



Australian Children's Contact Service Association

Advancing the CCS Sector

Submission
To The
Australian Law Reform Commission's
Review
Of The
Family Law System

May 2018



ALRC Review of the Family Law System

Submission

BACKGROUND

The Australian Children's Contact Services Association (ACCSA) has been at the forefront in the development of safe, child focused service delivery since in the 1980's. T this time its member's first established services and lobbied for government funding. Since that time, ACCSA has established standards and codes of practice that clearly articulate how Children's Contact Services (CCSs) best function to assist families to transition through high conflict separation to more independent arrangements.

ACCSA continues to be the pivotal agent for the on-going development of child focused, safe CCS practice by:

- Lobbying government for the regulation and accreditation of all CCS services, including those that are privately operated.
- Providing CCS dedicated training, predominately through the facilitation of the ACCSA National Training and Networking Forums.
- Lobbying government to provide adequate and targeted funding for the provision of quality CCS service in Australia.
- Educating referrers, including those in the Family Law Courts, on the when and how to refer to a funded service and on when it maybe appropriate to consider privately operated services.
- Presenting at national and international conferences on current CCS issues.
- Maintaining an online CCS waiting list.
- Providing online CCS specific employment information.
- Providing authoritative information on CCSs to those seeking such information.

ACCSA thanks the Australian Law Reform Commission for the opportunity to submit the following:

ACCSA responds to the following questions on the basis that Children's Contact Services (CCSs) are regarded as part of the family law system as noted in the Issues Paper under:

Terms used in the Issues Paper

- 22 References to the family law system in the Issues Paper refer collectively to ...and all family law and post separation services, including family relationship services (such as ...and Children's Contact Services).

Professional Skills and Wellbeing

Question 41

What core competencies should be expected of professionals who work in the family law system?

What measures are needed to ensure that family law system professionals have and maintain these competencies?

It would be expected that those who work in the family law system are 'professionals' as per the following definitions:

1. Person formally certified by a professional body or belonging to a specific profession by virtue of having completed a required course of studies and/or practice. Those whose competence can usually be measured against an established set of standards.
2. A professional is a member of a profession. Professionals are governed by codes of ethics, profess commitment to competence, integrity and morality, altruism, and the promotion of the public good within their expert domain. Professionals are accountable to those served and to society. (Professional Standards Councils - <http://www.psc.gov.au/what-is-a-profession>)

A significant number of privately operated CCSs have opened in Australia over the past ten years. These businesses function under no regulation, accreditation process, qualification requirement or accountability. Family Law Courts, family law practitioners and family dispute resolution practitioners are directing people to these services.

It is ACCSA's position that regulation be passed requiring all Children's Contact Services be accredited. The accreditation requirements might be based upon:

1. *The Family Support Program's Administrative Support Guidelines –*

These guidelines are a set of 15 quality service standards, covering the five key risk areas of governance, financial management, viability, performance management and issues management. They provide the authority, staff of the organisations, and families accessing services, with assurance that quality services are being delivered and staff are supported. CCSs might also be externally assessed against these Approval Requirements.

2. *The Children's Contact Services Guiding Principles Framework for Good Practice (2014)* –

The aim of this Framework is to outline the policy context and provide the minimum operational requirements and practice principles expected for the delivery of the suite of services offered through a Children's Contact Service. It also provides a structure that supports a systematic and consistent approach to service provision across individual service organisations.

ACCSA also notes that there is reference to staff qualification in Standard 5 *Entry of Practitioners* and staff development in Standard 7 *Training and Development* in the aforementioned *Family Support Program's Administrative Support Guidelines*.

Standard 5 states:

To appoint a person as a family relationship services practitioner.....an organisation is required to:

1. *ensure that a person -*

- *holds an appropriate degree, diploma or other qualification; and*
- *demonstrates a level of competence appropriate to the commencement of the role in an assessment by the organisation;*

There is no qualification and/or competency benchmark for those working in a privately operated CCS. There are no guarantees that staff even have basic Working with Children checks, as there is no oversight.

Standard 7 states:

All family relationship services practitioners have access to training and development opportunities, externally delivered where appropriate, related directly to their professional development needs and the organisational plan.

That –

1. *A planned approach to training is evident in each organisation including evidence of an assessment and prioritising of staff training needs and stated intentions for how priorities will be addressed.*
2. *A planned approach is evident to ensuring the training and development of volunteers (if applicable).*
3. *A record of training events attended by staff is maintained.*

There is no process for monitoring the training and development engagement of those working in private services.

It is ACCSA's position that CCS specific training modules need to be developed and completed by all who work in the CCS sector, whether private or government funded. As part of an accreditation process of service staff should be trained in areas including:

1. Family violence
2. Sexual assault
3. Trauma recognition and responses
4. Critical incident management
5. Contemporaneous and impartial note taking
6. Client and service confidentiality
7. Child focused practice

ACCSA'S RECOMMENDATIONS

- 1. That a national accreditation system for all Children Contact Services be established.*
- 2. That CCS specific training completion be required of all working in services as a component of that accreditation system.*
- 3. That verifiable sector relevant training participation be required of all CCS staff each year.*

Question 43

How should concerns about professional practices that exacerbate conflict be addressed?

Clients using funded Children's Contact Services currently have two avenues for addressing concerns regarding professional practices.

They are:

1. Using the service's complaints procedure – each funded service is required, under its funding agreement, to provide clients with a complaints policy and ensure that access to engaging in a complaints procedure is accessible.
2. If a matter is not resolved through avenue 1, then a client may forward the matter to the Department of Social Services and then to Attorney General's Department for review.

There are no requirements for a private service to have a complaints procedure available to clients. There is no secondary body providing another avenue of compliance, complaints investigation or resolution. This leaves family members with no redress when using a private service. ACCSA has been contacted by many parents who have been referred to an unregulated service, operated by staff with no relevant training or qualification, and have themselves or their children been placed at risk.

ACCSA'S RECOMMENDATIONS

- 1. That a national accreditation scheme for all Children Contact Services be established that requires all services to provide clients with a complaints policy and procedure.*
- 2. That the body overseeing the accreditation and compliance process be empowered to process unresolved complaints, assess accreditation compliance and, where necessary, withdraw accreditation.*
- 3. That a Family Law Ombudsman be appointed to independently ensure compliance across all family law and family relationship services.*

Governance and Accountability

Question 47

What changes should be made to the family law system's governance and regulatory processes to improve public confidence in the family law system?

Governance of Children's Contact Services only applies to those funded by the Attorney-General's Department's (AGD) Family Law Services. These 65 funded services must comply with the Family Support Program (FSP) Administrative Approval Requirements. These comprise of a set of 15 quality service standards, covering the five key risk areas of: governance, financial management, viability, performance management and issues management. Each funding agreement also requires that the service comply with the baseline practices outlined in the Children's Contact Service Guiding Principles Framework for Good Practice (2014), which was drafted by ACCSA for the AGD. Funded organisations may be externally assessed against the Approval Requirements and funding agreement, this has only happened once.

There is no governance of privately operated CCSs in Australia. Anyone is able to open a service, regardless of qualification, experience or previous history. There are no regulations or processes in place to assess their ability to provide a service that is child focused and safe for all involved. ACCSA estimates that the number of privately operated CCSs exceeds the number of funded services. As already notes, these private businesses are accountable to no one. Private services are not required to adhere to any administrative requirements, nor operate according to the baseline standards articulated in the Guiding Principles Framework. This means, in many instances, that the fundamental tenets of safe CCS practice, the very foundations upon which ACCSA and the sector has built itself upon, are not being followed.

It is the Association's position that regulation be enacted requiring families be court ordered or referred to only CCSs that are approved under a national accreditation scheme.

It is ACCSA's experience that public confidence in the family law system is being undermined by the practice of ordering high conflict families to unregulated, privately operated contact service businesses that function under no accountability or scrutiny. The reputation and confidence in CCSs generated by the government-funded services is being eroded by the unsafe and unaccountable practices of some private services.

ACCSA has lobbied the Attorney-General's Department over a number of years for regulation. This has been based on the emergence of a significant number of private businesses and the receipt, through the Association's website, of a consistent number of complaints. These complaints illustrate that the physical and emotional safety of children and other family members is being placed at further risk by some private services. Information received on the manner in which some private services are operated include: the lack of applicable qualifications, the lack of applicable experience, a lack of baseline practice and practices which are putting children at risk. This has created a significant level of concern amongst the ACCSA membership. These concerns, along with many concerning case studies, and proposals for the development of an accreditation system, have been repeatedly presented to the AGD.

ACCSA has also disseminated information regarding this issue directly to all federally elected members of parliament, state and territory child commissioners, family pathway networks, family law practitioners associations, independent children's lawyer panels and family dispute resolution practitioner networks. The proposal for a national CCS accreditation system is also more generally articulated through website and social media postings made by ACCSA on a regular basis.

The Association is aware that, whilst some in the sector see private services as a remedy for the problem of waiting lists, there are many others who understand that safety and child focused practice are the primary objective. ACCSA receives communications from family law practitioners who are voicing concern about the number of private services that are opening, the lack of regulation attached to operating a service, the lack of safety that is being afforded to clients and staff, and the lawyer's own liability should they recommend a private service and a critical incident occurs. ACCSA considers that this concern is well founded. ACCSA believes the situation has developed to a point that is neither safe nor child focused.

ACCSA'S RECOMMENDATIONS

- 1. That regulation be enacted to provide a national accreditation scheme for ALL Children Contact Services.*
- 2. That regulation be enacted requiring families only be court ordered or referred to Children's Contacts Services that are approved under a national accreditation scheme.*

The Australian Children's Contact Services Association Board

www.accsa.org.au

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