

Submission to the Family Law Council

The Department for Child Protection and Family Support (the Department) has provided a response to questions three and four of the Terms of Reference under the relevant areas below.

Information Sharing and Collaboration between Agencies and the Family Court

There are numerous avenues, legislative and otherwise, available to improve the exchange of information between the family courts and family relationship services in a manner that maintains the integrity of therapeutic service provision and supports decision-making in cases where families have complex needs. The exchange of information is an important strategy to strengthen coordinated planning and service delivery between agencies and to promote better outcomes for children, adults and families.

Amendments to the *Children and Community Services Act 2004* (WA) (“the Act”) have been passed by the Western Australian Parliament and are expected to come into effect on 1 January 2016 to enhance the exchange of information between certain services in Western Australia (WA).¹

Currently, under section 24A of the Act, the Chief Executive Officers (CEOs) of certain public authorities (“prescribed authorities”)² are able to exchange information with one another if the information is, or is likely to be, relevant to the wellbeing of a child or a class or group of children. Under the new laws, these powers will be broadened and transferred into a new section 28B of the Act. In addition to exchanging relevant information with one another, prescribed authorities will be able to exchange relevant information with ‘non-government providers’³ and schools in the non-government sector and, importantly, the type of information that may be shared will be broader.

To support informed decision-making in children’s best interests in the family law jurisdiction, it is proposed that Judges, the Principal Registrar and Registrars, family law magistrates and family consultants within the Family Court of Western Australia (FCWA) become prescribed authorities. This will enable them to obtain relevant information to be exchanged directly, without the need for summonses; for example, information from schools, drug and alcohol treatment, counselling services etc. It will also allow the FCWA to provide information to prescribed authorities and the non-government sector.

The definition of ‘relevant information’ which can be shared between relevant services from 1 January 2016 is:

“Information that is, or is likely to be, relevant to:

- a) the wellbeing of a child or class or group of children; or
- b) the safety of a person who has been subjected to, or exposed to, one or more acts of family and domestic violence.”⁴

The type of information could include:

- any known history of the child suffering harm;
- any periods in which the child has been cared for by other people;

¹ The *Children and Community Services Legislation Amendment and Repeal Act 2015*

² Prescribed in regulation 20A of the *Children and Community Services Regulations 2006*

³ Non-government provider means a person who provides social services under a contract or other agreement (excluding an agreement for a monetary grant) with a prescribed authority or the Department for Child Protection and Family Support through the Community Services Ministerial Body.

⁴ An “act of family and domestic violence” has the meaning given in section 6(1) of the *Restraining Orders Act 1997*(WA)

- any significant issues relating to the child’s siblings;
- the child’s physical health, including any treatment needs;
- any psychological and emotional difficulties the child may have;
- the child’s education, including any special educational needs;
- any disabilities the child may have, including any care requirements;
- any known allergies and dietary requirements of the child;
- any significant health problems of the child’s caregiver;
- whether a caregiver’s mental illness, substance misuse, disability or history of family and domestic violence may be affecting his/her ability to care for their child;
- whether a caregiver is receiving treatment for any of the above issues and the outcomes of this treatment;
- information about a person in the household who may pose a risk to the child; or
- any information that is relevant to informing an assessment of risk posed to, or safety of, a person subjected or exposed to family and domestic violence, including information related to a perpetrator.

While the legislative amendments will allow prescribed authorities to exchange relevant information with other prescribed authorities and also with non-government providers and schools, it will not be a requirement that information must be disclosed in response to a request. However, when making decisions about whether to share relevant information, the best interests of the child must be regarded as the paramount consideration and the safety of individuals subjected to family and domestic violence prioritised.

Further, while it is best practice to seek consent before sharing information about a person, where possible and where this does not place a child or another person at risk, section 28B does enable information to be shared without consent.

These legislative amendments are in addition to the information sharing provisions contained within section 23 of the Act which allow the CEO or authorised officers to disclose relevant information to, or request relevant information from, a public authority, a Commonwealth agency, a corresponding authority, a service provider or an interested person.

As referred to in the Department’s previous submission to the Family Law Council, a practical way in which to improve information sharing and foster collaborative relationships is through the convening of regular stakeholder meetings with appropriate representation. These meetings allow practice issues and challenges, as well as case examples, to be discussed and used as a basis to inform any future changes to practice and process that might be needed, including information sharing.

Risk Assessment in the Family Law System

The Department is the lead agency responsible for strategic planning to address family and domestic violence in WA and for developing WA’s Common Risk Assessment and Risk Management Framework (“CRARMF”). The focus of strategic planning is to establish an integrated response to family and domestic violence across the state. To support integration, the Department has established Family and Domestic Violence Response Teams (“FDVRT”), which operate in seventeen locations across the WA.

The FDVRTs are a partnership between the Department, WA Police and community sector family and domestic violence services. The FDVRT model aims to improve the safety of child and adult victims of family and domestic violence through a collaborative approach that focuses on timely and early intervention following a police call out to a domestic violence incident. The collaborative approach of FDVRT includes:

- joint risk assessments using a common framework informed by police, child protection and specialist family and domestic violence workers;
- identification of opportunities to intervene early with families experiencing family and domestic violence;
- timely responses following a police call out;
- responses targeted to client need, identified risk and unique case circumstances;
- supported and streamlined client pathways through the service system;
- coordinated responses between partner agencies; and
- multi-agency safety planning on a needs basis involving agencies and organisations that have a role in responding to family and domestic violence.

The Department has developed and implemented the CRARMF to support a consistent approach to identifying and providing effective and timely responses to victims of family and domestic violence, and holding perpetrators accountable for their behaviour. The framework includes minimum standards for screening, risk assessment and management for use by generalist and specialist services operating throughout the state. The second edition of the CRARMF will be released on 27 November 2015. This edition extends the original framework and includes additional standards for information sharing, managing the risks posed by perpetrators, and guidance on facilitating effective referral pathways.

Services outside the Family Law System: Information Sharing; Supporting Children Where Safety Concerns are Identified; and Integrated Responses for Families with Complex Needs including Case Coordination

Early Intervention

The Department has developed WA Family Support Networks (“FSN”) to provide targeted and integrated secondary support services to vulnerable children and their families.

The FSN is a partnership between the Department and a community sector lead agency who manages a common entry point for services. The lead agency forms a local alliance (through memoranda of understanding) of community sector support services.

Families with complex needs requiring a coordinated service response are referred to the FSN, or can self-refer, and their needs are determined through a common assessment framework. This enables a ‘no wrong door’ approach, where families are connected to the services they need regardless of which agency they initially present to. This reduces the need for families to repeat their story, allows for greater agency coordination, and reduces duplication of services.

A senior child protection worker from the Department is co-located at each FSN to provide advice and information on child safety and wellbeing concerns.

The Department has established FSNs in the Perth metropolitan areas of Armadale (April 2012) and Mirrabooka (May 2014), and in the Midwest region of WA (March 2014). A fourth service will commence in Fremantle (metropolitan Perth) later this year. The FSNs could assist with an integrated response to families with complex needs involved in the family law system through direct referral.

To strengthen opportunities for service integration, and information sharing, family relationship services, family dispute resolution, counselling services, and parenting order programs funded by the Attorney-General’s Department could become FSN partner agencies in areas where a network is operating.

The Department uses the Signs of Safety Child Protection Practice Framework to actively engage and work with families who come to the attention of the child protection system. Using this framework, families are able to understand what the Department is worried about, identify their existing strengths, and develop a safety plan for their children.

The Department has a bilateral schedule with WA Health that facilitates collaboration and information sharing when an unborn or newborn baby is identified as at risk of abuse and/or neglect. If the family is involved in the family law system, the process allows for early planning and assessment of what supports are required to promote the health, safety and wellbeing of the baby, and support for the mother and family.

The Department and Legal Aid WA (“LAWA”) work together in partnership with relevant stakeholders in undertaking:

- pre-court application Signs of Safety (SofS) pre-birth meetings for pregnant mothers and their families (liaising closely with maternity hospital social workers). These meetings are legally assisted (more commonly for the pregnant mother) when requested; and
- legally assisted post-court application Signs of Safety pre-hearing conferences (“SofS PHC”) with parents and appropriate extended family members to improve safety for their children. This may include relevant support services for the child and/or family being directly involved and represented in these meetings and conferences or alternatively may lead to referral to relevant support services.

The Department is currently piloting a project model of enhanced support for Aboriginal families through SofS pre-birth meetings and SofS PHC processes (as outlined above in relation to all families). The aim is to involve and support appropriate significant members of the kinship system to promote early and collaborative planning and build strong partnerships with other departments, Aboriginal community controlled organisations (ACCOs), Aboriginal Family Law Services, LAWA, and other non-government services and agencies.

As part of the out-of-home reform in WA, the Department will be actively involving ACCOs to build their capacity to provide local community leadership and management in Aboriginal communities and to work with families to keep children safe.

In addition, the Department is piloting a one year Intensive Family Support Housing Program with government and community services sector agencies to work intensively with families who are homeless to provide housing and work with them in an effort to keep children safe and prevent them from entering care.

Family and Domestic Violence Initiative

The Department has developed the *Safer Families, Safer Communities Kimberley Family Violence Regional Plan 2015-2020* (the Kimberley Plan) to combat the high incidence of family violence in the Kimberley region, including the over-representation of Aboriginal women and children as victims of family violence.

The Kimberley Plan will use a strong law and culture approach to build strong and safe communities. The Kimberley Plan will focus on Aboriginal families and communities as a priority and outlines a whole of community response. This includes improved access to and effectiveness of existing service responses, including civil and criminal justice processes, and working alongside Aboriginal people, families and communities to develop and/or strengthen local responses to family violence.

FCWA Proceedings

Form 4 Notice of Risk of Abuse requests from the FCWA provide an opportunity for the FCWA to be made aware of the Department's previous or current involvement with families before the court, which may outline concerns about the parent's mental health, drug and alcohol misuse or family violence.

Where it is identified that one parent is protective but the case does not meet the child protection threshold, the FCWA could make a direct referral to a Family Support Network (as outlined above). This would provide the child and their family with direct access to support services early on, thus reducing the need for statutory intervention.

Protection Proceedings in the Children's Court of Western Australia ("CCWA")

When appropriate, protection cases are referred to a diversionary SofS PHC, generally held at LAWA premises or another neutral venue. The conference model combines the risk assessment and social work elements from the Department's Signs of Safety Child Protection Practice Framework combined with facilitation, using mediation principles, by a convenor who is independent of the case and appointed by the President of the CCWA.

As outlined above, many parents are legally represented, and extended family members can attend together with other support or other advocacy services. At the conclusion of the SofS PHC, the CCWA is informed of the outcome of the conference as a brief report is completed by the convenor and filed in Court together with an Agreed Next Steps document (as agreed by the parties to the proceedings during the SofS PHC). These documents then inform the judicial officer of the progress of discussions and referrals being arranged to other support services.