



SUBMISSION

Inquiry into the Victorian Government's Response
to the COVID-19 Pandemic

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Introduction

Women's Legal Service Victoria (Women's Legal) welcomes the opportunity to make a submission to the inquiry. This submission focuses on the impact of Covid19 on vulnerable women and children engaged with the Child Protection system.

The issues outlined below, are based on the lived experiences of the women we represent and have also been informed by the experiences of our lawyers who work with clients to ensure that women and children are safe and protected and children have the best possible opportunity to be reunited with their mother.

About Women's Legal Service Victoria

Women's Legal is a not-for-profit organisation that has been providing free legal services to women since 1982. We work with women experiencing disadvantage to address legal issues arising from relationship breakdown or violence. We provide a holistic, integrated practice, with in-house financial counselling and social work support.

Our legal services include a duty lawyer service at Moorabbin Children's Court 5 days per fortnight. This service is funded by Victoria Legal Aid.

We have recently established a Health Justice Partnership with Monash Health to provide ongoing support to women who attend antenatal appointments and enable them to receive legal assistance. This early intervention, integrated model aims to ensure that women experiencing family violence during pregnancy have access to legal advice and assistance and support services that enable their baby to remain with them once discharged from hospital.

Systemic issues in Child Protection exacerbated by Covid-19

Systemic issues within Victoria's child protection system are well documented. An inquiry conducted in 2016 by the Commission for Children and Young People, for example, concluded that the child protection system did not have the resources and support required to provide children with safe, permanent homes.

The Inquiry identified a number of key challenges including:

- growing and unmet demand for services;
- unsustainable workloads for child protection practitioners;
- a lack of specialist guidance and capacity to achieve arrangements in the best interests of children;
- workforce retention issues; and
- inadequate investment in support services.

While the full impact of Covid19 remains to be seen, it is apparent that the child protection system is failing vulnerable families, with systemic issues further exacerbated by the pandemic.

Vulnerable women are not receiving the supports they need to address protective concerns

The majority of the women represented by Women's Legal are victim/survivors of family violence. Our child protection clients are especially vulnerable, experiencing severe social and economic disadvantage. Despite having access to legal representation, these women struggle to obtain the supports they need to address protective concerns and ensure their own safety.

Many of the issues reported by our lawyers during Covid-19 reflect prevailing barriers in the child protection system that disempower women and make it difficult to achieve reunification.

These issues include:

- a culture of 'victim blaming' and 'perpetrator invisibility' that leads to children being removed from the care of their mother and placed in out-of-home care or, in some cases, with the violent perpetrator;
- difficulties obtaining referrals from DHHS and long waiting times for support services such as drug and alcohol counselling, family violence and parenting support and court-ordered medical assessments;
- poor communication and transparency in relation to case planning and decision-making by child protection workers;
- a lack of public housing, particularly for mothers working towards reunification as priority is given to women whose children remain in their care;
- unrealistic expectations on women to respond to complex, inter-related issues that impact on their parenting in the absence of comprehensive, networked supports.

Factors linked to the pandemic such as the heightened risk of family violence, social isolation, increased economic insecurity, housing instability and additional caring responsibility make it especially difficult for our clients to engage proactively with services and comply with court-ordered conditions at this time.

Access to the Children's Court limited during Covid19

In March 2020, the Children's Court introduced practice directions in response to the Covid-19 pandemic. The practice directions provided for non-urgent matters in the family division to be adjourned for a period of 12 weeks (for children in out-of-home care) or 20 weeks (for children in the care of parent). Parties to child protection proceedings were directed not to attend court.

The effect of these arrangements is that legal representatives were unable to challenge the merits of child protection decisions save in relation to a limited range of protection applications. Interim accommodation orders were automatically extended with no judicial consideration of the suitability of child placements and contested matters remained largely unresolved, notwithstanding the availability of consent orders.

The Court has since implemented a process for dealing with the backlog of child protection matters through conciliation conferences and remote hearings. The implementation of audio/video conferencing facilities by the Court is an important step forward as it enables parents and lawyers to participate in legal proceedings and reduces the disadvantage for clients whose legal representatives are unable or unwilling to attend court in person due to Covid19. However issues remain in ensuring that parties have access to technology required to support participation.

Further, delays in court proceedings may have adverse consequences, particularly where children have been placed in out-of-home care and parent/child bonds have been damaged by a lengthy separation.

Loss of contact with children in out-of-home care is a pressing concern

Women's Legal is concerned about the impact of ongoing restrictions on contact between children in out-of-home care and their birth families. Many of our clients have had no meaningful contact with their children since late March. Some mothers have been able to have contact through audio/video technology but this is not an adequate or workable long-term solution.

It is in the best interests of vulnerable children to enable them to interact with their family as normally as possible during the pandemic. This is particularly important given that public health measures are likely to be in place for the foreseeable future.

Children at risk are currently able to attend school and should be permitted to have face-to-face contact with their parents where it is court ordered, provided social distancing is observed with respect to child protection workers.

We understand that many of the existing DHHS contact rooms are not large enough to comply with social distancing requirements. Additional funding should be provided to specifically address this issue and promote children's wellbeing and connection to culture and family.

Legislative change urgently needed to support reunification

Women's Legal has significant concerns about the impact of the strict time limits on reunification in the Children, Youth and Families Act. In our experience, these time limits operate contrary to the best interests of children in some cases.

The lengthy delays arising from the adjournment of non-urgent matters in the Children's Court combined with the closure of support services at this time, means that many of our clients are unable to access the assistance they need to address protective concerns.

DHHS has advised the child protection workforce to consider factors related to Covid-19 when determining whether to maintain family reunification as the case planning objective. Whilst we welcome this practice initiative, legislative amendments remain necessary to ensure the Court has discretion to extend reunification timeframes in appropriate cases and mitigate the disadvantages faced by children and families due to Covid-19.

Women's Legal recommends that the Act be amended to remove the statutory timeframes and provide the Court with access to the full range of protective orders. This will enable decisions to be made in the best interests of the individual child or young person and ensure that intervention in the lives of vulnerable families is limited to that necessary to secure the safety and wellbeing of the child.

Child Protection Bill – An opportunity for reform

The drafting of the new Child Protection Bill affords an opportunity to consider a range of matters impacting on the lives of children and young people.

We recommend that the Government give further consideration to legislative, policy and practice reforms needed to address long-standing issues in child protection and ensure the wellbeing of Victoria's most vulnerable children. The Covid19 pandemic makes systemic reform more important than ever.