

Child Protection Manual of Practice, Volume 2, Version 3, 14 October 2008.

Child Protection Manual of Practice, Volume 1, Version 3, September 2008, p9.

Child Protection Manual of Practice. Introduction. Volume 1, Version 1, 3 November 1997

Children's Protection Act 1993, 1996

Children's Protection Act 1993, 2006

Del Fabbro, P., Jennings, H., Rogers, N., Wilson, R. and Borgas, M. (2007). *Certainty for Children in Care*

Department for Family and Community Services, (Undated Policy Paper). *Overview of Families SA Drug and Alcohol Initiatives*.

Department for Family and Community Services, (2006). *College for Learning and Development: Intro to Care and Protection: Learner's Guide*.

Diamond, C. & Ash, S. (2000). *Children in Care – Meeting their Parenting Needs*, paper written for 7th AIFS Conference.

Families SA and Drug & Alcohol Services South Australia (DASSA), (2007). *Mandatory Intervention of Drug and Alcohol Services (MIDAS)*.

Guardian for Children and Young People Annual Report 2006-07"

Guardian for Children and Young People Annual Report 2007-08"

Heatherington, T. (1998). *Child Protection Reform in South Australia*, National Child Protection Clearing House, 6 (2).

Higgins, D. & Katz, I. (2008). *Enhancing service systems for protecting children: promoting child wellbeing and child protection reform in Australia*. Family Matters, 80.

Hirte, C., Rogers, N., & Wilson, R. (2008). Contact with the South Australian Child protection system: A statistical analysis of longitudinal child protection data, report by the South Australian Department for Families and Communities.

Interagency Keeping Families Together Evaluation Steering Committee. (1996). Report on the evaluation of "Keeping Families Together", a joint initiative of DFCS; Anglican Community Services; Centacare, Adelaide and South East Anglican Community Care.

Internal Memorandum to FACS District Centres (1997).

Jefferys, H., Hirte, C., Rogers, N. & Wilson, R. (2009). *Parental substance misuse and children's entry into Alternative Care in South Australia*, DFC

Layton, R. (2003) *Our best investment: A state plan to protect and advance the interests of children*. Government of SA, Department of Human Services.

Legislative Council Budget and Finance Committee, 16 February 2009, Hansard.

Mullighan, E. P. (2008). *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct*.

Periodic Drug Testing Guidelines.doc, October 2006

Public Service Association, (2008). *Families SA Boundary Realignment Manager's Forum*

Semple, D. (2002). *Review of Alternative Care in South Australia*

Sammut, J. (2009) *Fatally flawed: The child protection crisis in Australia*. Policy Monographs, The Centre for Independent Studies

Wood, J. (2008). *Report of the Special Commission of inquiry into Child Protection Services in NSW*.

Appendix A. Children's Protection Act 1993: Section 8 - General functions of the Minister

(1) The Minister must seek to further the objects of this Act and, to that end, should endeavour—

- (a) to promote a partnership approach between the Government, local government, non-government agencies and families in taking responsibility for and dealing with the problem of child abuse and neglect;
- (b) to promote and assist in the development of co-ordinated strategies for dealing with the problem of child abuse and neglect;
- (c) to provide, or assist in the provision of, services for dealing with the problem of child abuse and neglect and for the care and protection of children;
- (d) to provide, or assist in the provision of, preventative and support services directed towards strengthening and supporting families, reducing the incidence of child abuse and neglect and maximising the well-being of children generally;
- (e) to assist the Aboriginal community to establish its own programmes for preventing or reducing the incidence of abuse or neglect of children within the Aboriginal community;
- (f) to provide, or assist in the provision of, information or education services for parents, prospective parents and other members of the community in relation to the developmental, social and safety requirements of children;
- (g) to provide, or assist in the provision of, education to persons who are required to notify the Department on forming a reasonable suspicion that a child is being abused or neglected;
- (h) to provide, or assist in the provision of, services—
 - (i) to assist children who are under the guardianship or in the custody of the Minister; and
 - (ii) to assist persons who, as children, have been under the guardianship or in the custody of the Minister, to prepare for transition to adulthood;
- (i) to collect and publish relevant data or statistics or to assist in their collection or publication;
- (j) to promote, encourage or undertake research into child abuse and neglect;
- (k) to encourage the provision, by tertiary institutions in relevant courses, of instruction about child abuse and neglect and its prevention and treatment;
- (ka) to encourage the provision of child safe environments particularly by government and non-government organisations that provide services for, or have contact with, children;
- (l) generally to do such other things as the Minister believes will further the objects of this Act.

(2) The Minister must—

- (a) assist in the provision of—
 - (i) services directed at enhancing the quality of care of children and family life by strengthening and supporting families, and thus preventing or reducing the incidence of child abuse and neglect; and
 - (ii) support services to children who have been abused or neglected and their families; and
- (b) ensure that those support services are offered to children who are known by the Department to have been abused or neglected and their families and that genuine efforts are made to encourage such children and their families to avail themselves of the services.

Appendix B. 16 step case plan procedure for “Working with families to maintain the child at home”⁴⁰³

The 16 step case plan procedure is:

- Determine the service level required using risk and needs/strength assessment
- Possibly consult with a Families SA psychologist about the child’s development needs and the possible effects of the child having been abused/neglected
- Engage the family
- Secure and incorporate the young person’s view (if appropriate) and keep them informed
- Develop a case plan using family and child (where appropriate) participation and include a plan to monitor the child’s safety
- Identify three priority needs (using a Needs Strengths tool) and formulate goals to address needs
- Decide, using worker/family agreement, whether to use external agencies
- Possibly hold a case conference in the event of psychologist/external agency involvement
- Document, in the case plan, services and support offered by the case worker and other agencies. Specify who is responsible for which service and in what timeframe. Record child and family expectations.
- Take responsibility for implementing the case plan; ensure it meets objectives and timelines
- Monitor child’s level of safety/risk; evaluate family’s progress using face-to-face contact
- Every three months, review the case plan and reassess risk and needs/strengths
- Record reasons for any case plan objective not being met
- Cease structured decision making if the child is removed for an extended period of time
- A Supervisor may close a case after three months if a family refuses intervention and there are insufficient grounds to place the matter before the Youth Court. Closure rationale must be recorded on CIS.
- Supervisors are responsible for ensuring closure documentation is complete and recorded on CIS.

The access procedure is as follows:

- Only Families SA can refer families for Family Preservation Services (with the exception of referrals for Aboriginal families from AFSS and Aboriginal Family Care Services)
- Circumstances warranting referral for Family Preservation Services include:
 - (a) Where a child may be or has been removed from birth parents due to parental abuse, neglect, conflict or an unwillingness or inability to provide care
 - (b) When the safety and protection of the child can be assured as assessed by the District Centre social worker’s safety, risk and needs assessment
 - (c) When, during assessment, the young person and their family commit to agreed goals and case plan
 - (d) When reunification and/or reconnection is deemed to be in the child’s best interest
- District Centre referrals for Family Preservation Services will be made through the Placement Services Unit (PSU) after a comprehensive assessment has resulted in a case plan in which the Service is recommended
- The child’s social worker will complete the case plan and Services Referral and Agreement/Authority Form and forward it by fax or courier to the PSU. The PSU will then refer to the appropriate Alternative Care Service Provider.

Practice guidelines include:

- Making a good referral to Family Preservation Services using:
 - (a) Discussion, negotiation and agreement with the family
 - (b) a comprehensive case plan/referral report
 - (c) a referral meeting with the family preservation worker(s) prior to meeting with the family
- Creating a “team” approach as, attending to all the complex issues...is often beyond the resources and experience of just one or two service providers

Having made the referral, it is important for all agencies to remain in regular contact.

⁴⁰³ *Child Protection Manual of Practice*, Volume 2, Version 3, 14 October 2008, pp13-16.