



# Djinda Services

Perth Aboriginal Family Violence Prevention Legal Service

a partnership between Relationships Australia and Women's Law Centre WA

16 February 2016

The Director General  
OOHC Reform Team  
PO Box 63334  
EAST PERTH WA

Attention: Ms Emma White

By email to: [OOHCReform@cpfs.wa.gov.au](mailto:OOHCReform@cpfs.wa.gov.au)

Dear Ms White,

## OUT OF HOME CARE REFORM

We are grateful for the opportunity to provide input into the proposed legislative amendments.

### ABOUT OUR SERVICE

The Perth Aboriginal Family Violence Prevention Legal Service is a partnership between Relationships Australia WA and the Women's Law Centre of WA Incorporated (WLCWA). The WLCWA hosts the legal component of our service.

Our service is known as "Djinda". *Djinda is a Noongar word meaning star. The star represents us as women who guide our families, shine brightly, survive against the odds and are strong in our determination to keep our families safe.*

We are Aboriginal and non-Aboriginal women, mothers grandmothers and sisters who care about the future of Aboriginal communities. We have personal and professional experience and an understanding of the family violence cycle.

Djinda Services is a specialist legal support service for Aboriginal and Torres Strait Islander people who have experienced or are at risk of family and domestic violence or sexual assault, living in the Perth metropolitan area. Djinda Services provides legal advice and representation in the areas of Violence Restraining Orders, assisting victims/survivors of family violence and sexual assault, child protection, victim compensation where it relates to family violence or sexual assault and family law children's issues. Our service also provides community legal education in identifying and responding to family violence.

Djinda Services is one of the few legal services in the Perth metropolitan area assisting Aboriginal Mother's and Grandmother's in the care and protection jurisdiction. Many of our clients are conflicted out of services such as the Aboriginal Legal Service and Legal Aid WA. Since the commencement of our service in January 2013, the majority of our casework has been assisting

women to negotiate the child protection system. For example, preventing the removal of baby's at birth, assisting Grandmother's to become relative carers, negotiating contact visits with children and their Mothers and Grandmothers and having children returned to their Mother's care. All of the women we work with are at risk of or have had their children removed from their care due to family and domestic violence as the child protection concern.

We confirm that all case examples have been de-identified for confidentiality purposes.

## **Introduction**

Djinda Services is concerned about the disproportionate impact of the proposed legislative amendments on Aboriginal and Torres Strait Islander families and victims of family and domestic violence.

We are also concerned the proposals come at a time where the funding for support services for Aboriginal and Torres Strait Islander families is being reduced. We note that financial strains on the Aboriginal Legal Service and Legal Aid WA has increased the number of women seeking assistance from our service. There are very few specialised services for Aboriginal and Torres Strait Islander families. In particular reunification services and services that can provide independent relative carer assessments.

Djinda Services wholly endorses the 'submission to the DCPFS out of home care reforms' of the Women's Law Centre of WA, dated 16 February 2016.

Djinda Services also supports the introductory statements of the Family Inclusion Network of WA (FinWA) in their 'submission to the DCPFS out of home care reforms' dated September 2015 at page 1 and 2. We agree that the current 'out of home care system is not delivering the positive outcomes for children, young people and their families or communities we hope to achieve, *none more so than for Aboriginal people.*' (Our emphasis added).

We support the FinWA submission that a parallel discussion is required on the delivery of early intervention and preventative family support services to avert children's entry into the state child protection system.

In addition to our endorsement of the above submissions Djinda Services also provides for your consideration the following comments and case studies in relation to the proposed legislative amendments. We provide these comments to illustrate the unique challenges faced by our Aboriginal and Torres Strait Islander clients as they attempt to negotiate the child protection system.

Before any consideration is given to the proposed legislated time frames, we submit two fundamental issues must be addressed in respect to Aboriginal and Torres Strait Islander families:

1. Firstly, adequate resources must be diverted to provide DCPFS staff with culturally appropriate professional education and training. It is our view that Departmental staff working directly with Aboriginal and Torres Strait Islander clients, require a much higher level of cultural competence than currently exists within the Department. Simply by virtue of their non-Aboriginal backgrounds, the majority of case workers have little first hand experience of what it means to be an Aboriginal mother or grandmother negotiating the care and protection regime. The feedback we receive from our clients is that they experience very little empathic recognition from DCPFS workers for the difficulties they face. For example, while meeting the requirements of the Department; clients are often

overcoming the impact of family and domestic violence and in many cases sexual abuse. (In some cases the sexual abuse experienced by our clients was perpetrated while they were themselves in state or church care.)

Intergenerational trauma, the impacts of colonisation and the stolen generations compound these complex dynamics faced by our clients. (Many of our client grandmothers, in their fifties and sixties, and great grandmothers have been taken from their parents as part of the stolen generations and placed in care. The historical impacts still directly affecting our clients include:

- Disproportionately high levels of homelessness
- Long term family and domestic violence
- Poor physical health
- Disproportionate socio-economic disadvantage
- Mental health issues
- Complex psychological trauma

Currently many of our clients experience a breakdown in their relationship with Departmental staff and in some cases the clients report they feel “judged”, and “looked down on”. In our experience, once the relationship between the client and the Departmental worker sours, the process of reunification, relative carer assessment or negotiating contact arrangements comes to a halt; in some cases for months. Sadly, clients lose hope when such a relationship breakdown occurs and the unintended consequence is an even more fractured family.

To introduce more prescriptive time frames into this context, without addressing the urgent need for appropriate cultural training, will not provide better outcomes for children and families and will most likely see more Aboriginal and Torres Strait Islander children placed in out of home care.

#### *Case Study - Mia*

*The WLCWA Djinda Services assisted a client, ‘Mia’ in a Protection and Care matter. Mia, a young pregnant Aboriginal mother attended WLCWA for legal advice when the DCPFS removed her 9 month baby from her care after a domestic violent incident with her partner. The DCPFS applied for a two year Protection and Care order for her baby.*

*The domestic violence included serious physical violence and Mia’s partner was charged with serious criminal offences and was refused bail.*

*Although the DCPFS considered returning the child to Mia’s care immediately after the incident, they did not do so because they alleged that she had refused to accept refuge accommodation.*

*When Mia came to see us she was extremely distressed that the DCPFS had not returned her baby to her care as she had done everything in her power to protect her baby. She explained*

*that she did not immediately accept refuge accommodation because there had been a death in her family and she wanted to be close to her family members during this period.*

*WLCWA Djinda Services was able to immediately advocate on her behalf explaining her situation to the Department. Mia obtained a Violence Restraining Order against her partner and was then able to obtain refuge accommodation.*

*With the support of WLCWA Djinda Services, Mia attended a Signs of Safety meeting with DCPFS. Agreement was reached on a safety plan with DCPFS and DCPFS returned her baby to her care.*

*We have chosen Mia's story to highlight the importance of early advocacy and support for victims of domestic violence. Mia's story also highlights the need for empathy and understanding around Aboriginal family life during times of family loss. Had it been acknowledged that the client needed to be near family at this time she could have been spared much unnecessary distress.*

#### *Case Study - Samantha*

*Djinda Services assisted a young mother, 'Samantha' in relation to DCPFS' proposed application for a protection order for 18 years, in respect of her then unborn child. By the time we attended a Signs of Safety Pre Birth meeting, the relationship between the caseworker and the client had completely broken down. The DCPFS staff advised the client before the meeting began, that the decision had already been made and the baby was to be taken into care at birth. Although our client had made significant positive changes the Departmental staff were not prepared to negotiate at all. Djinda Services communicated directly with the District Director in this case setting out a detailed argument outlining the inappropriateness of this premature decision. Fortunately our advocacy on behalf of the client resulted in a complete reversal of the Department's position. Samantha, with further support went on to implement a Safety Plan and was able to take her baby home from hospital.*

*In this particular case the DCPFS staff had relied on outdated historical data rather than the current circumstances of the client. In the face of such treatment this young Aboriginal mother had lost all hope of keeping her child.*

*We have chosen Samantha's story as it highlights the negative implications of a poor relationship between a client and their caseworker, especially when such a decision would impact so significantly on this family. This is also an example of what could happen when a decision that has extremely serious consequences for a client is made prematurely and without any without adequate investigation.*

2. Secondly, there must be an urgent review of the process of Relative Carer Assessments for Aboriginal and Torres Strait Islander carers. A review of this process must be undertaken in full consultation with Aboriginal and Torres Strait Islander organisations, with a focus on finding and maintaining family ties. At Djinda we are concerned with the frequency with which Aboriginal and Torres Strait Islander carers are being assessed as unsuitable "Aboriginal children represent 6.7% of the Western Australian population, however they

now comprise 52% of all children in out of home care. Further, the number of non-Aboriginal children entering out of home care is in line with population growth, (3%) whereas the number of Aboriginal children in out of home care is growing at (9%).”<sup>1</sup> Without a comprehensive review of the Relative Carer Assessment process, Djinda Services is concerned that more of these children will not be placed in appropriate relative care. Several clients of Djinda Services have used the phrase, ‘Another Stolen Generation’ in reference to the number of baby’s and young children they are seeing removed from young mothers and not being placed with appropriate family.

### **Case Study – Cassie**

*Djinda Services is assisted Cassie in relation to her request for a relative carer assessment. Cassie is an articulate, intelligent, strong Aboriginal woman.*

*Cassie lived at the same address as the child for whom she requested relative carer status. She had secure and appropriate housing. She also had a positive history of working with children. The Department are fully cognisant of these details.*

*Cassie first requested to be assessed as a relative carer for her grandchild in mid-2013. The Department advised they are of the view the assessment will not be positive.*

*Our understanding from Departmental correspondence and documentation is that there appears to have been a breakdown in communication between the Department and Cassie.*

*There appeared on the part of the Department for there to be a tendency for staff to read historical documents about Cassie and not actively engage with her when informing themselves of her matter.*

*Since Cassie’s original request, the Department apologised to Cassie for their failure to act on her notifications which have all been eventually substantiated and acknowledged. The Department also note in their documentation that Cassie is child focussed and positively engaged with safety planning.*

*However her relative care assessment was still not completed after two and a half years, in spite of being identified as a safe person in 2015.*

*Cassie is understandably confused as to why she cannot be an official relative carer.*

*Cassie admits she finds it difficult if people talk down to her. Similarly Cassie acknowledges that when she becomes frustrated she raises her voice. However, she denies being aggressive.*

*We have included Cassie’s story as we believe it highlights the difficulties faced by Aboriginal women when there is a breakdown in communication with the Department. It is our view that*

---

<sup>1</sup> Out of Home Care Reform Legislative Amendments Consultation Paper, Government of Western Australia Department for Child Protection and Family Support, November 2015

*part of the problem faced by clients like Cassie may be that certain workers are inexperienced in their dealings with well-respected, knowledgeable Aboriginal women.*

Djinda Services maintains serious concerns that the proposed legislative amendments will have the practical effect of creating further disadvantage and family breakdown for the already marginalised women and children we serve. We urge further discussion and consultation prior to the introduction of the proposed legislation.

If you require any further information or wish to discuss, please do not hesitate to contact the writer on 9200 2202.

Yours sincerely,

A handwritten signature in black ink that reads "Helen Lawrence." The signature is written in a cursive style with a clear, legible font.

Helen Lawrence  
Managing Solicitor  
WLCWA Djinda Services – Perth Aboriginal Family Violence Prevention Legal Service

## **List of References**

- Letter from WLCWA to Director General, Emma White dated 16 February 2106
- FinWA Submission to the Department for Child Protection and Family Support of Western Australia Out of Home Care Reform, September 2015
- Out of Home Care Reform Legislative Amendments Consultation Paper, Government of Western Australia Department for Child Protection and Family Support, November 2015