



ATTORNEY GENERAL; MINISTER FOR COMMERCE

Our Ref: 44-23274

PERTH CORONERS COURT

13 OCT 2016

RECEIVED

Ms Ros Fogliani
State Coroner
Level 10, Central Law Courts
501 Hay Street
PERTH WA 6000

Dear Ms Fogliani

CORONIAL INQUEST – HEATHER GLENDINNING, JESSICA ROSE CUZENS AND JANE LESLEY MARGARET CUZENS (DECEASED)

I refer to correspondence from your office dated 26 July 2016 regarding the Inquest into the deaths of Heather Glendinning, Jessica Cuzens and Jane Cuzens and the resulting findings and recommendations.

The three recommendations made by you have a cross-agency impact; I have therefore sought advice from the Hon. Andrea Mitchell MLA, Minister for Mental Health; Child Protection and Legal Aid Western Australia in order to provide this response.

Recommendation 1

That the Department of Child Protection and Family Services and the Family Court of Western Australia, including independent children's lawyers, develop and implement a procedure to share proactively, where appropriate, information relevant to the health and safety of children the subject of custody disputes.

Since 2006 the Family Court of Western Australia (FCWA), the Department for Child Protection and Family Support (DCPFS) and Legal Aid Western Australia (LAWA) have been parties to a Memorandum of Understanding (MOU) detailing policies and procedures for the sharing of information regarding children at risk of harm.

Since 2009, a full time liaison officer from DCPFS has been co-located within the Family Court. The officer's role is to coordinate the sharing of information between the Court and DCPFS, particularly in cases where children are identified as being at risk of harm and DCPFS has either past or present involvement with those children.

A committee comprising representatives from the FCWA, DCPFS and LAWA ("the FCWA/DCPFS/Legal Aid WA Protocols Committee") meet on a regular basis to review the operation of the MOU and formulate and implement appropriate policies and procedures to further enhance the sharing of information relevant to the welfare of children who are the subject of the proceedings.

The Chief Judge of the Family Court of Western Australia has advised this committee, chaired by the Principal Registrar of that Court, will consider the Coroner's findings in detail with a view to formulating and implementing changes in accordance with this recommendation, including procedures by which information held in regional areas can be shared more effectively.

Recommendation 2

That the Family Court of Western Australia provide litigants in custody disputes with information indicating how mental illness may be considered by the Court.

The Chief Judge has advised this matter will also be considered by the FCWA/DCPFS/Legal Aid WA Protocols Committee in conjunction with the Mental Health Commission. The committee will determine whether there is a need for more specific information than that which is currently available. If so, the committee will also determine the relevant content and how best to ensure the information is readily accessible to parties involved in Family Court proceedings.

Recommendation 3

That steps be taken by the Government to ensure so far as practicable that judges of the Family Court are able to obtain psychiatric reports when required to determine the best interests of children the subject of custody disputes.

At present, the *Family Law Act 1975* (Cth) and *Family Court Act 1997* (WA) do not permit a court to compel parties to undergo psychiatric assessments. However, Single Expert Witnesses (including psychiatrists) are routinely appointed to report to the court, many of which reports contain either psychological or psychiatric assessments.

Changes to legislation to compel parents to undertake psychiatric assessments would require amendment of both State and Commonwealth legislation. I consider that consultation with the Federal Attorney General on this issue is appropriate and this issue will be raised with my counterpart at the earliest available opportunity. The Mental Health Commission and Chief Psychiatrist, Dr Nathan Gibson, have indicated their in principle support for the establishment of a panel of psychiatrists to provide psychiatric reports if there is a change of the required legislation.

Yours sincerely

Hon. Michael Mischin MLC
ATTORNEY GENERAL; MINISTER FOR COMMERCE

9 OCT 2016