Parents and Family Members Matter:
A Charter of Rights and Responsibilities for Parents and Family Members with Children in the Care of Child Protection Services in Australia

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We spend a lot of time as a local, national and global community considering the wellbeing of children and what is in ‘the best interest of the child’ when they are at risk of abuse and neglect. We spend much less time considering the rights and responsibilities of parents and other family members who have children in the care of child protection services. Many Australian families face a range of complex problems: poverty, homelessness, mental health problems, substance misuse, domestic and family violence or disability; sometimes in isolation, more often in combination (see Hamilton and Braithwaite, 2014). Many suffer social exclusion and low levels of social capital and come under the watchful eye of Australian child protection authorities as high risk segments of the population (Hamilton and Braithwaite, 2014).

Children belonging to high risk groups are far more likely to be the subject of a statutory child protection intervention (Mullender, 2001; Kantor and Little, 2003; Huntsman, 2008; Stanley, Cleaver and Hart, 2010; Sterne et al, 2010; Mason, 2010; Collings and Llewellyn, 2012). In our own research in the ACT, data collected by community workers of clients with a child protection intervention confirm that parents and family members have lives that are full of stress: economic, social, personal, and interpersonal. Our interviews with community workers also revealed the unhelpfulness of child protection interventions that traumatise families and use threatening tactics, particularly around removing a child or children from the family home. In the worst of these situations, reported across Australia, parents are exposed to unfair, non-transparent and unsupported processes where they are given inadequate or virtually no information (Harries, 2008; Ivec, Braithwaite and Harris, 2009; Family Inclusion Network, 2007; Mason, 2010; Hinton, 2013). They are not treated respectfully nor are they empowered; they are marginalised and stigmatised; and they quickly come to hold little to no trust in the child protection system (Hamilton and Braithwaite, 2014).

At a time when regulatory authorities of all kinds are concentrating on segmenting populations in terms of their risk profiles, the adverse consequences and injustice of labelling, stigmatising, and failing to see strengths among people who are part of “high risk segments” are too frequently swept under the carpet. A high risk profile does not mean that all individuals within that profile are in danger or are perpetrators of harm. Protective factors exist within families themselves: Children and families living in adverse circumstances often have strong resilience and coping mechanisms that offset the risks they face (Grella, Hser & Huang, 2006; Lamont and Blomfield, 2009; Mullender, 2001; Westad and McConnell, 2012). Parents often are very skilled at shielding children from risks in their environment that are of concern to child protection authorities (Ivec et al, 2012; Foster, O’Brien and McAllister, 2004; Scannapieco and Connell-Carrick, 2007; Sterne, et al, 2010; Wesley Mission, 2013).
Often, the relationship between child protection authorities and parents with high risk profiles is not a positive one (Ivec et al 2012; Harris and Gosnell 2012; Harris 2011). Nor is the relationship positive between child protection authorities and the community workers who support parents who fall into these suspected “not good enough parenting” groups (Hamilton and Braithwaite, 2014; Ivec et al 2012). Many in the community consider it a dangerous liaison even to approach a child protection authority for help (Hamilton and Braithwaite, 2014). Hamilton and Braithwaite report many examples of how the dynamics in the relationships among community workers, families and child protection services impacted negatively on the ability of community workers to effectively work with families.

One concerning finding in this study was that community workers described experiencing a ‘courtesy stigma’ when working with families. They felt their own credibility and professional judgment was ruined in the eyes of child protection staff, just through the human support they offered to their clients. Ultimately, community workers perceived the child protection system as failing to provide fair process for families. They did not understand why children were removed in some cases and not in others. In their eyes, the decisions were non-transparent, and in many cases, arbitrary. They identified various gaps in services to parents, particularly a lack of information and resources and an absence of dedicated support services to assist parents with child protection interventions.

Notably, sporadic work is being undertaken around Australia to fill a much needed gap in information provision for parents. Only in Western Australia do dedicated support services exist for parents to navigate these complex statutory systems. Elsewhere they have no dedicated funded services to assist them, and certainly our research in the ACT suggests that community workers have real constraints on their ability to optimally support parents. Parents, despite their perceived or actual failings, have the right to have their voice heard and have the opportunity to show a sense of responsibility toward their child’s well-being. It should not be the case in a country that prides itself on its rule of law that parents (and their community workers) feel so incapacitated by the system that they cannot fight for their rights and have no choice but to, effectively, relinquish their right to parent.

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At present in Australia we have around 40,000 children living away from their parents and in the care of child protection authorities, with Indigenous children over-represented in the child protection system by more than a factor of 10 (AIHW, 2014). Many children are subject to permanency planning policies and finalised orders. The courts grant these orders with an understanding that parents will be given a fair go, that they will be given the opportunity to get their lives back on track and have their children restored to their care. Too often this is not the story that is heard in the community. Researchers and government inquiries\(^2\) hear another story of unfair processes. Parents are jumping through hoops, meeting one set of requirements for child protection only to be given another set, and receive little if any encouragement in response to their efforts and achievements. Further, once a decision is made for 18 year orders, parents are losing hope of having their children ever returned to their care. In our interviews with community workers, it was openly admitted that neither workers nor the affected parents felt there was an accessible fair way to fight back when they felt that prejudice had tainted decisions and processes.

An understanding of the rights and responsibilities of parents and families is needed to mitigate these negative effects on them and ultimately, their children being ‘protected’. Rights ensure that all parents are treated with kindness and respect, communicated with transparently, and heard and included in decision making about their children. Some parents will lose their right to parent. But such parents, their children, their families and the community workers who support them need to know why, and have confidence that the reasons given are legitimate and honest, and the process transparent and fair. Developing a charter of rights and responsibilities, such as that below which sets out basic principles for operating within a culture of respect, could assist to guide the way for establishing more productive relationships between child protection workers, parents and family members and their support networks. Potentially this could lead to decision-making forums in which family problems which deem children at risk can be resolved before removal and child protection orders are administered, and create more genuinely collaborative care arrangements for those children who are in care into the future. Children deserve to have all these parties working to ensure that they have a better future. Committing to this charter is the first step in that direction.

## Guiding principles of rights and responsibilities for parents and family members involved with Australian Child Protection Services

### ‘IN THE BEST INTEREST OF THE FAMILY’

<table>
<thead>
<tr>
<th>YOUR RIGHTS</th>
<th>YOUR RESPONSIBILITIES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Respect</strong></td>
<td><strong>Respect</strong></td>
</tr>
<tr>
<td><strong>You have the right to:</strong></td>
<td><strong>It is your responsibility to:</strong></td>
</tr>
<tr>
<td>• have the integrity of your family unit protected</td>
<td>• treat child protection workers with respect and in the same way you expect to be treated</td>
</tr>
<tr>
<td>• be treated with courtesy and respect by child protection workers and other statutory representatives</td>
<td>• recognise that child protection workers have a job to do and respond to workers in developing a respectful working relationship with you</td>
</tr>
<tr>
<td>• have your individual human dignity valued</td>
<td>• tell child protection workers when you feel they, as professionals, are not taking the lead in treating you with respect</td>
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<tr>
<td>• have your expressions of anger or frustration understood with professional sensitivity by child protection workers</td>
<td></td>
</tr>
<tr>
<td>• be recognised and respected in your role as parent/family member in your interactions with child protection workers</td>
<td></td>
</tr>
<tr>
<td><strong>Diversity</strong></td>
<td><strong>Diversity</strong></td>
</tr>
<tr>
<td><strong>You have the right to:</strong></td>
<td><strong>It is your responsibility to:</strong></td>
</tr>
<tr>
<td>• be free from unlawful discrimination and have your individual needs respected regardless of race, colour, gender, sexual orientation, language, age, disability or other status</td>
<td>• ensure that child protection workers are aware of you and your children’s cultural, religious and medical needs</td>
</tr>
<tr>
<td><strong>Consultation and Dialogue</strong></td>
<td><strong>Consultation and Dialogue</strong></td>
</tr>
<tr>
<td><strong>You have the right to:</strong></td>
<td><strong>It is your responsibility to:</strong></td>
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<tr>
<td>• be informed of your right to a support person</td>
<td>• tell child protection workers that you need a support person and organise for them to attend meetings with you</td>
</tr>
<tr>
<td>• request flexibility when arranging meetings to take into account work, medical, Centrelink, or other significant commitments</td>
<td>• make yourself available, as far as possible given the constraints of other commitments i.e. Employment/Centrelink requirements</td>
</tr>
<tr>
<td>• be heard and have questions answered in a clear and understandable way</td>
<td>• be willing to engage</td>
</tr>
<tr>
<td>• be consulted and kept informed of the placement, placement changes, health, education and all decisions made about your children when in out of home care</td>
<td>• ask anything you need to know regarding your children’s placement, health and education</td>
</tr>
<tr>
<td>• represent your position in fair and open decision-making forums which respect your right as a parent to have exclusive decision-making power over your child’s upbringing</td>
<td>• ask questions when you do not understand</td>
</tr>
<tr>
<td>• receive all information in a form and language that you understand and be provided with decisions and meeting discussions in writing as a matter of course</td>
<td>• ask for confirmation of decisions/outcomes of meetings in writing</td>
</tr>
</tbody>
</table>
**Transparency and Accountability**

**You have the right to:**
- honesty and to know the reasons and the evidence for actions taken by Child Protection Services
- adequate legal advice and representation in court proceedings
- to attend all meetings with a support person
- access independent advocacy and legal advice regarding your family’s social needs
- have your case reviewed
- comment on any aspects of the care of your child and to have your concerns addressed
- receive information on mechanisms of complaint and redress

**Strengths and Weaknesses**

**You have the right to:**
- the recognition of both your strengths and weaknesses
- to have change and positive steps acknowledged and taken into consideration when decisions are made about the care of your children
- have child protection workers be responsive to changing circumstances and be a part of a resolution
- have child protection workers recognise the structural (socio/economic) constraints which affect your ability to change, and offer support resources to enable you to overcome the constraints so far as is possible.

**Privacy**

**You have the right to:**
- protection of your personal privacy
- privacy and confidentiality of your personal information
- access your records in accordance with the Freedom of Information Act (1989)

**Transparency and Accountability**

**It is your responsibility to:**
- be honest
- ask why and on what grounds actions are being taken by Child Protection Services
- ensure your support person has accurate and complete information about your situation
- ensure your legal representative has accurate and complete information about your situation

**Strengths and Weaknesses**

**It is your responsibility to:**
- recognise and consider your strengths
- recognise and acknowledge your weaknesses and address them
- ensure Child Protection Services are aware of all the services you receive
- ensure Child Protection Services are aware of positive changes you have made
- embrace change and be part of solutions

**Privacy**

**It is your responsibility to:**
- not breach the privacy of child protection workers approaching them or identifying them in a public place

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Conclusion

Parenting is a complex activity in contemporary Australia and many families come under the scrutiny of child protection systems. Countless families are dealing with complex issues in their lives and adding a child protection intervention can create a boiling pot of emotion and turmoil. A lack of understanding of the rights of parents exacerbates these problems, making it much harder for child protection workers, community workers and families to achieve their goals.

We assume our fundamental rights are about fairness and due process; of having just and adequate access to dispute resolution; and of the right to ask for a review when we think a decision is unfair or unjustified. But if you are a parent with a child protection intervention and you feel you are not being treated fairly by child protection systems, there is little available help, no dedicated support and advocacy services in most states, and limited externally available complaints and review mechanisms. The only option is to take a case back through the courts; with no chance of obtaining legal aid to challenge decisions made by child protection services, according to our participants. Social and community support workers shared the “impossibility” of this situation of no redress.

Conceptualising a way to have relationships which are fair and balanced and which consider the rights of everybody involved in a child protection process is essential if we are to expect any change in current systems. Charters of rights and responsibilities are not uncommon. They exist within many other systems; taxation, health, public transport systems to name a few. And in some cases they exist for children and foster parents and other carers. Implementing a charter of rights and responsibilities for parents and families which sets out principles for guiding relationships between parties in child protection may be a good start. Only then can parents and family members meaningfully be empowered to be involved in decisions which affect their lives and those of their children.
References


