

# Establishment of an Accreditation Scheme for Children's Contact Services

Submission to Commonwealth Attorney-General's  
Department Consultation Paper

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## Introduction

National Legal Aid (NLA), representing the directors of the eight Australian State and Territory legal aid commissions (LACs), welcomes the opportunity to contribute to the Commonwealth Attorney-General's Department consultation paper *Establishment of an Accreditation Scheme for Children's Contact Services (the CP)*.

NLA's response to the questions in the CP is set out below.

## About National Legal Aid and Australia's legal aid commissions

LACs are independent, statutory bodies established under respective state or territory legislation. They are funded by Commonwealth and respective State or Territory governments to provide legal assistance services to the public, with a particular focus on the needs of people who are economically and/or socially disadvantaged.

NLA aims to ensure that the protection or assertion of the legal rights and interests of people are not prejudiced by reason of their inability to:

- obtain access to independent legal advice
- afford the appropriate cost of legal representation
- obtain access to the federal and state and territory legal systems, or
- obtain adequate information about access to the law and the legal system.

In 2019-20 LACs provided around 1.9 million services to people. One in five of the services requiring the skill of a lawyer were related to family violence, child protection, and/or family law matters. In addition to the work of the LACs in connection with State and Territory based family violence laws, LAC experience is that family violence exists in upwards of 80% of all Commonwealth family law matters in which LACs are involved. LACs also appoint Independent Children's Lawyers (ICLs) upon Order and Request from the family law courts.

In 2019-20 there were around 5,351 ICLs appointed, an 8% increase from 2018-2019. In cases where an ICL is appointed it is common for the ICL to request a report from Children's Contact Services (CCSs). It is in relation to the family law work undertaken by the LACs that the LACs engage with CCSs, and our response is based on this experience.

## NLA response

**Question 1:** Are there any reasons why an accreditation scheme for CCSs, that captures both staff and the service itself, should not be established?

No. NLA supports consistency of quality service delivery to the people using the CCSs.

Examples of areas where issues of consistency have sometimes been encountered by LACs are record-keeping, report writing, the quality of the supervision, the importance of the CCSs' neutrality, and understanding of court processes and the role of, and co-operation with, the ICL.

**Question 2:** Are these the right principles for CCS service delivery and therefore should underpin the accreditation requirements for providing, or working within, a CCS?

**Question 3:** Are there alternative principles that should be considered?

Yes. The principles<sup>1</sup> articulated in the CP and the Guiding Principles Framework are appropriate.

Whilst the Guiding Principles Framework includes a section on record keeping policies and procedures,<sup>2</sup> it is suggested that the importance of accurate, contemporaneous, and consistent record keeping be included in the principles/foundations. Good record keeping is critical in supporting the achievement of the goal stated in the Guiding Principles Framework. There is LAC experience of some matters where concerns were held about contemporaneous record keeping.

**Question 4:** Should there be a centralised list or register of CCS providers available to use and what information should be publically available on the register?

Yes.

A published list of accredited CCSs would give parents and legal representatives, and ICLs, an opportunity to make some enquiries about the availability of assistance in advance of court appearances which would potentially support negotiations and more ready interim/resolution of issues.

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<sup>1</sup> Referred to in The Guiding Principles Framework as the "foundations underpinning the achievement of the goal" "...to provide children with the opportunity of re-establishing or maintaining a meaningful relationship with both parents, and other significant persons in their lives, when considered safe to do so." Attorney-General's Department *Children's Contact Services Guiding Principles Framework for Good Practice*, 3.

<sup>2</sup> Ibid 13.

Published information for accredited CCS should confirm that the CCS and staff are accredited and state opening times, contact details, intake processes, the services provided, and any fees.

**Question 5:** Are there other preferred ways to provide for the accreditation of CCSs within the Act, or other preferred terminology or definitions?

**Question 6:** Are there any possible unintended consequences or implications of these definitions (noting that the intention is to only capture CCSs in the family law context)?

No.

**Question 7:** Do you agree that these key service components should form the minimum a family can expect to receive from an accredited CCS? Is there anything missing? Is there any aspect that may not be appropriate for a minimum service component, and if so what is the reason for this?

Yes, the key service components should form the minimum a family can expect noting that the following should also be included:

- Accurate, contemporaneous and consistent record keeping
- General familiarity with family law court proceedings
- Role of, and relationship with, the ICL, including keeping the ICL informed. A reference to the ICL should be specifically referenced in the section about Reports to the court.

The ICL can be of assistance in progressing/managing the arrangements for contact in the best interests of the children. When CCSs contact the ICL to discuss developments and observations strategies can be cooperatively identified and developed to address issues, e.g. where a parent has not been returning calls from the CCS and not facilitating visits then the ICL can assist to get things back on track through communications with the parties and relisting the proceedings in court in appropriate circumstances. Where a CCS considers a parent needs skills development then the ICL can facilitate the organisation of some in-session support and mentoring. Currently such feedback/communication can be on an ad hoc basis and is often dependent on personal relationships developed between an ICL and CCS staff.

It is also important for a family to understand that the lawyer representing the interests of their children in their parenting proceedings (the ICL) will be kept informed in relation to the progress of the supervised contact of their children at the CCS.

**Question 8:** Should a requirement of accreditation be that the CCS is able to offer all of these practices to ensure that the practice used is determined based on the risks and level of vigilance required, as determined through intake and ongoing assessment? If not, why not?

It may not be practicable for every CCS to offer all these services, and the number of CCSs able to deliver accredited services should not be reduced because a particular practice cannot be offered. It will be important for there to be information published about the practices offered by the CCS so that the parties and the ICL can make fully informed decisions about whether the CCS will meet the needs of the family.

**Question 9:** Are the service safety features of the Guiding Principles Framework an appropriate minimum standard for a CCS accreditation scheme?

**Question 10:** What 'evidence' should a CCS be required to provide to demonstrate that they comply with the required minimum service safety features?

Yes, the service safety features of the Guiding Principles Framework are an appropriate minimum standard for a CCS accreditation scheme.

The Guiding Principles Framework says that "CCS staff are trained in how to assist clients to develop a safety plan for getting themselves safely to and from the CCS". This appears to place the onus for developing the plan more on the client than on the CCS.

Whilst the Guiding Principles Framework requires an understanding of referral points, NLA considers that all service providers operating in the family law context would benefit from improved understanding of respective disciplines and service roles and responsibilities.

The Australian Law Reform Commission's (ALRC) report into the family law system states that in relation to government funded CCSs "The Department of Social Services performs site checks and service audits, and provides a complaints process to clients where matters cannot be resolved by the service provider."<sup>3</sup>

NLA notes the significant resources likely to be required to support conducting compliance audits of CCSs, especially with increased numbers of CCSs. However, CCSs should be able to demonstrate required documentation and implementation of requirements as part of audit processes given the important work that they do.

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<sup>3</sup> Australian Law Reform Commission Report, *Family Law for the Future - An Inquiry into the Family Law System*, (March 2019) 417.

**Question 11:** What might be an appropriate body for dealing with complaints of CCSs or their staff?

**Question 12:** What else should be required of a CCS to satisfy the requirements of an accreditation scheme?

Those with responsibility for administering accreditation would be an appropriate body for dealing with complaints.

See above.

**Question 13:** Would the Certificate IV in Community Services be an appropriate qualification required of CCS practitioners? Is this qualification sufficient? Should elective units such as those noted above, be compulsory for CCS practitioners?

**Question 14:** Should the Certificate IV in Community Services be a mandatory qualification? If not, what other qualifications could be considered to be appropriate qualifications required of CCS practitioners?

**Question 15:** What staff roles within a CCS would require a qualification? What staff roles within a CCS might not require such a qualification (and therefore would not need to be authorised under the Act)?

**Question 16:** What would be an appropriate process and timeframe for phasing in a qualification requirement for CCS practitioners – for those with a relevant qualification and for those with no relevant qualification?

**Question 17:** What requirements for ongoing professional development should be prescribed under the accreditation scheme? For example, should there be a prescribed number of hours per year, a prescribed list of sector specific professional development activities or topics?

**Question 18:** What, if any, requirements beyond formal qualifications and ongoing professional development would be appropriate for CCS staff? For instance, would it be appropriate for there to also be requirements regarding whether the person is fit and proper for the role?

CCS staff should be appropriately skilled and remunerated accordingly, so as to reduce any supply issues associated with the challenging nature of the work.

NLA notes the competency and understanding suggested by the ALRC as appropriate for “professionals” working in the family law system.<sup>4</sup>

The “elective” units from *Certificate IV in Community Services*, referred to in the Consultation Paper reflect competencies which it is considered should be essential for CCS staff as should working in “alcohol and other drugs context”.<sup>5</sup>

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<sup>4</sup> Ibid [13.130].

<sup>5</sup> [Australian Government CHC42015 Certificate IV in Community Services](#)

Ongoing professional development is considered appropriate for all service providers operating in the family law context. In the legal services context, 10 hours of relevant professional development is generally required each year.

**Question 19:** Is a specific mechanism required to sanction those who provide a CCS for family law matters outside the accreditation scheme? If so, would an offence provision be an appropriate mechanism? Or is there an alternative mechanism?

NLA supports a mechanism to deter those who would provide a CCS outside the accreditation scheme. Sanctions should include shut down and/or fine, and referral for prosecution where it appears that offences may have been committed in the course of providing the non-accredited service. It may also be prudent to include provision to rectify by accreditation where it would appear the particular CCS situation warranted this approach.

**Question 20:** What, if any, alternative service delivery methods should be available to families on an ongoing basis, and in what circumstances do they benefit families?

**Question 21:** Are there any circumstances which would make these services unsuitable, or in which they should be prohibited?

**Question 22:** Should these service offerings be regulated under the accreditation scheme or by the policies of individual service providers?

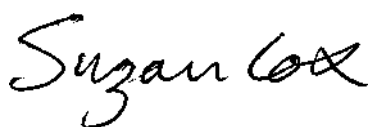
It should be a matter for individual CCSs what services they have the capacity to offer, and to whom they should be offered, taking account of all relevant matters in the individual circumstances of the family.

Service offerings should be compliant with standards associated with accreditation scheme requirements.

## Conclusion

Thank you for the opportunity to provide this submission.

Yours sincerely,

A handwritten signature in black ink that reads "Suzan Cox". The signature is written in a cursive, flowing style.

Suzan Cox OAM QC  
Chair