

Child Protection Discussion Paper  
Australian Department of Families, Housing,  
Community Services and Indigenous Affairs  
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4 July 2008

**Australia's children: safe and well**

Thank you for the opportunity to provide our comments on the National Child Protection Framework Discussion Paper.

We have a long standing and close engagement with various communities affected by child abuse in the Redfern and South Sydney area. We work closely with government and community service providers in the area, including NSW Police.

During the last 10 years the NSW government has conducted a long series of inquiries and reviews into the Child Protection System, the Children and Young Persons (Care and Protection) Act 1998 (and related legislation) and the Department of Community Services ("DoCS") of which FaCHSIA will be aware.

Disadvantaged people in the community primarily rely on non government organizations to speak for them to convey their concerns and frustrations about child protection to law makers. Amongst Redfern Legal Centre's clients and there is an overwhelming sense that very little has changed for children at risk in NSW. Despite almost constant reviews, and hundreds of submissions, they feel that their concerns have not been heard or acknowledged. It seems to them that the NSW government does not have a genuine commitment to acting on the recommendations that are made as a result of reviews and inquiries or to reforming the current system of child protection in NSW. For this reason, national leadership in this area is welcomed so long as it is accompanied by a genuine process to consult with communities and acknowledge the issues that concern them.

**Redfern Legal Centre**

Redfern Legal Centre (RLC) is an independent non-profit community-based organisation with a prominent profile in the Redfern for over 31 years. We have strong relationships with the Aboriginal and Torres Strait Islander community. We perform a role that is complementary to and not a duplication of the role played by the Aboriginal Legal Service.

Redfern Legal Centre also provides a Women's Domestic Violence Court Assistance Scheme, a credit and debt service and a tenants advice service all of which are well known and often used by Aboriginal families and families suffering disadvantage.

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73 Pitt St	Phone (02) 9698 7277	General enquiries	Interviews by
Redfern	Fax (02) 9310 3586	Monday to Thursday	appointment
NSW	email <a href="mailto:info@rlc.org.au">info@rlc.org.au</a>	9 am-9 pm	Monday to Thursday
2016	<a href="http://www.rlc.org.au">http://www.rlc.org.au</a>	Friday 9 am-6 pm	6:30 pm-8:00 pm

Redfern Legal Centre has always provided legal assistance and referrals to families of children at risk who come to the attention involved with NSW Department of Community Services (“DoCS”). Through our Women’s Domestic Violence Court Assistance Scheme (“WDVCAS”) we provide a range of legal and support services to women and children at risk of violence, abuse and homelessness. We work closely with and support local non-government agencies providing intensive support to families of children at risk. Through the WDVCAS we work closely with NSW Police, particularly Domestic Violence Liaison Officers.

After the “Redfern Riots” in January 2004 staff at Redfern Legal Centre noticed a significant increase in the number of families seeking assistance in relation to “DoCS matters”. As a result, Redfern Legal Centre began to monitor DoCS related matters and selected a number of test cases to be run through the Centre. The Centre also began to closely monitor all child protection cases that came to the centre. We also became involved with the Combined Community Legal Centres Group (NSW) child protection working group monitoring child protection cases throughout NSW.

Since 2005 Redfern Legal Centre has been fortunate to have on staff Aboriginal workers who initiated a number of community projects targeting women and children at risk of violence. In 2006, after the release of “Breaking the Silence: Creating the Future” we supported those workers to engage in a series of community consultations and education forums designed to raise awareness of the issues addressed in the report and work towards formulating a community response.

Redfern Legal Centre has recently made submissions to the Special Inquiry into Child Protection Services in NSW. We note that this Inquiry is due to make its findings later in the year. Many of the comments in this submission have recently been made to that Inquiry.

### **Background to this Submission**

Redfern Legal Centre does not speak for the Aboriginal community in Redfern. However, RLC staff are aware of prevailing attitudes, frustrations and beliefs in relation to child protection among RLC’s Aboriginal clients as well as client living in poverty. Often, these concerns are usually shared by community workers who work closely with and provide intensive support to these clients.

We have consulted with individuals and organisations that work with and provide services to Aboriginal families and families living in poverty in the Redfern area. The individuals and agencies we consulted voiced similar views about the experience of families involved with DoCS in our area. Redfern Legal Centre is of the view that it is important that these views be made known to FaCSIA so that the community can have a sense that they have been heard on these issues. This submission includes quotes from our clients, community workers and individuals in the community to demonstrate the concerns and frustrations with the NSW child protection system.

We will provide comments on the experiences of the Redfern community in relation to child protection in the context of the proposed national framework.

## **1. Stronger prevention focus - Early Intervention, prevention and parenting**

Any comprehensive plan to improve early intervention for families with children at risk in NSW cannot ignore the urgent need for reform of the current child protection in NSW. As long as the State of NSW has final responsibility for decisions regarding children in need of protection, all commonwealth initiatives must integrate with existing state child protection services. Some issues regarding NSW DoCS acknowledged difficulties with interagency communication are addressed below.

### **Children at risk in Redfern**

A fundamental issue for both Aboriginal and non-Aboriginal families in Redfern is fear and mistrust of NSW DoCS. This often results in families, young people and the community in general avoiding early intervention support services. As long as engagement with any government or non-government agency or program in relation to child protection will ultimately result in families and young people having to deal with NSW DoCS, people will always be wary, reluctant and mistrustful of new programs.

Planned initiatives such as enhancing Centrelink's role in identifying and referring vulnerable families must recognize Centrelink staff are already obliged to notify DoCS of children at risk. As the "referral" is ultimately to DoCS, FaCHSIA needs to be made aware of some issues that concern the community in this regard. Many vulnerable people have difficulty distinguishing between different government services and are already wary of engagement with Centrelink due to fear of being "reported" to DoCS.

Community perceptions of DoCS and how DoCS operates impact on the whole communities approach to dealing with child protection issues, and supporting families with children who may be at risk. It is well understood that some Aboriginal families have a "fear of the past" and are reluctant to engage with DoCS or report other Aboriginal families who may be in need of early intervention DoCS. However, perceptions of unfairness and gross injustice are prevalent in the whole Redfern Waterloo community.

Many Aboriginal people in Redfern believe that DoCS was sent in to "clean up" Redfern after the Redfern riots in 2004. Community workers noticed a sudden increase in the number of Aboriginal children being removed in early 2004.<sup>1</sup> Some activists say that "hundreds" of children were removed from Redfern during 2004. It is well known that many of our clients perceive themselves and their children to be another "Stolen Generation".

There is no dispute that some Aboriginal children that were removed from families in Redfern in 2004 were in need of care and protection. Subsequent Children's Court proceedings revealed that some children were well known to DoCS and Redfern Police to be in need of care and protection for many years prior to their removal. These families are well known in Redfern and it is a common perception that there were no specific incidents giving rise to the need for sudden removal apart from the riots.

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<sup>1</sup> RLC Submission to the Inquiry into Issues Relating to Redfern/Waterloo by the NSW Legislative Council Standing Committee on Social Issues dated 30 April 2004 p5

Other Aboriginal families felt that they were “targeted” by DoCS after the riots. In many cases “fear of DoCS” was a significant factor in family’s inability to cope with interacting with DoCS and as a result, unable to have the benefit of programs that would have assisted the families to stay together.

Community workers and lawyers assisting parents with DoCS matters are concerned about the unnecessarily adversarial attitude of DoCS case workers in the lead up to and conduct of Children’s Court matters. Community workers often report that an unnecessarily punitive and belittling attitude is displayed, particularly against women who are victims of domestic violence, and that threats and demeaning language are often used in care plan and other meetings. Community workers who provide intensive support to families can be left feeling sidelined or as humiliated as the parents. In some cases community workers are left questioning whether DoCS staff have had the benefit of cultural awareness training in relation to Aboriginal clients.

It is often noted that case workers and their legal representatives are overworked and have little time to prepare cases. It is unfortunate and unnecessary that DoCS workers are often known in the community and amongst community workers as “unfair”, “sneaky” and “nasty”. Over time this type of behaviour makes it less likely that families are willing to engage with DoCS or any other early intervention programs at an early intervention stage. This is particularly concerning in matters involving Aboriginal families where early intervention may have been effective.

#### **Inquiry into Redfern and Waterloo in 2004**

Following the Redfern Riots in 2004, Redfern Legal Centre made submissions to the Inquiry into Issues Relating to Redfern/Waterloo by the NSW Legislative Council Standing Committee on Social Issues<sup>2</sup> (‘the 2004 Redfern Inquiry’) and staff made oral submissions to the Inquiry. A copy of RLC’s submission is attached. The comments made in our written and oral submissions remain current concerns of ours and other Redfern community workers in relation to the NSW child protection system.

The NSW Parliament Standing Committee on Social Issues released its final report in December 2004. The report notes:

*A key concern among (inquiry) participants was the performance of the Department of Community Services (DoCS). Accordingly, the Committee recommends, as a priority, a number of actions on the part of DoCS’ Eastern Sydney Community Service Centre to ensure much more effective action to protect children at risk, adequate training for caseworkers, and more effective relationships with other local agencies and with the Aboriginal community.<sup>3</sup>*

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<sup>2</sup> RLC Submission to the Inquiry into Issues Relating to Redfern/Waterloo by the NSW Legislative Council Standing Committee on Social Issues dated 30 April 2004

<sup>3</sup> Inquiry into Issues Relating to Redfern/Waterloo by the NSW Legislative Council Standing Committee on Social Issues Final Report p xiii

Sadly, the Final Report also commented that:

*“Many of the matters raised in our consultations with people in Redfern and Waterloo echoed those expressed to the Committee when we undertook our Inquiry into Child Protection Services in 2002.”<sup>4</sup>*

We note that the government’s response issued by the Premier’s Department of 22 February 2005 did not address or even acknowledge the Committee’s concerns or recommendations in relation to the performance of DoCS.<sup>5</sup>

The Redfern Inquiry failed to provide satisfactory answers to the community or community workers about how many Aboriginal children were “taken” during 2004 or whether there was a specific policy or strategy by DoCS or the government to remove more Aboriginal children in the immediate aftermath of the Redfern riot.

## **2. Better collaboration between services**

Currently, all government and non-government agencies who work with and provide services to families of children at risk are obliged to co-ordinate service provision with NSW DoCS.

### **DoCS Interagency Communication**

The Final Report of the 2004 Redfern Inquiry also acknowledged community worker’s frustrations about working with DoCS including a “pattern of unwillingness to work with the members of the Aboriginal community and engender their trust”.<sup>6</sup>

Dr Neil Shepherd, then Director General of DoCS, made extensive submissions to the 2004 Redfern Inquiry. He acknowledged that there were areas in need of improvement, especially in relation to interagency communication.

The Hon. Robyn Parker asked the following question of Dr Shepherd:

*We have had evidence from NGOs ad nauseam that said that in terms of early intervention, DOCS do not have liaison with NGOs, do not refer to a number of NGOs that are involved in early intervention and who are funded by DOCS and that DOCS, as opposed to other government departments, do not participate in the interagency meetings.<sup>7</sup>*

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<sup>4</sup> Inquiry into Issues Relating to Redfern/Waterloo by the NSW Legislative Council Standing Committee on Social Issues Final Report p 86

<sup>5</sup> NSW Government’s response to the Interim and Final Reports, “Redfern-Waterloo A report on progress” dated 22 February 2005

<sup>6</sup> Inquiry into Issues Relating to Redfern/Waterloo by the NSW Legislative Council Standing Committee on Social Issues Final Report p 87

<sup>7</sup> Report of Proceedings before the Standing Committee on Social Issues, Inquiry into Issues relating to Redfern and Waterloo (Uncorrected Proof) 3 November 2004 p23

The issue of participation in interagency meetings is still key issues for Redfern community workers in 2008. The community is disappointed to have seen very little change in attitude from DoCS despite the fact the DoCS had been put on notice that it was a key community concern in 2004.

The Redfern Inquiry Final Report noted Dr Shepherd's undertakings that :

*“The Department is seeking to reduce the proportion of children in out-of-home care (the rate is about 25% of all children at present), and its relationship with the Aboriginal community through a number of mechanisms including:*

- genuine consultation with individual communities about the services required best way to deliver them*
- efforts to establish and effectively support services that are run by and for communities*
- recruitment and support for Aboriginal foster carers*
- recruitment and more effective support for Aboriginal staff in the Department and continued cultural awareness training for non-Aboriginal staff”*.<sup>8</sup>

Redfern community members and workers we have unsure whether “genuine” consultation by DoCS with the community took place following the 2004 Inquiry.

### **Violence against Women and Children**

Redfern Legal Centre's Women's Domestic Violence Court Assistance Scheme (WDVCAS) works closely with local NGOs to provide support for women and children experiencing domestic violence. Redfern WDVCAS welcomes the proposal in relation to tougher and nationally consistent law and best practice in relation to domestic violence and sexual assault.

In relation to sexual assaults, we refer FaCHSIA to the Attorney General's Department of NSW Criminal Justice Sexual Offences Taskforce report “Responding to sexual assault: the way forward” dated December 2005 in particular the taskforce recommendations for further research concerning why sexual complaints made by both adults and children do not proceed through the criminal justice system.<sup>9</sup>

Redfern WDVCAS is in the process of preparing a submission to the National Council o Reduce Violence Against Women and Children in relation to the Development of the National Plan to Reduce.

### **3. Improving responses for children in care and leaving care**

In Redfern, non-government organizations provide support to young people in care and leaving care. These NGOs are often partially funded by DoCS and are required to liaise with DoCS but receive very little practical support. As mentioned above, DoCS has a

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<sup>8</sup> Report of Proceedings before the Standing Committee on Social Issues, Inquiry into Issues relating to Redfern and Waterloo (Uncorrected Proof) Dr Shepherd, Evidence, 7 June 2004, p2 and 6

<sup>9</sup> Attorney General's Department of NSW Criminal Justice Sexual Offences Taskforce report “Responding to sexual assault: the way forward” dated December 2005, Taskforce Recommendation 2 at p1.

poor record of inter-agency co-ordination in relation to child protection generally and provides very little assistance to community workers working with young people in and leaving care. In addition to increased funding to NGOs who assist young people in care and leaving care, community workers need practical assistance and support that should be provided by NSW DoCS.

### **Financial and practical support for foster carers**

Redfern Legal Centre has a number of Aboriginal clients and supports a number of community workers who are informal non-parental carers of related children who would otherwise be at risk. Informal kinship care arrangements are often made within families to avoid the attention or involvement of DoCS and the children's court. In other cases arrangements are suggested by or insisted upon by DoCS to prevent care proceedings. In these cases, carers often expect that they will receive practical and financial support from DoCS and are left disappointed and frustrated when DoCS does not consider the family to be foster carers and provides no support. Families are often left in financial distress when the expected financial support does not eventuate. More importantly, when there are no Children's Court proceedings and DoCS does not consider the placement to be a "formal" placement carers are denied much needed practical assistance in areas such as health and schooling.

Redfern Legal Centre welcomes initiatives to address the inequities in the current system of financial support to non-parental carers but notes that there is an urgent need to non-parental carers to have access to practical supports that should be provided by NSW DoCS.

## **4. Improving responses for Aboriginal children**

### **Breaking the Silence: Creating the Future**

In February 2006, the Aboriginal Child Sexual Assault Taskforce ("ASCAT") released its report: "Breaking the Silence: Creating the Future. Addressing child sexual assault in Aboriginal communities in NSW". During 2006 Redfern Legal Centre assisted Aboriginal community workers to arrange a series of public consultations and education sessions to raise awareness about the report and to co-ordinate a local response. During November 2006 we facilitated and supported Yarning Circles and other community events that featured the Chairperson of ASCAT Marcia Ella-Duncan and taskforce member Melva Kennedy. The community at that time were anticipating that "big things" would come as a result of the release of the report.

Redfern Legal Centre fully supports the recommendations made in the report and we note that it is the result of an unprecedented and comprehensive process of consultation with Aboriginal communities in NSW. The report clearly sets out the causes of abuse against children and the recommendations thoroughly address the necessary responses from all NSW government agencies.

Our clients and the Redfern community in general are bitterly disappointed at the NSW governments response to the Breaking the Silence report. There has been no demonstrated commitment to implementation of the recommendations of the report. We note that recent

public criticism of the governments response has highlighted that that there is still only one part-time Aboriginal counselor in NSW and that most NSW agencies are yet to respond to a list of performance measures<sup>10</sup>. The Redfern community have watched while the federal government implemented it's (controversial) response to the Little Children are Sacred report in the Northern Territory while the NSW government has remained silent and inactive in relation to Aboriginal children at risk in NSW.

Child placement

## **5. Attracting and retaining the right workforce**

## **6. Improving child protection systems**

We would be pleased to assist FaCHSIA to arrange community consultation in Redfern/Waterloo with our local Aboriginal and Women's Domestic Violence services. We look forward to hearing from you.

Yours sincerely,

Helen Campbell,  
Director  
REDFERN LEGAL CENTRE

Encl: Redfern Legal Centre RLC Submission to the Inquiry into Issues Relating to Redfern/Waterloo by the NSW Legislative Council Standing Committee on Social Issues dated 30 April 2004

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<sup>10</sup> <http://www.smh.com.au/news/national/too-inept-to-save-children/2008/06/18/1213770732783.html>