

31 July 2019

The Hon. Mark Speakman SC, MP
NSW Attorney General

The Hon. Gareth Ward MP
Minister for Family and Community Services

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Dear Attorney General and Minister Ward,

Child protection legal services (Care Partners Program) funding review and meeting request

I am writing to bring to your attention the funding crisis facing Legal Aid NSW's Care Partners Program which, if unresolved, will have a significant impact on child safety and family cohesion in NSW. This program funds community legal centres to provide early legal advice and advocacy to families engaged with the child protection system in NSW.

On 30 May 2019, just one month before current contracts were due to expire, Legal Aid NSW advised Community Legal Centres NSW and the twelve community legal centres receiving Care Partner funding that contracts would be extended for just three months to 30 September 2019, pending a review.

Since then, we have been in regular contact with Legal Aid NSW about the rationale for and scope of the review. We have asked that they extend current funding contracts to 30 June 2020. This will allow our sector to participate in a genuine and transparent review process that ensures the Care Partners Program is properly prioritised by Legal Aid NSW in the context of its budgetary review and continues to deliver high-quality services and positive outcomes for families and children in NSW.

However, we are losing confidence that a collaborative review will be undertaken and are now deeply concerned that the program will be defunded from 1 October 2019 due to internal budget pressures at Legal Aid NSW.

In 2018-19, twelve community legal centre Care Partners received a total of \$423,000 to deliver child protection legal services under the program. Funding insecurity in this area is already causing service disruptions and the loss of highly experienced community lawyers. Our centres are already nervous about taking on new clients for fear they will not be able to support people for the duration of their need. There are no alternative services for these people.

We request your urgent intervention to resolve this matter.

CLC Care Partners' work helps divert children from statutory out-of-home-care

Since 2015, Legal Aid NSW has funded Care Partners in the community legal centre sector to deliver early legal supports to families at risk of having their children removed by FACS.

Services delivered under the program include:

- early legal advice to:
 - help families understand FACS' role and responsibilities and legal processes,
 - prepare for case planning and Family Group Conferencing processes,
 - access the support services they need to address FACS' safety concerns for their children, and
 - identify alternative actions they can take to prevent child removals (for example through the family court);
- support for families to negotiate contact arrangements with children removed from their care or resolve contact disputes with FACS and other service providers; and
- advice about a range of matters including applying to the Children's Court to have children restored under section 90, guardianship orders and kinship care arrangements.

Importantly, community legal centres combine legal advice and assistance with specialist non-legal advocacy and casework for people and families with complex needs, including people with intellectual disability, women experiencing domestic and family violence and Aboriginal and Torres Strait Islander people. As a result, they are skilled at providing culturally safe services, identifying families' underlying support needs, and making warm referrals to appropriate services (including FACS supports).

Often families engaged with the child protection system have a history of negative contact with FACS. This can lead to disengagement and make it hard for them to take in information from FACS caseworkers. Having a trusted, independent advocate to talk to can help reduce trauma triggered by direct contact with FACS. It can also help to address the significant power imbalance between families and FACS during assessment processes and negotiations.

In short, the interdisciplinary early legal support community legal centres provide can help families access the supports they need to keep children safe and avoid unnecessary escalation of issues, court action and child removals.

Defunding the Care Partners Program puts children's safety at risk

Defunding this program would have an immediate and significant detrimental impact on families and children engaged with the child protection system in NSW.

In 2018-19, twelve community legal centres provided child protection legal advice and casework to more than 800 people across NSW through the Care Partners program. This number significantly under-represents the number of discrete services provided, which range from one-off advice to intensive legal casework and support for individual families experiencing multiple and complex disadvantage over several weeks or months.

It is this intensive casework which delivers the best outcomes for families and is most at risk if the Care Partners program is defunded.

Further, Care Partner funding supports centres to engage in important community education, outreach and stakeholder engagement work, which delivers benefits to the community that are not captured in client statistics.

All Care Partners report that this level of funding, which enables them to deliver services on a part-time basis only, is already insufficient to meet demand for child protection legal services in their communities.

Without this support, families are at risk of disengaging with FACS, being unable to access the supports they need, agreeing to arrangements for their children's care that they don't fully understand and, ultimately, having their children removed unnecessarily.

Recent reforms are increasing demand for early legal support

Since 2014, reforms to child protection laws and FACS policies have prioritised providing early support, including legal services, to families to help them keep their children safe at home, reduce the number of child protection matters heard in the Children's Court, and reduce entries into out-of-home-care.

For example, recent amendments to the *Children & Young Person's (Care and Protection Act) 1998* require FACS to offer alternative dispute resolution to all families before commencing court proceedings and to ensure all families entering into guardianship orders by consent receive legal advice.

These reforms are proving successful in reducing the number of child protection matters proceeding to court. At the same time, they have increased demand for the kinds of out-of-court legal services and advocacy that community legal centres provide through their child protection practices.

Early legal support helps keep families safe and strong

The provision of early legal support to families engaged with the child protection system aligns with the government's stated priorities under the Their Futures Matter reforms: to support families early to keep their children safe at home and reduce entries into out-of-home-care.

Community legal centres strongly support the government's intention to reorient the child protection system away from crisis responses and towards early support and prevention. Timely access to legal advice is a critical mechanism for diverting children from statutory out-of-home care and ensuring families have access to the supports they need to keep children safe.

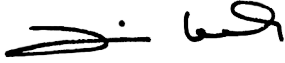
Community legal centres are committed to supporting the government's efforts to achieve these aims.

In order to do so, we request that the Care Partners Program funding be immediately extended to 30 June 2020.

This extension will provide time for your agencies to bring together FACS, Legal Aid NSW, the community legal centre sector and the Aboriginal Legal Service to discuss the best model and ongoing financial sustainability for the delivery of early legal supports to families engaged with FACS in NSW. While we appreciate Legal Aid NSW has budgetary pressures, defunding critical services for twelve communities across NSW cannot be considered an appropriate response.

We would like to meet with you both urgently to discuss these concerns and the future of the Care Partner programs in more detail. A member of my team will follow up with your offices to arrange a time.

Yours sincerely,



Tim Leach

Executive Director

Community Legal Centres NSW