



9 August 2016

Department of Justice and Attorney-General

Strategic Policy and Legal Services

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**Attention: Anne Edwards**

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**ATSILS' Feedback on Work Package 36 Report: Baseline Evaluation of the Child Protection Reforms.**

Strategic Policy and Legal Services has asked, Aboriginal and Torres Strait Islander Legal Service (Qld) (ATSILS), to provide feedback on the *draft Work Package 36: Baseline evaluation of the child protection reforms* (WP 36), to enable a series of presentations, to evaluation participants, early August 2016. The required feedback arose from the implementation of a raft of reforms, resulting from the Queensland Child Protection Commission of Inquiry 2013, *Taking responsibility: A roadmap for Queensland child protection, State of Queensland* (the Inquiry). The Inquiry established 121 recommendations, of which 116 recommendations were acted upon, by the Queensland Government. An overarching Program Management Plan was developed, dividing the recommendations into 45 Work Packages.

Recommendation for court system reforms, is comprised in WP 36. It is anticipated WP 36 will improve timeliness, quality of evidence, the participation of all parties, and ultimately to deliver better decision-making, in child protection proceedings. The purpose of the WP 36 2015-2016 evaluation, is to establish a comparison point, against which the effectiveness of implementation can be assessed in the future, identify emerging outcomes and issues in implementation to date, and inform future delivery of WP36 recommendations, where appropriate. ATSILS believe evaluation through data collection, is important to identify implementation of court system reform outcomes, and that feedback helps to measure the implementation of court system reforms. As such, the following feedback is provided.

### **Feedback on Evaluation**

- The baseline evaluation approach was limiting, resulting in underrepresentation of Aboriginal and Torres Strait Islander Peoples in the evaluation. Baseline evaluation was designed to include Queensland wide data, although qualitative data was only collected from three regions,<sup>1</sup> and the participants in the evaluation were small in number. It has been a practiced failure to not include Aboriginal and Torres Strait Islander Peoples 'perspectives in decision-making'<sup>2</sup> and thereby evaluation. However, in Queensland 'roles for Aboriginal and Torres Strait Islander Peoples agencies to participate in child protection decision -making, have been established state-wide'<sup>3</sup> but the lack of resources has continued this practiced failure<sup>4</sup>. If funding is available, the evaluation process needs to be re-addressed, to reflect a comprehensive, honest Queensland wide baseline.

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<sup>1</sup> Queensland Government, *Draft baseline evaluation of the child protection reforms*, 7.

<sup>2</sup> SNAICC (2016) *Policy Position Statement*, 10.

<sup>3</sup> Above n 2, 10.

<sup>4</sup> SNAICC (2013) *Whose Voice Counts: Aboriginal and Torres Strait Islander Participation in Child Protection Decision- making*.

- The qualitative data collected from children and young people, generated by CREATE foundation, used facilitated interviews of 24 children, in tandem with a questionnaire<sup>5</sup>. The qualitative data collected was to gain the children's experiences with court and tribunal processes<sup>6</sup>. Although it was noted that more than half the interviewees, identified as Aboriginal and Torres Strait Islander Peoples, the questionnaire was not culturally sensitive. 'As with any cross-language communication situation, clear and accurate communication is most likely to occur when you use words, concepts and grammar, that are familiar to both languages and avoid using words, concepts or grammatical structures that only exist in one language and not the other'<sup>7</sup>. Consideration of a different method for collecting this information is recommended, focusing on utilising RE's, child advocates or interpreters, to eliminate gratuitous concurrence, when interviewing Aboriginal and Torres Strait Islander Peoples children.
  
- If the baseline evaluation for 2015- 2016 is not re- addressed, it is imperative at the very least, to re-do the evaluation of parent participation in the Children's Court and QCAT, to establish a current and genuine baseline measurement, for 2015-2016. The evaluation information gathered was not from a Queensland wide audience, and it was noted this small group 'generally has a better understanding of court processes'<sup>8</sup>. Further, the evaluation information gathered, showed very conflicting feedback, from the justice stakeholders and parents, over parent participation in Children Court/QCAT. This also questions, if there is a system failure in the baseline

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<sup>5</sup> Above n 1, Appendix 4, 95.

<sup>6</sup> Above n 1, 10.

<sup>7</sup> Law Society of the Northern Territory (2<sup>nd</sup>, 2015) Protocol 5, 20.

<sup>8</sup> Above n 1, 52.

evaluation, in gauging whether parent's voices are being heard or not, in the Children's Court.

### **Feedback on Ongoing Monitoring of Reforms**

Acknowledging that the Queensland Government would have systems in place to monitor and minimise any risk associated with the new reforms, the following are areas of concern that highlight the necessity for ongoing monitoring and minimising risk to Aboriginal and Torres Strait Islander Peoples.

- With the introduction of the Director of Child Protection Litigation (DCPL) stakeholders raised concerns around the Brisbane based model. Aboriginal and Torres Strait Islander parents, children, young people and foster or kinship carers, already face socio-economic, historical and logistical barriers in respects to access to justice in the Children's Court. With the introduction of a centralised CPL team, based in Brisbane, concerns around regional and remote areas accessibility to the court, DCCSDS, legal representatives and REs (before and after court), intimidation by the new DCPL and use of teleconferencing, creates further barriers. It is recommended ongoing risk assessment and management of this situation must take place, with mechanisms in place, to address the risk, if systems break down. Waiting to evaluate this in another year (2017- 18) to establish a comparison point against which the effectiveness of implementation can be assessed,<sup>9</sup>and informing future delivery of WP36 recommendations is not enough, if risk is found.
- Barriers also affect Aboriginal and Torres Strait Islander parents, children, young people and foster or kinship carers participation with QCAT. It is recommended

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<sup>9</sup> Above n 1, 6. Purpose of 2015 -6 evaluation.

ongoing risk assessments of these situations is vital, with mechanisms in place, to address the risk, if systems break down.

ASTILS thanks Strategic Policy and Legal Services, for the invitation to provide feedback, on WP 36. It is hoped the feedback above, is beneficial in emphasising the need for an extensive, broader Queensland wide evaluation, to gauge a genuine baseline evaluation, for 2015-2016. We trust the use of this feedback is also helpful, in assisting with the presentation content, to evaluation participants, and look forward to next evaluation, 2017 - 19.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Shane Duffy". The signature is written in a cursive style with a large initial 'S' and 'D'. Below the signature is a solid blue horizontal line.

Shane Duffy

Chief Executive Officer