



Submission to

**Commission for Children and Young People
*Permanency Amendments Inquiry Consultation Paper***

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Introduction

Melbourne City Mission welcomes the Commission for Children and Young People (CCYP) inquiry into the implementation of the permanency amendments.

Melbourne City Mission's overarching perspective is that:

The legislative and policy intent is sound, but that:

- Reconciling children's right *"to be protected from physical and mental violence, injury or abuse, neglect or exploitation"* with their right *"as far as possible, to know and be cared for by their parents"*¹ is a significant challenge. Disconnecting children from their source of identity is detrimental to their lifelong wellbeing². Melbourne City Mission is concerned that after permanency orders are made, there is no systemic accountability³ to facilitate connection (as distinct from reunification) with parents or siblings or significant others.
- While the Children, Youth and Families Act 2005 identifies *"giv[ing] appropriate weight to the child's wishes"* as something to be factored into decision-making, Melbourne City Mission's experience of the permanency amendments is that the voices of young children are absent.
- The implementation of the reform needs some calibration to account for – at one extreme – long-tail support required by some families to achieve success and – at the other end – families where permanent care orders should possibly be made even earlier.
- In relation to long-tail support, while the legislation allows for with the possibility of a 12-month extension if there is compelling evidence that permanent reunification is likely to be achieved in that time, Melbourne City Mission notes that contemporary intensive family support models are underpinned by much longer support windows. Cradle to Kinder, for example, provides a support window from late-term pregnancy through to pre-school enrolment. This long-tail of support is predicated on an understanding that many families in the Child Protection system have had inter-generational engagement with statutory and forensic services and other health and human services. Consequently, it will take time to effect and sustain change, and progress is not likely to be linear.

These and other issues are unpacked in the body of this submission.

¹ *Children, Youth and Families Act s 10(3)* cited in Commission for Children and Young People (2016), *Permanency Amendments Inquiry Consultation Paper*, p. 5

² Law Institute of Victoria et al (2014), *A Reform Agenda for Victoria's Vulnerable Children and Young People*, presented at the Children's Matters conference, Victoria.

³ Melbourne City Mission acknowledges that the legislation sets out responsibilities, however, the accountability is limited due to capacity.

Context for this submission

About Melbourne City Mission

Melbourne City Mission is one of Victoria's oldest and largest community services organisations (established 1854). Our mission is to work alongside people and communities who are marginalised, to support them to develop pathways to inclusion and participation. In particular, our programs and services enable people to forge and sustain positive and meaningful connections to family, community, school and work.

Our programs cross multiple service systems, including homelessness, disability, early childhood, health (home-based palliative care), justice, education, vocational education and training, and employment services.

We have a strategic focus on children, youth and families, spanning the continuum of prevention and early intervention through to crisis response.

About Cradle to Kinder

This submission is particularly informed by Melbourne City Mission's insights as a provider of intensive family support through Cradle to Kinder.

Cradle to Kinder is an integrated and co-ordinated child-focused, family-centred service system response to vulnerable families and their children. It is a State Government-funded initiative that promotes the health, safety and wellbeing of children and assists parents to make positive changes to their lives.

Cradle to Kinder is different to other programs working with families 'at risk' – it is a longer-term intervention that offers tailored support to young women and their families from pregnancy until the child commences pre-school.

Cradle to Kinder is delivered in Melbourne's west by a consortium comprising Melbourne City Mission (lead agency), Kildonan UnitingCare, ISIS Primary Care, the Victorian Aboriginal Child Care Agency (VACCA) and Early Childhood Management Services (ECMS). Melbourne City Mission is also a partner in an Aboriginal Cradle to Kinder program led by VACCA.

The target population is young pregnant women (under 25 years):

- from 26 weeks of pregnancy (up to 6 weeks after the birth of their baby)
- living within the identified Child FIRST catchment
- where a Report to Child Protection has been received for their unborn child, where the referrer has significant concerns about the wellbeing of the unborn child, or
- where there are a number of indicators of vulnerability/concerns about the wellbeing of the unborn child.

Priority of access is given to:

- young women who are, or have been, in out-of-home care
- Aboriginal women
- women who have a learning difficulty or disability
- young women and their families who have previously been receiving Cradle to Kinder services but who have moved to a new Cradle to Kinder catchment.

The program also accepts referrals for young pregnant women who are, or have been, living in unstable housing, including short-term tenancy arrangements. It exercises flexibility in accepting referrals for pregnant women with an intellectual disability who are older than 25 years of age.

Engagement with the program is on a voluntary basis. The program accepts self-referrals. Emphasis of supports is placed on the key transition periods in a child/family’s life.

Melbourne City Mission’s Cradle to Kinder program has been operating for four years. To date, 62 families have been referred into the program. (The program is funded to work with 32 families at any one time.)

In developing this submission, Melbourne City Mission has drawn on our experience with:

- Previous Cradle to Kinder families, particularly:
 - The nine (9) families who have successfully completed the program and had their children remain in their care
 - The three (3) families who experienced permanent removal of a child prior to engaging with Cradle to Kinder
 - The six (6) cases that were closed due to children being removed
 - The two (2) cases closed due to disengagement.
- The 32 families who are currently actively engaged in intensive family support.

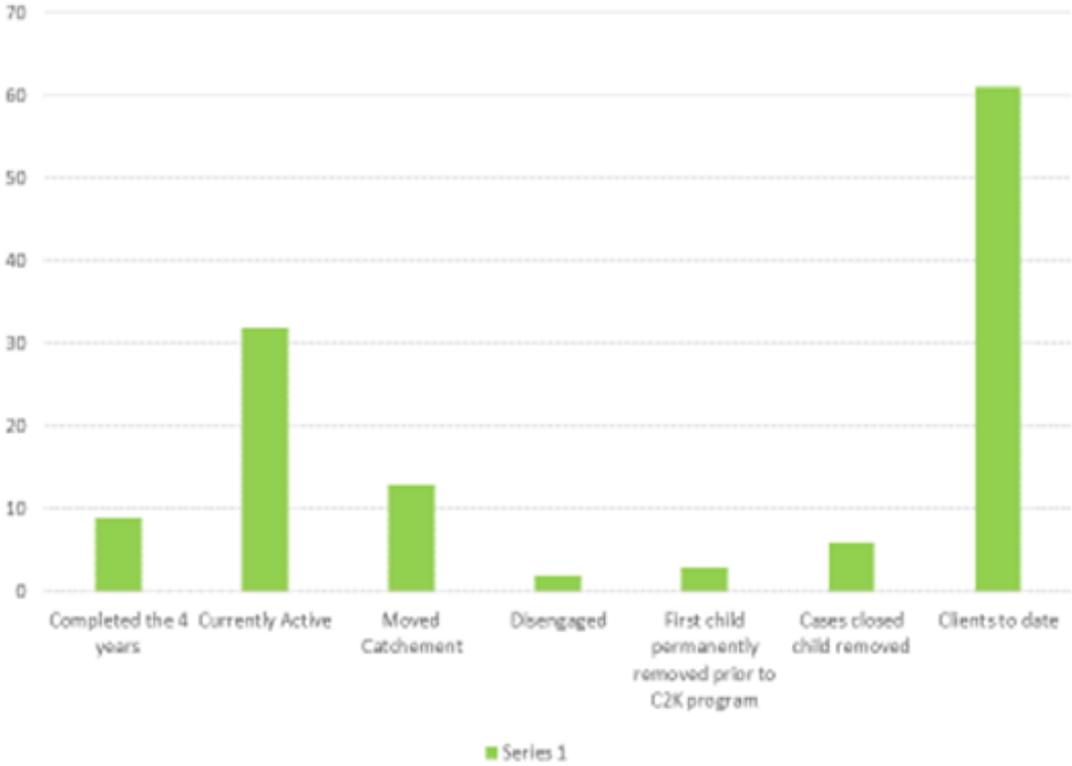


Table 1: Cradle to Kinder – caseload status

Melbourne City Mission's response to the Consultation Paper

Melbourne City Mission's perspectives on changes to case planning

For Melbourne City Mission staff, the changes to case planning – particularly the early articulation of the permanency objective – have provided key workers with more structure and certainty.

For children and families, Melbourne City Mission's Cradle to Kinder team have observed that:

- For some families, *"there's been a positive shift"*. For these families, the increased emphasis on permanency in the case planning phase, combined with a 12-month ceiling, has motivated parents or carers to actively engage in case planning and take the steps required to effect family preservation or family reunification.
- For other families, there's been a negative shift. For these families, parents or carers feel the changes are setting them up to fail. Their response is to disengage with the process. Cradle to Kinder key workers report *"There are parents who say 'I may as well give up now. I can't see the way forward.'"*

Cradle to Kinder staff reflect that the timeframes are particularly challenging for younger parents:

"Our older clients – for example, 24-year-olds – have greater success [at achieving family preservation or family reunification] than a 16-year-old because they have greater maturity, and life experience."

Staff also note:

"Sometimes mum is doing well but has no confidence to do it on their own. The system promotes the easy out."

Melbourne City Mission is concerned that both response types (active engagement and disengagement) are underpinned by fear:

"Families are aware of it [the legislative change] and are fearful. A common response is 'I don't have much time to do this'. There's a lot of anxiety."

Melbourne City Mission's experience is that these fears are well-founded. Key issues include:

- Systemic failure by DHHS Child Protection to make timely referrals to Court-mandated supports.

Melbourne City Mission's Cradle to Kinder key workers note that: *"By the time the referral gets sent in, the clock is well and truly ticking."*

This is symptomatic of broader service and practice challenges in at DHHS Child Protection. Notwithstanding significant new State Government investment, a number of problems identified in the Department's Stability Planning and Permanent Care Project (which preceded the legislative reform) persist. These issues include high caseloads, multiple changes of workers, practitioner skills and knowledge in DHHS Child Protection.

DHHS Child Protection's compliance with cultural support planning requirements for Aboriginal children is another example of a persistent practice issue.

Melbourne City Mission welcomes the attention CCYP has given to this, and associated care and placement issues, for Koori children.

- Family preservation or family reunification is often contingent on parents engaging with clinical services, such as mental health or Alcohol and Other Drug (AOD) counselling. Community mental health and AOD services often have waiting lists – even for priority populations. Melbourne City Mission Cradle to Kinder key workers reflect:

“The ability for parents to comply with Court orders or case plans is difficult in a resource-constrained system. The referral pathways aren't there. There are wait lists for all services, particularly AOD.

“The timeframes around Permanency Orders fail to factor in the reality of resource availability, which pushes out service response times. Parents are set up to fail.”

Melbourne City Mission's perspectives on conditions on orders

Protection orders – naming of carers

The CCYP Consultation Paper notes that family reunification orders and care by Secretary orders no longer require the Children's Court to name the child's carer on the order.

While Melbourne City Mission believes there are some benefits associated with this change – for example, it enables the system to flex to ensure the safety of children – we have some concerns.

Specifically:

- Not naming the carer has heightened anxiety for some families we support through Cradle to Kinder

"Because grandma isn't named, families feel the Department can always move them, they can exercise 'Department discretion'. In one case, mum [accepted the order was in the best interests of her child] but said 'I don't want the order to just go to anyone – I want [grandparent] named."

Naming the carer would provide families with a sense of security that *"[grandparent] has the decision-making power for my child, not the Department."*

This issue is significant for many families, but has an additional cultural overlay for Aboriginal families.

- Implications for the status of the child

Melbourne City Mission staff reflect *"What if a child is old enough to know? What if, now or when they're older, they see the documentation? Not having their carer named can feed into questions about 'Who am I? Where is my sense of identity?'"*

Melbourne City Mission believes that a more nuanced approach needs to be taken. We believe there is a powerful role for roundtables/family conferencing to determine whether carers should be named on orders. We do not support the new default approach of not naming carers.

Permanent care orders – contact with parents

The CCYP Consultation Paper notes that *"following the permanency amendments, conditions about a child's contact with their parents are no longer required. If conditions are included about contact, they can provide for contact up to four times each year. Additional contact can be '...arranged from time to time by agreement in the child's best interests'."*⁴

Disconnecting children from their source of identity is detrimental to their lifelong wellbeing.⁵

⁴ Commission for Children and Young People (2016), *Permanency Amendments Inquiry Consultation Paper*, p. 18

⁵ Law Institute of Victoria et al (2014), *A Reform Agenda for Victoria's Vulnerable Children and Young People*, presented at the Children's Matters conference, Victoria.

Melbourne City Mission is concerned that under the permanency amendments:

- Facilitation of a child's connection with parents, siblings or extended family is at the discretion of the permanent carer. The system no longer actively protects the rights of the child to have regular contact with parents, siblings or other people who are significant to them.

Our Cradle to Kinder staff reflect:

"The system steps back and just assumes the family is navigating the relationship, but there is actually no expectation or accountability that the kinship carer will facilitate connection with mum."

Melbourne City Mission contends that children should not have to rely on the goodwill or discretion of permanent carers to foster family connection.

- While parents have the right to apply to vary the condition concerning contact after the first 12 months of the order, our staff observe that kinship carers who do not want to promote contact can build significant power in that first year. In these families, parents can be easily discouraged or dissuaded from pursuing contact and relationship repair with their child/ren.

That said, in one recent case, where a grandmother consistently frustrated maternal access to the child, the key worker noted that as soon as a permanency order was made in favour of the grandparent, the grandmother proactively took steps to rebuild maternal/child connection and effect relationship repair. Staff reflected:

"She [the grandmother] made it impossible for mum to have access. Mum had had supervised access in the family home. Mum mucked up and a permanent care order was made to grandma. Since then, the change has been remarkable. Grandma was upset and fighting – but as soon as the permanency order was made, she felt she had achieved security and stability for the child. She then shifted to 'Now I can repair the relationship'. The relationship is now repaired and Mum agrees the order was the best outcome."

Melbourne City Mission's perspectives on persistent practical barriers to achieving timely, permanent outcomes for children

The CCYP Consultation Paper notes a number of barriers that the permanency amendments have not, in and of themselves, resolved, including “the lack of resources and support provided to equip permanent carers to meet the complex needs of children in out-of-home care”.

Cradle to Kinder key workers identify the need to look more broadly at family networks:

“Children and parents in our program often have a lot of family around them, but the extended family is not harnessed effectively. Because there has often been long-term Child Protection involvement, there’s been a lot of fighting each other in court. We need something like Aboriginal Family Led Decision Making (AFDM) meetings for all family types. We need them all doing genograms, getting the involvement of all family members.

“There are Child Protection workers who are not seeking out family – there are many cases where there are family members more than happy to take children and have active involvement, but the Department hasn’t gone there. Making the time to go out there and find family is important.”

At the same time – and this point highlights the complexity of the work with vulnerable families – staff observe that *“kinship is not always a good option ... often grandchildren are placed with grandparents who had their own children removed. Sometimes there is grandparental neglect.”*

Another persistent barrier is adequacy of support. Our key workers reflect that *“the Department has no capacity to do proper supervised access. It puts the pressure back onto family and community. If regular contact with the kids is not facilitated, this is a barrier to reunification.”*

In relation to support, Melbourne City Mission also wishes to highlight a recent case in which a couple had their first child removed into permanent care (several years prior to the introduction of the permanency amendments). The child was placed in the permanent care of an uncle and aunt. This placement broke down, the child then cycled through foster care for several years.

The parents went on to have two other children. They engaged with services and were doing well. At this point, DHHS made a decision to return their first child – who had been the subject of a permanency order – to the parents several years after the child’s removal from the home. This child returned with significant trauma and complexity. The family were given no additional support to address the transition, the child’s trauma, and the associated impacts on the family unit because no information was transferred across DHHS offices or referrals made for six months. Services engaged with the two younger children made numerous notifications to DHHS, advising of the need for additional family supports.

As a consequence of Departmental failure to respond in a timely manner, the parents have recently separated and the two younger siblings, who were close, have also been separated.

Conclusion

Melbourne City Mission welcomes the CCYP inquiry into the permanency amendments. We acknowledge the complexity of the issues that Government is grappling with, particularly the inherent tensions in balancing children's right *"to be protected from physical and mental violence, injury or abuse, neglect or exploitation"* with their right *"as far as possible, to know and be cared for by their parents"*.

We acknowledge the State Government's commitment to system reform.

The Permanency Amendments inquiry highlights that it is critical that the system is appropriately resourced to meet its legislative responsibilities and community expectations.