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Parliament of Tasmania

JOINT STANDING COMMITTEE ON COMMUNITY
DEVELOPMENT

REPORT
ON
ISSUES RELATING TO
CUSTODIAL GRANDPARENTS

REPORT NO. 2

*Report of the Joint Standing Committee on Community Development
Laid upon the Table of both Houses*

Membership of the Committee

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Hon Kerry Finch, MLC

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ACKNOWLEDGMENTS

The Committee extends its appreciation and thanks to all who participated in this inquiry.

In particular the Committee would like to recognise Ms Linda Johnson for bringing this problem to the attention of the Committee; and the grandparents who appeared before the Committee and showed great courage in making public the difficult circumstances of their families in order to help others.

The Committee would also like to thank the staff of the Committee Secretariat.

TERMS OF REFERENCE

In accordance with *Clause 8(C)* of the Order of both Houses establishing the Joint Standing Committee on Community Development, the Committee resolved to conduct an inquiry and report to Parliament on the issues confronting grandparents who have assumed the responsibility for the day-to-day care of their grandchildren in the absence of appropriate parental care.

Terms of Reference

In investigating this issue the Committee focused on the –

- Financial;
 - Legal;
 - Educational;
 - Health;
 - Physical and emotional issues of grandparents and children in their care; and
 - Matters incidental thereto.
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GLOSSARY OF TERMS

Custodial Grandparent: In general terms ‘custodial grandparent’ refers to grandparents who have assumed the responsibility as primary carers for their grandchildren due to the absence or inadequacy of parental care. Two streams of this type of care have developed. Grandparents may take on care or custody of a grandchild through formal arrangements with the child welfare authority or court system, or informally as a private arrangement made within the family. For the purposes of this inquiry, ‘custodial grandparent’ refers mainly to the group where informal arrangements have developed which operate outside the formal child welfare system.

Formal Custody: Parental responsibility for the long term care of a child may be granted to a grandparent under section 65C of the *Family Law Act 1975* which empowers the Family Court of Australia to make parenting orders and provides that –

A parenting order in relation to a child may be applied for by:

- (a) either or both of the child’s parents; or
- (b) the child; or
- (ba) a grandparent of the child; or
- (c) any other person concerned with the care, welfare or development of the child.

In making parenting orders the court must give primary consideration to the best interests of the child.

Care and protection orders made under the provisions of the *Tasmanian Children, Young Persons and Their Families Act 1997* may also give grandparents formal custody for the day-to-day care of grandchildren, however under such orders the guardianship of such children remains with the Secretary of the Department of Health and Human Services.

Informal Custody: Grandparents usually assume the informal custody of grandchildren in response to an emergency situation brought about by the parents’ inability to provide appropriate care for the child. Incidents of mental illness, injury, death, drug addiction or incarceration affecting the parents appear to be the primary factors precipitating the intervention of grandparents.

Grandparents with informal custody of grandchildren have the responsibilities of parenting but are not generally recognised by the welfare sector and have difficulty in accessing assistance and support.

Relatives Allowance: This payment is an allowance of \$14 per week from the Department of Health and Human Services (DHHS) to assist persons who have assumed the permanent care of a child who is a relative.

This is a discretionary payment with no legislative basis and is not subject to a means test, however applicants must have taken all action possible to obtain maintenance from the parents before they are eligible.

The DHHS conducts annual reviews of recipients.

Family Tax Benefit (FTB): Family tax benefit is a family support benefit provided by the Federal Government. The payment is made to the primary carer of a child. The benefit can be claimed as a lump sum through the tax system or on a fortnightly basis from Centrelink. The rate at which FTB is paid will be determined by the age of the child and other factors that may apply, such as large family supplement and rent assistance. An income test and maintenance test is applied in determining the final rate.

As the FTB benefit is provided to the primary carer, custodial grandparents are eligible to apply.

EXECUTIVE SUMMARY

The focus of this inquiry is to examine the needs of grandparents who have assumed the responsibility of parenting their grandchildren.

Grandparents generally assume parental responsibilities for their grandchildren in response to family crisis or dysfunction. The child's parents may be dead or injured, victims of drug or alcohol addiction, incarcerated or have suffered mental health problems and are no longer able to care for their children. The grandparents confronted with such circumstances feel compelled to step in and rescue their grandchildren from neglect.

Having been removed from a situation of risk, the grandchildren fall outside the operational sphere of State welfare authorities and even though family support services may be desperately needed, the informal custody arrangements usually render such cases invisible to authorities.

Research shows that kinship care, both formal and informal, where relatives, usually grandparents, are raising children who are not their own is a growing area of out-of-home care both in Australia and internationally.

It is difficult to quantify the number of children in the care of grandparents, as specific data is not available. An estimate derived from Centrelink data on recipients of family tax benefits suggests that in Tasmania approximately 7% of primary carers of children are grandparents.

In accepting their family responsibilities grandparents in this situation are diverting children from the formal child welfare system. Grandparents in such circumstances however may have only limited financial resources that will not easily stretch to support dependents without causing personal hardship. Despite this they are unable to access adequate assistance to support these children.

The Committee feels that policies should be put in place that encourage and support grandparents who find themselves in this situation.

The object of the *Children, Young Persons and Their Families Act 1997*, which governs child welfare in Tasmania, claims "to provide for the care and protection of children in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach his or her full potential". Children in the care of grandparents in Tasmania surely deserve the same opportunities.

The evidence presented to the Committee highlighted the following issues as the main areas of concern for custodial grandparents:

Financial – A primary concern of custodial grandparents is the lack of financial support to help them meet the needs of grandchildren in their care, who are not under formal care and protection orders. The State Government's 'relatives allowance' of \$14 per week is seen as inadequate and insufficient to meet even the most basic needs

of children in their care and is pitiful in comparison with the levels of support provided to foster carers.

Grandparents highlighted the need for emergency financial assistance to help them meet the initial unexpected costs associated with accommodating their grandchildren. Furniture, bedding, clothing, nursery items, school uniforms, toys and play equipment are some of items that may be required to meet the children's immediate needs. Grandparents on fixed incomes are not in a position to meet such costs.

Custodial grandparents also noted the need for more support in meeting the cost of educating their grandchildren including assistance in funding extra-curricular activities.

Legal – Custodial grandparents generally feel that they are not given sufficient legal recognition. Many are fearful of losing custody of their grandchildren even when parenting orders exist as these can be challenged at any time. Despite the fact that they may have been the primary carers of their grandchildren for many years, grandparents feel that they are treated as a distant third party when legal decisions are made in relation to their grandchildren.

Custodial grandparents are also disheartened by the seemingly differential treatment they encounter in seeking legal aid assistance. The low means and assets threshold applied to applicants is considered unfair, as many grandparents will be excluded. Grandparents on low incomes may be disqualified from obtaining legal aid assistance simply because they own a modest home, while parents who may be responsible for the abuse or neglect of their children may qualify for such assistance on economic grounds.

It was also noted that in certain circumstances it would seem appropriate for the State Department of Health and Human Services to take more proactive and independent action, for example, by removing a child from neglectful parents. It has also been suggested that it might be appropriate in some cases for the DHHS to be the initiator of proceedings (ie. in bringing cases to court) and not simply intervene in the cases.

Educational – Custodial grandparents have found it difficult gaining recognition in the education system and feel out of touch in an environment that has changed dramatically in recent years.

Concern for student privacy and a lack of protocols that can readily identify the primary caregiver of a child tend to create a divide between schools and custodial grandparents. Grandparents reported that the lack of information and involvement in decisions about their grandchildren's education was a source of great stress.

Custodial grandparents saw a need for schools to recognise the trauma suffered by children who have been separated from their parents and the effect it has on their learning and development. Schools should be sensitive to the individual needs of students and tailor appropriate responses to address difficult behaviours and emotional problems that may arise from the child's circumstances

Grandparents feel schools could be more sensitive when dealing with financial assistance and counselling needs, and more diligent or proactive in following up poor attendance caused by family instability.

Physical, Health and Emotional – Custodial grandparents emphasised the need for non-material assistance with raising their grandchildren. Information on services and entitlements, assistance with parenting skills, access to respite care, or simply someone to talk to were areas of need identified by grandparents that would help them adjust to their new circumstances.

Stress is a significant health issue for many custodial grandparents. The compounding effects of financial and emotional stress can lead to significant health problems. The stress of meeting the demands and responsibilities of caring for their grandchildren coupled with the grief, guilt or anxiety felt for the plight of the children's parents may compromise the health of the grandparents and diminish their ability to cope.

In this context access to respite care is essential for custodial grandparents. This is especially important for grandparents looking after traumatised children with challenging behaviours or disabilities.

Additional Concerns – The primary concern identified on a systemic level is that custodial grandparents are not recognised as a distinct client group by the family support services that should be assisting them.

The lack of an appropriate 'pigeon hole' for custodial grandparents within government agencies leads to increased complexity for grandparents to negotiate in dealing with these agencies. Grandparents with informal care of grandchildren may find themselves 'invisible' to the system.

Custodial grandparents also criticised government agencies for not being proactive in their response to child welfare. Grandparents suggested that welfare agencies intervened only when circumstances had reached crisis point and that earlier intervention would alleviate neglect and abuse suffered by children.

The Commissioner for Children recognised the 'invisible' status of some custody arrangements and saw the need for informal protocols to assist children in such family structures. The use of community-based organizations to provide outreach programs for targeted assistance was proposed as a possible solution.

RECOMMENDATIONS

FINANCIAL ISSUES

1. That the Department of Health and Human Services (DHHS) recognise grandparents with informal custody of grandchildren as a discrete client group and develop policies to assist with the care of these children.
2. That DHHS develop guidelines to ensure that eligible grandparents with parental responsibility for their grandchildren receive the same benefits as children in foster care.
3. That in the short term the relatives allowance paid by the State Government be increased substantially and the associated clothing voucher system be abolished.
4. That Centrelink payments to eligible custodial grandparents be streamlined and benefits made readily available.
5. That a system to provide initial support to grandparents assuming parenting responsibility for grandchildren be established.
6. That any benefits paid to grandparents to assist with the cost of parenting grandchildren not be offset by reductions in other benefits or increases in costs such as rent for public housing.

LEGAL ISSUES

7. That consideration be given for a review of the guidelines relating to legal aid for custodial grandparents.
8. That the Legal Aid Office assess more closely the granting of aid for frivolous or vexatious applicants and respondents.
9. That the Family Court develop an information document clearly outlining the legal rights of grandparents who have custody of a grandchild/grandchildren or wish to gain such custody.

EDUCATION ISSUES

10. That the Department of Education develop a set of formalised yet flexible guidelines for use by schools in the determination of primary carer status.
 11. That education-related services and contact details be included in an information booklet for custodial grandparents.
 12. That the particular difficulties arising from the circumstances of custodial grandparents and similarly situated families be considered in the context of professional development of Department of Education staff.
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13. That the Department of Education develop and implement guidelines for individual schools to identify custodial grandparents and provide confidential information about services and assistance that may be provided.
14. That the Department of Education develop an adequate attendance policy, provide guidelines to schools for implementation of that policy and establish a means of monitoring the effectiveness of that policy.
15. That the Department of Education policy regarding privacy be reinforced to schools and counsellors and, where necessary, adapted to improve sensitivity to particular circumstances.

PHYSICAL, HEALTH AND EMOTIONAL ISSUES

16. That a campaign to increase community awareness about custodial grandparents be undertaken.
17. That a dedicated telephone hotline be established to provide information and advice to custodial grandparents. This could be facilitated through community service organisations or grandparent support groups.
18. That specialist counselling services be provided to custodial grandparents to address issues such as stress and assist with strategies for coping with the behavioural problems of children in their care.
19. That financial support be provided for the establishment of custodial grandparent support groups, and for relevant existing community based organisations to provide outreach programs.
20. That financial support be provided for dedicated respite services appropriate to the needs of custodial grandparents. The host family respite model presently in place to support children with disabilities should be considered and possible linkages or synergies between these groups should be explored.
21. That an emergency fund be established to provide a one-off payment to grandparents who are unexpectedly confronted with the day-to-day care of their grandchildren to help them meet the cost of the immediate needs of these children.
22. That further research be undertaken to elicit the precise nature and extent of the problems facing custodial grandparents in order to better tailor assistance and support.

ADDITIONAL CONCERNS

23. That DHHS establish, reaffirm or vary protocols to improve service delivery, increase accessibility, ensure adequate follow-up and facilitate individual feedback on complaints for custodial grandparents, for example, by appointing a liaison officer position dedicated to such issues.
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24. That DHHS establish a statewide 24-hour telephone helpline with recognition of custodial grandparents as a separate client group.
 25. That DHHS undertake a review of procedures to ensure that clients can readily access case workers and that protocols are in place to ensure continuity of service delivery. Complaints and grievance mechanisms incorporated in this system should include a receipt of caller identification number.
 26. That DHHS produce a comprehensive booklet or pamphlet containing information regarding services and entitlements for custodial grandparents.
 27. That Centrelink establish, reaffirm or vary protocols to improve service delivery, increase accessibility, ensure adequate follow-up and facilitate individual feedback and complaints for custodial grandparents.
 28. That Centrelink make available the DHHS comprehensive booklet or pamphlet containing information regarding services and entitlements for custodial grandparents.
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INTRODUCTION

Conduct of the Inquiry

The Committee resolved to inquire into the circumstances of grandparents with informal custody of grandchildren subsequent to representations from a Hobart-based grandparent support group and its coordinator, Ms Linda Johnson.

The Committee advertised for public submissions in all the major newspapers in the State in January 2002 and received 14 written submissions.

Public hearings were conducted on 11 June 2002, 7 November 2002, 18 November 2002 and 4 December 2002, where the Committee heard evidence from 23 witnesses.

In the course of the inquiry 6 documents were tabled and taken into evidence.

Background

The majority of grandparents who made submissions to this inquiry have informal custody of their grandchildren as a result of some difficult family circumstances. In the majority of cases the effects of substance abuse on the children's parents necessitated the intervention of grandparents into the day-to-day care of their grandchildren. Mental health issues or the death of a parent were also cited as reasons for children being in the care of the grandparents.

Custodial grandparents may have limited or diminishing financial means, declining health, or may still be bringing up children of their own. Assuming informal custody of grandchildren is generally a response to an emergency situation and financial considerations are not an immediate concern. The financial capacity of grandparents may become an issue however when short-term arrangements become more permanent.

Without the intervention of grandparents in these circumstances it is likely that the children would become the responsibility of the State. A more desirable outcome is for the children to stay within the care of their family, but custodial grandparents may be unable to care for their grandchildren in the long term if they do not receive a fair and adequate level of support from the community.

This area of care is often referred to as kinship care and is a growing area of out-of-home care for an increasing number of young Australians.

Data published by the Australian Institute of Health and Welfare shows the extent of formal kinship care across Australia as at June 2001. Of the 18,241 children in out-of-home care in Australia, 38% were in kinship placements. This is an increase of 7% in the proportion in kinship care from June 30 1998. In New South Wales 55% of the

7,786 children in care were in kinship placements at June 2001, an increase of 10% from 1998. In Tasmania 38% of children in care were in kinship placements.¹

It is difficult to know what the precise numbers are as many of the informal care arrangements do not come to the attention of authorities.

Current Situation in Tasmania

The Tasmanian Department of Health and Human Services provided figures as at 3 June 2002 which show 51 children under care and protection orders placed in kinship care and a further 174 children in informal arrangements in the care of relatives receiving the 'relatives allowance'.²

Children under care and protection orders are part of the formal child welfare system and are placed with the grandparents through the intervention of the Department of Health and Human Services. Under these circumstances grandparents receive support equivalent to foster carers, which includes a payment for board, pocket money and clothing.

Children in the care of grandparents through informal arrangement are only eligible for a \$14 per week 'relatives allowance' and \$150 per annum clothing allowance from the State Government.

Other Jurisdictions

New South Wales is currently the only other state or territory in Australia that provides kinship care payments to relatives caring for children who are not the subject of care and protection orders.

The Committee was advised that New South Wales provides a 'non-parental care allowance' of \$350 per fortnight, which is paid to carers who would experience difficulty in meeting the child's needs and can demonstrate that the child would be at risk of homelessness or entering the formal care and protection system if this assistance were not provided.

The 'non-parental care allowance' is based on the amount paid to foster carers, although foster carers are able to access additional ancillary payments for dental treatment, childcare and travel. In the case of kinship carers any additional payments from other sources such as Centrelink family tax benefits are deducted from the amount paid by the State.

This allowance is not means-tested but the financial status of the carer is taken into consideration. Cases are assessed on an individual basis and reviewed every six months.

¹ Cited in Document No.7 (Understanding Kinship Care) p. 19

² Transcript, 18/11/2002, p. 4

In all other states and territories formal kinship care status is determined by the intervention of child protection authorities and payments to grandparents or other relatives who have children placed in their care are equivalent to those of foster carers.

FINANCIAL ISSUES

The circumstances that impose parental responsibilities upon grandparents in respect to their grandchildren can be very stressful and traumatic, with high emotional and financial costs.

Evidence before the Committee indicated that grandparents with informal custody of grandchildren are not eligible for much of the financial support that flows to foster parents in similar circumstances.

In Tasmania under the provisions of the *Children, Young Persons and Their Families Act 1997* children under care and protection orders are in the custody of the Secretary of the Department of Health and Human Services (DHHS) who has responsibility for the child.

The Secretary may place such children in the care of their grandparents and these children are eligible to receive board and ancillary payments equivalent to those received by foster parents.

Grandparents with responsibility for the day-to-day care of grandchildren who are not under care and protection orders cannot access any financial assistance other than a \$14 per week payment known as a 'relatives allowance' that is provided by DHHS.

The relatives allowance is not linked to care and protection issues however a case manager reviews the situation annually. The relatives allowance is a discretionary payment and has not been reviewed by the department for at least 20 years. The DHHS Children and Families Division indicated to the Committee that families in genuine need could apply for additional support with clothing etc but the focus of financial assistance to families through the division was for children under care and protection orders.

Many witnesses consider financial assistance from the State government through the Department of Health and Human Services inadequate.

Grandparents who find themselves caring for a second family face a number of financial issues:

- Retirement plans, such as travel, may have to be abandoned.
 - They may have to retire earlier than they had planned in order to cope with the demands of child rearing, or conversely they may have to continue working beyond any planned retirement date.
 - They may be unwilling or unable to access Family Tax Benefits and other payments, for fear this will worsen strained family relationships, or because the parents are using the payments to pay for drugs.
 - They may need to remortgage their home.
 - Their other children may be deprived of an inheritance.
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Witnesses presented evidence before the Committee that illustrates the inadequacy of the financial assistance available to grandparents with informal parenting responsibilities for grandchildren.

Mrs Youl informed the Committee that:

Our sole source of income is the aged pension, together with the 'big' carer payment of \$28 a fortnight ... from the Department of Health and Human Services ... We do, however, receive \$150 a year clothing allowance from the same department but it's quite a hassle to make a claim on that. ... Therefore it is not easy to care for and educate our grandson in these circumstances.³

Mrs Brooks, the grandmother of a child with a disability, also noted the expenses involved in caring for her day-to-day needs.

I get \$28 ... from the department of Health and Human [Services] ... and I get \$28 [per fortnight] family tax payment ... Samantha does get a \$60 [per fortnight] disability allowance, but that's it in full. ... We could spend \$100 a week on [my grand-daughter]. [She] can only have one speech lesson a week ... we can't afford any more.⁴

Mrs Irvine informed the Committee of the long-term financial pressures on grandparents raising grandchildren, and the increasing anxiety they face as their capacity to earn income diminishes with age.

My husband is still working. He is 60 and we are hoping he can work until he is 80. We are looking after these two children – the youngest one is 18 months old – we are paying for childcare. We get our \$28 a fortnight.⁵

Mrs Phillips highlighted the high cost of raising children.

...[T]he fact is that as grandparents under the State we get this farcical \$28 a fortnight per child – it is classified as board – and \$150 a year. But under the Commonwealth, not exactly as grandparents are we entitled to this but if we have a kid totally in our care, we are entitled to the family tax benefit or whatever depending on our financial circumstances ... We get a bit more because there's a separate allowance for disability ... we also get an additional double orphan allowance because he can prove he has no parents. ... There was an article in the paper last week that showed horrific cost to parents. [*The Mercury*, 30 October 2002, the

³ Transcript, 7/11/2002, p. 39

⁴ Transcript, 7/11/2002, p. 4, 5.

⁵ Transcript, 7/11/2002, p. 56

cost of raising a child to 20 years was estimated to be \$264,000 per child]. Depending on the number of years that we have these kids, it is the same order of costs for grandparents, except that none of us is prepared to count up all that money over the years and then look at our kids and say, 'You cost me this much'. I think it's closer to \$200 a week that we would be outlaying.⁶

Accessing Relatives Allowance

Witnesses before the Committee generally expressed disappointment with the level of financial support provided by the State. Many also expressed frustration with the process that was involved in accessing such payments.

Grandparents were particularly upset by the fact that the \$150 clothing allowance was only accessible through a voucher system. This was considered demeaning as vouchers limited choice of purchases to specific stores and readily identified users as welfare recipients.

Mr. Ward strongly objected to the voucher system noting the stress it caused the children concerned.

Nothing is more embarrassing for a 14-year-old or a 12-year-old to go through a checkout and have a pink slip in your hand; everybody knows what it's for. These kids are embarrassed and they've had enough embarrassment throughout their lives; they shouldn't have to take pink slips through checkouts.⁷

The annual review of eligibility for the relatives allowance, which involved home visits by department case workers, was also considered intrusive and demeaning.

Grandparents did not feel they were always treated with respect in their dealings with the department.

⁶ Transcript, 7/11/2002, p. 47

⁷ Transcript, 7/11/2002, p. 15

The following extract is from a letter tabled by a witness who felt aggrieved at having to allow departmental officers in her home. The tone of the letter could be interpreted as threatening as it implies that payment of the allowance could be withdrawn for not complying with departmental policy even though there is no legal requirement to do so.

With regard to your questions regarding the review of the Relatives Allowance I would like to advise that there is nothing in the current legislation that requires us to visit children in care. However, we operate from an Administrative Instruction, which I have enclosed for your information. As you can see, a review must be done every twelve months. We view the review date as an opportunity for us to offer any assistance you may require with the care of the child who is living with you. The reviews are also required so that we may responsibly administer public monies. As you can see, the departmental worker ... must perform a review as part of the administration of the Allowance. If you are extremely uncomfortable with this requirement you may opt not to receive the Relative's Allowance.⁸

Foster Carer Benefits

The system is inequitable in that children in foster care are able to access a more adequate payment as well as other financial assistance.

Grandparents assuming the responsibility for the day-to-day care of their grandchildren will incur expenses ranging from one-off needs such as furniture, bedding and school uniforms to ongoing needs such as food, heating, clothing, educational extras and entertainment, and medical expenses and counselling. Additional expenses are incurred in the care of children with disabilities or behavioural problems

The following table outlines the financial entitlements for children under care and protection orders at various age groups, compared with relatives allowance entitlements.

⁸ Document, No. 2, Letter dated 2 September 2002

Table of Financial Entitlements for Children in Care ⁹

Age Group	Weekly Payments	Long Term Orders	Short Term Orders	Relatives Allowance
Under 7	Board	\$59.00	\$81.00	\$14.00
	Pocket money	\$ 2.00	\$ 2.00	0.00
	Clothing	\$13.00	0.00	0.00
	In lieu of family tax benefit	0.00	\$18.70	0.00
	Total	\$74.00	\$101.70	\$14.00
7,8 &9 Years	Board	\$59.00	\$81.00	\$14.00
	Pocket money	\$ 3.00	\$ 3.00	0.00
	Clothing	\$13.00	0.00	0.00
	In lieu of family tax benefit	0.00	\$18.70	0.00
	Total	\$75.00	\$102.70	\$14.00
10 & 11 Years	Board	\$59.00	\$81.00	\$14.00
	Pocket money	\$ 5.00	\$ 5.00	0.00
	Clothing	\$13.00	0.00	0.00
	In lieu of family tax benefit	0.00	\$18.70	0.00
	Total	\$77.00	\$104.70	\$14.00
12 & 13 Years	Board	\$63.00	\$85.00	\$14.00
	Pocket money	\$ 7.00	\$ 7.00	0.00
	Clothing	\$17.00	0.00	0.00
	In lieu of family tax benefit	0.00	\$18.70	0.00
	Total	\$87.00	\$110.70	\$14.00
14 Years and over	Board	\$66.00	\$88.00	\$14.00
	Pocket money	\$10.00	\$10.00	0.00
	Clothing	\$20.00	0.00	0.00
	In lieu of family tax benefit	0.00	\$18.70	0.00
	Total	\$96.00	\$116.70	\$14.00

Additional assistance is also provided to foster carers when children have multiple or complex needs.

Witnesses informed the Committee of the difficulty faced by grandparents in the initial stages of assuming responsibility for their grandchildren, when significant financial outlays have to be made for items such as furniture, school uniforms and other necessities. Grandparents suggested that a one-off payment would help with initial expenses noting that if the grandchildren were living with an unemployed parent there would be financial assistance, such as the student assistance scheme, rent assistance, assistance with phone and power bills.

Some grandparents cannot afford to retire, and others cannot afford to take annual leave as they lose shift allowances and so on. Others have taken on weekend work to make ends meet. Generally many of the grandparents appearing before the Committee indicated that their plans for retirement had been dashed.

Before our grandson came to stay with us we were getting close to retirement. We'd decided that it really made sense to move into a

⁹ Document, No. 6

smaller house. We didn't need all this extra space and we didn't need the maintenance of the larger place. We haven't moved because we need the space around us now. We have one grandchild there all the time who needs a bedroom and all the extras that go with that, but we have these other grandchildren who occasionally come down and stay with us in holidays or for a weekend, so we've suddenly got four kids there for different periods of time, all of whom we have to look after. We don't have help from any parents to look after them.

My husband didn't retire early; he retired at 65, but from when he was 60 he could have retired and got various early retirement benefits and so on. We couldn't afford to. We couldn't afford to make that choice because we had a kid who was nine or 10 at that stage. We had dreams and plans for our retirement, things that we'd put off. We've done all sorts of things with our own children. When we travelled we took our kids with us and we had to save up like mad beforehand. My husband's work allowed him to go and work in other places, so we could have that experience of living in some different place with out kids. But we always had this dream to travel, and it would have been wonderful to have the opportunity to just explore, just the two of us, without doing things geared around kids. It is a wonderful experience doing things with your kids but they don't fit into your lifestyle and they don't take on all your interests. It's a bit of a mixture, depending on how many kids you've got; it's largely geared towards the kids' interest because you're trying to enjoy things but also allow them to have happy, enjoyable experiences. In the last year, in desperation because we thought we're never going to have holidays again, we have been away to the mainland for a couple of weeks in school holidays – twice in the last year. It gives us the opportunity to visit some friends and to see a little bit of country that we had been longing to see, but it truly isn't a holiday travelling with a kid – a teenager who has disabilities and who thinks, like all teenagers, that the world revolves around them. There are additional issues with his disabilities and so on and his greater needs because he doesn't fit into the world of normal teenagers. He doesn't fit into the world of disabilities either because he longs to be normal, but he isn't totally accepted by his peers. It's a complicated life and we can't even think, 'Okay, if we help him get through school and he does this training he'll be able to stand on his own two feet. We see it as something that we can't see any end to – other than our death, which is horribly morbid – bring out the violins –.¹⁰

The Committee also heard evidence about child endowment and maintenance payments not being spent on supporting the child if the payments are made to the parent, and there are difficulties for grandparents being able to access these payments.

¹⁰ Transcript, 7/11/2002, p. 47

The Commissioner for Children, Ms Ambikapathy, spoke of the need for financial stability for custodial grandparents and their grandchildren:

[T]he concerns that I have had from the community mainly relate to financial because they are neither fish nor fowl. They fall between the cracks. They may not be eligible for Centrelink payments because there is sometimes a bit of tug of war between the biological parents and the grandparents and if the Division perceives that there are no risk issues they fall between those cracks too and it is a purely informal system.¹¹

If they don't have a certain amount of stability with financial support, that care is going to break down and if that care breaks down, those children will go into the formal system. The numbers will be increased; the cost to the State will be increased. It doesn't make sense for us not to consider them. It makes short-term sense but not long-term sense because then you have a system where there's further distress to the children, further distress to their grandparents and further cost to the State. So somehow or other we've got to work something out informally if necessary.¹²

Well, if you want to do a cost-benefit analysis it is much cheaper to pick someone up at the top of the cliff, without the broken bones, than at the bottom. So it does not make any sense, except for a very short-term budgetary one from year to year. But if you cost it on a long-term basis – they have done it all over the world – for one dollar spent today you save seven dollars down the track. It is as enormous as that. For Tasmania we have to do something pretty seriously soon because the figures are not coming down. The act was not a magic wand; things have not happened miraculously. We have to get a change, to be able to bring these people in.¹³

Grandparents were unable to access financial assistance through Centrelink until after six weeks of caring for their grandchildren even though the mother had previously been on a supporting parent benefit.

Probably about a month after my daughter died, I went into Centrelink because my daughter was on a sole supporting parent pension and these four kids came under that category. But I was told that certainly we wouldn't be entitled to anything through Centrelink because nobody is entitled to help for caring for children until they've had them in their care for six weeks. The crazy thing is that that rule is the same whether you have one kid or four kids. With four kids it is almost the equivalent of 24 weeks of care. There's no logic to lots of these things. Four kids have to be fed and

¹¹ Transcript, 18/11/2002, p. 1

¹² Transcript, 18/11/2002, p. 2

¹³ Transcript, 18/11/2002, p. 6

clothed and housed and so on at all times. We didn't ever qualify for that.¹⁴

... With Centrelink we weren't entitled to anything because until you've looked after them for six weeks, proved that you're looking after them for six weeks, you're not entitled to anything. But with kids who, as I said, had been getting full support until their mother died – in so many situations the rights of the children are in name only.¹⁵

Ms Jan Ottee, Business Manager Family Assistance, Centrelink appeared before the Committee to outline the support available from the Commonwealth to grandparents caring for grandchildren.

Centrelink recognises that custodial grandparents are a growing group of customers needing recognition and service delivery. It is estimated that in Tasmania at least 7% of primary caregivers of children are grandparents ... Centrelink try to make payments to the primary carer of dependent children and are attempting to gather more specific information to identify that group.¹⁶

Payments that can be accessed by custodial grandparents are family tax benefit, parenting payment (if not on aged pension), and childcare benefit. These payments are income tested and other payments received by the caregiver are taken into account, eg maintenance payments. There is no facility for Centrelink to make a one-off initial or emergency payment.

In situations where the care of the child has changed there would probably be a 4-week period before payments are transferred. Where the previous caregiver does not give consent the situation would be investigated by Centrelink to establish who the primary caregiver is. Disputes may take some time to settle but the time frame should be within a few weeks.

Legal costs can be a huge financial burden for grandparents. Even in uncontested custody cases grandparents still have to pay out large amounts of money, and evidence was given that another custody case cost the grandparents \$20 000, while the mother had been granted legal aid.

Childcare costs can make it too expensive for some grandparents to remain at work so they have to leave, thereby causing further financial hardship.

Grandparents also spoke of the unfair treatment experienced when assistance received from one government agency may be offset by a cut in assistance from another area. The Committee heard from one grandparent that Housing Tasmania increased the rent

¹⁴ Transcript, 7/11/2002, p. 44

¹⁵ Transcript, 7/11/2002, p. 50

¹⁶ Transcript, 18/11/2002, p. 2

on their home due to the receipt of Commonwealth family support payments for the care of their grandchild.

RECOMMENDATIONS

- That the Department of Health and Human Services recognise grandparents with informal custody of grandchildren as a discrete client group and develop policies to assist with the care of their grandchildren.
 - That DHHS develop guidelines to ensure that eligible grandparents with parental responsibilities for grandchildren are eligible for the same benefits as children in foster care.
 - That in the short term the relatives allowance paid by the State government be increased substantially and the associated clothing voucher system be abolished.
 - That Centrelink payments to eligible custodial grandparents be streamlined and benefits be made readily available.
 - That a system to provide initial support to grandparents assuming parenting responsibility for grandchildren should be established.
 - That any benefits paid to grandparents to assist with the cost of parenting grandchildren should not be offset by reductions in other benefits or increases in costs such as rent for public housing.
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LEGAL ISSUES

Family Law and the Courts

Many custodial grandparents who gave evidence expressed a view that they were often overlooked in the legal system. They felt that they were relegated to third party status and were not properly provided for or afforded an appropriate level of recognition in legal proceedings.

However Mr Bob Gregory, Registry Manager, Family Law Court, Tasmania informed the Committee that:

... there is no embargo on grandparents or any person making an application under the *Family Law Act* in relation to parenting orders in relation to children.¹⁷

Ms Linda Johnson, Grandparents Support Group Coordinator, told the Committee that:

Often grandparental care is taken on informally so it is not picked up anywhere in the system.¹⁸

They therefore feel they have no rights, they also feel that the rights of the children or the best interests of the children are not being served.

They also feel that the parental rights, therefore, exceed those of the grandparents even though the grandparents have the general day-to-day care of the child.¹⁹

Family Court And Federal Magistrates Court

The Family Court and Federal Magistrates Court (Family Court) deal with family matters in Tasmania and are the relevant forum for the determination of family law cases. In simple terms, the courts are utilised to determine a dispute between parties, or to make orders relating to family members, including children, and other relevant parties.

Mediation, Conciliation and Pre-hearing Procedures

The courts provide mediation and counselling services designed to help resolve disputes without the need for a formal court hearing. The Family Court is inclined to encourage settlement, mediation and conciliation without the need for adversarial court proceedings. Whether that occurs in reality is obviously questionable. Parties however are strongly encouraged to achieve some degree of agreement.

¹⁷ Transcript, 18/11/02, p. 1

¹⁸ Transcript, 11/06/2002, p. 1

¹⁹ Transcript, 11/06/2002, p. 4

Mediation for children's issues are conducted by a court counsellor who is generally a trained social worker or psychologist. Children can be involved in the mediation sessions, although they are not usually involved in the initial sessions. If the mediation process fails then the matter must be listed for a hearing in the Court.

Agreement and Consent Orders

Agreement can be formalised in a consent order, parenting plan or other formalised agreement, which can then be registered with the Family Court or Federal Magistrates Court. These orders or agreements can be enforced by a party, should they be breached by another party.

In many cases however, arrangements are not formalised for a variety of reasons, often not the fault of the custodial grandparents. In many cases the parent(s) of the child have considerable personal problems (for example, drug abuse) which hamper efforts to reach consensus or amicable arrangements.

There is no legal impediment to custodial grandparents being incorporated in orders or a formal agreement, subject to general legal principles (for example, interested party and the best interests of the child principle).

The Best Interests Of The Child

This is the fundamental and paramount consideration of the court. The law provides some guidance for the courts to ascertain what the best interests of the child are in any particular case. Importantly, the court should take into account the child's relationships with other people – including grandparents.

Parental Responsibility and Court Orders

The *Family Law Reform Act* states that both parents of a child have full parental responsibility for that child until it reaches the age of 18. Essentially, each parent has responsibility for his or her child's welfare, both long term and on a day-to-day basis. This empowers parents with rights of custody, guardianship and other decision-making powers.

Importantly it also imposes certain responsibilities on the parents, most prominently the duty to properly care for a child. Parental responsibility is not affected by any change in the parent's relationship(s); for example if they separate and re-marry. Parents retain rights of parental responsibility until a court makes an order to the contrary.

Custodial grandparents do not possess the rights of parental responsibility. To obtain rights of this type, it is usually necessary to make application to the Family Court for orders. Custodial grandparents, for example, might require a *residence order* - which specifies that the child will live with them; and a *parenting order* - specifying that the custodial grandparents will also have responsibility to make decisions about the child's day-to-day life. Unless a wide-ranging order is made, there can be practical difficulties for the grandparents.

Court Orders

Parents, grandparents and other relatives or significant people can apply for a parenting order. Such orders may outline residence and contact arrangements.

Parties can apply for consent orders, or for the court to make orders if agreement cannot be reached. The court can make orders outlining where the child will live; contact and access arrangements; and other specific issues. Essentially, the court considers the best interests of the child as of paramount importance.

There are four types of parenting orders:

Residence – an order to say with whom the child lives;

Contact – an order to say with whom the child will have contact;

Child maintenance – an order that provides for the financial support of the child;

Specific issues - an order about any other aspect of parental responsibility.

A parenting order may be applied for by:

- The parents of the child
- The child itself
- Any other person concerned with the care, welfare and development of the child.

Section 65C of the *Family Law Act* allows any interested party to apply. Provided they are an interested party, custodial grandparents can commence proceedings in the Family Court. They do not have to seek leave to commence proceedings, as in some other jurisdictions (including the United Kingdom).

Legal Costs

Another major issue raised by custodial grandparents concerned the financial impost of being involved in legal proceedings. Costs ordinarily arise through court fees and, more significantly, legal representation. In most cases custodial grandparents are not able to obtain legal aid and are therefore responsible for their own costs.

Legal Aid

Legal Aid is funded by the Commonwealth and is designed to provide financial assistance to those who need legal representation but are unable to afford it. The Commonwealth also lays down guidelines for eligibility for assistance.

Additionally, the Legal Aid Commission provides a range of services in relation to family law matters.

Telephone service

This operates between 9am and 5pm five days per week. It is estimated that between 9,000 and 10,500 calls per annum are received relating to family law matters. These calls are fielded by qualified solicitors who provide advice and assistance. This advice is provided free of charge.

Clinics

Clinics are held allowing face-to-face advice sessions. They are held at Legal Aid Offices in Hobart, Launceston, Devonport and Burnie. Officers also attend court hearings at regional centres including King Island, Queenstown, Deloraine, George Town and Scottsdale. Clients are usually required to provide a health card to access this service.

Legal Representation

The Legal Aid Commission will either provide a grant of assistance to engage a private lawyer of choice, or will provide an 'in-house' legal aid lawyer.

Primary Dispute Resolution Conference

The Legal Aid Commission may also facilitate a primary dispute resolution conference. This process has reduced the number of cases that go to court for resolution.

Eligibility

To obtain legal aid a client must pass:

(a) a means and assets test

This is intended to ascertain whether or not a client is able to afford to pay for legal representation.

The Director of the Legal Aid Commission commented that the threshold is "not particularly high", and where a person has significant savings, or equity in a house, or other assets, this test will not be passed. This test is also used to calculate any contribution that the client may be required to make towards the legal costs. The test is applied irrespective of the merits of a case or the nature of the dispute.

(b) a merits test

(i) there must be an arguable case being proffered by the applicant

(ii) the 'ordinary prudent litigant test' – if you are an ordinarily prudent person having to pay personally, would you pay for it? This is designed to weed out frivolity and vindictiveness.

The Commonwealth imposes financial caps on individual cases. The Legal Aid Commission is permitted to provide up to \$10,000 per party on family law cases. Once that is reached, different provisions are applied, and applications are reassessed.

The Legal Aid Commission can also appoint a child representative to preserve the interests of the child and to investigate the case.

The Commonwealth does not provide sufficient resources to enable Legal Aid to take on all cases that come to it. Furthermore, the Legal Aid Commission is permitted (and presumably required) to reject cases where there simply aren't any funds available.

The Director of the Legal Aid Commission estimated that in recent years around 15 to 20 custodial grandparents per annum have sought assistance funding from Legal Aid. Obviously, where legal aid is not granted the applicant will either have to pay for a lawyer, or represent him/herself.

Personal Cost

Some custodial grandparents have refinanced their homes to pay legal fees. Others have given up work. In one case, the custodial grandparents spent child endowment on legal bills. Other custodial grandparents have been forced to place caveats on their house to secure finance to pay legal bills.

Compounding difficulties and frustration is that the parents are usually granted legal aid. They are able to appear in court with legal representation. They are able to 'manipulate' the system to get a good result, and have a financial advantage.

Custodial grandparent, Mrs Denise Brooks, stated:

I don't believe in parents not having rights to see their children, but the family law courts don't really listen to what you are saying. The medical evidence was in front of them; we paid \$12,000 over a period of three years for legal fees, yet this girl can go racing into Legal Aid, get legal aid over the tiniest little thing and, being grandparents, you have to go back and find the money again.²⁰

Some custodial grandparents have spent months consulting lawyers and attending court, often without result. One couple, for example, expended \$20,000 whilst their daughter received legal aid. Mrs Denise Brooks stated that she was unable to continue seeing her lawyer because of financial constraints and she could not afford to re-mortgage her house.

Mr and Mrs Ward stated that they put a caveat on their house to secure legal aid, and also had to pay a contribution of \$450. Their daughter was able to obtain legal aid, seemingly without any difficulty, despite the fact that she was responsible for the parlous situation.

There is a perception that there is government assistance for elderly, people with disabilities, but nothing to assist custodial grandparents.

²⁰ Transcript, 7/11/2002, p. 1

Other Issues

Department of Health and Human Services

It was noted that in certain circumstances it would seem appropriate for the State Department of Health and Human Services to take more proactive and independent action, eg by removing a child from neglectful parents. It has also been suggested that it might be appropriate in some cases for DHHS to be the initiator of proceedings (ie. in bringing cases to court) and not simply intervene in the cases.

It might, for example, be appropriate for DHHS to simply refer matters to the Family Court in order to resolve practical issues such as where the child will live, whether grandparents have permission to obtain medical information etc. However, there are obviously issues of cost and departmental resources, and also whether it is even appropriate for the DHHS to undertake this type of function.

The *Children, Young Persons and their Families Act* can be utilised, but that involves the concept of “risk” faced by the child. This element is often not applicable to cases involving custodial grandparents. There may not be an obvious or immediate risk. However, this does not help the custodial grandparents obtain security, certainty, or support.

Tasmanian Commissioner for Children

Ms Patmalar Ambikapathy, the Tasmanian Commissioner for Children, proposed a kinship care process, whereby custodial grandparents can be involved

...informally by some sort of protocol, but that they can be plugged into services and support, including financial ones, either from the Federal Government or the State Government.²¹

There are provisions in the legislation that could be tested and used more proactively to educate people and to ensure children receive greater care and protection under the provisions of the legislation. There is debate as to whether people have a duty of care to their neighbour (neighbour’s children) and whether any breach could result in civil or criminal liability for members of the public. These issues are the subject of conjecture.

However, Ms Ambikapathy stated:

...I do not look at it as a legal issue; I look at it as a best practice issue.²²

There are, of course, numerous other common law and statutory duties of care that arguably apply in circumstances of domestic and family breakdown.

²¹ Transcript, 18/11/2002, p. 2

²² Transcript, 18/11/2002, p. 4

Adversarial System

There is often a misconception that family law proceedings are not adversarial, and a view that they should not be. Family proceedings however essentially involve the same rules of evidence and procedure as in other cases.

The court does not initiate proceedings, but rather plays an active role when they are commenced. The court does not have investigative resources and does not have the task of determining when the law should intervene (unlike other authorities such as the police or community services).

Once an application is made the court will receive evidence and submissions in support of the cases before it, and will make a determination. Costs are involved, including filing fees and lawyers costs.

It is difficult, costly and emotionally exhausting to go through the Family Court seeking custody orders. Furthermore it often involves giving evidence against your children. Mediation and counselling is often ineffective, usually because of family breakdown, drug and alcohol issues.

Some custodial grandparents have indicated a reluctance to enter an adversarial situation with their offspring. Mrs Sandra Mundy stated that she could not pursue custody of her grandchild, as she would not go to court to give evidence against her daughter.

“Ineffective System” And The Enforcement Of Orders

Many custodial grandparents reported that the authorities should play a greater role in enforcing court orders, and ensuring protection for the children. Parents are seemingly able to simply come and remove their children at will, and the custodial grandparents are unable to prevent that. Parents breach orders without any consequences. The custodial grandparents must then return to court to try and have the orders enforced.

It appears that child protection agencies are reluctant or unable to intervene until there is a crisis, or an actual incidence of abuse. However, many custodial grandparents are in a disrupted environment, where help and guidance is urgently required. Furthermore, counselling services appear to be available for those on legal aid, but not readily available to the custodial grandparents.

Several custodial grandparents complained about the lack of suitable and effective counselling or contact services within the Family Court. It was suggested that custodial grandparents would benefit greatly from a proper advisory service.

Concern was expressed that orders are being ignored and the authorities do not ensure compliance. Orders, including restraint orders, are regularly ignored or breached. There is a feeling, or wish that the authorities might assist more proactively in enforcing those orders.

Grandparents Australia, in a written submission, reported that grandparents need support from the Family Law Court in enforcement of restraining orders and access arrangements.

RECOMMENDATIONS

- That consideration be given for a review of the guidelines relating to legal aid for custodial grandparents.
 - That the Legal Aid Office assess more closely the granting of aid to frivolous or vexatious applicants and respondents.
 - That the Family Court develop an information document clearly outlining the legal rights of grandparents who have custody of a grandchild/grandchildren or wish to gain such custody.
-

EDUCATIONAL ISSUES

The evidence presented by grandparents identified problems in regard to the following issues:

- Learning and developmental
- Financial difficulties
- Attendance
- School counselling / sensitivity
- Recognition of primary carer role

Learning and development

The evidence before the Committee indicated that many of the children who found themselves in the care of their grandparents had physical, emotional or behavioural difficulties that need to be recognised and addressed by the school system if children are to achieve their full potential.

Ms Johnson explained that:

Some of these kids have been pulled and pushed from pillar to post, they have been neglected, they sometimes have physical abuse – all sorts of things – so you have these extra vulnerable children over and above the normal issues of parenting which is really difficult.²³

Some grandparents noted problems in finding schools that coped satisfactorily with their grandchildren's learning and developmental problems.

Mrs Brooks told the Committee of the difficulties she faced in finding a sympathetic school environment for her grand-daughter.

... The State [school] system didn't work for us ... because of big classes, and I was totally honest with the teacher when [my grand-daughter] was in kindergarden. I said, "This little girl has a disability and these are her problems" ... They told me that they would not have her in grade 1; they would only have her up until lunchtime because they didn't feel she had the capacity to be out in the playground.

... We then went to John Paul II, who were absolutely excellent for 12 months, but after that we had children biting, kicking [and] punching [her] ... we told ... her teacher and even threatened legal intervention. Nobody cared. ... We took her to Eastside Christian School, I think there's 55 or 58 students there and it is the best move we have ever made. Unfortunately, we have to pay \$585 a term. ... We had no

²³ Transcript, 11/6/2002, p. 4

choice. I wasn't going to tolerate anti-social behaviour from schools.²⁴

Mrs Phillips also commented on the problem of appropriate school facilities to meet the needs of these children.

As a carer of a kid with disabilities ... there are huge problems with the services that are available. The problems were not nearly so bad within primary school but it is really hard in high school. High school is where kids are more determined to be the same as everybody else and they don't like being [excluded] and they don't like being seen as kids who, for whatever their reasons, aren't living with their mother and father.²⁵

Financial difficulties

Particular financial issues raised in evidence regarding education matters included difficulties accessing the Student Assistance Scheme and paying for school levies, uniforms, and additional discretionary and extra-curricular items or activities.

Many custodial grandparents found they were ineligible for assistance with educational expenses due to means and assets tests. This is especially difficult for self-funded retirees who may have assets that provide only a limited income.

Mrs Mundy described her financial difficulties to the Committee and stated that:

My husband is 69 and working three weekends out of four as a cook at an old people's home to make ends meet. ... At the moment the girl is going to Canberra with the school and it is costing \$800. That comes out of the bank and you know you can't put it back, so what is left when we need money to live on? It will be gone. ... Obviously you want the child to have extra interests ... we do try to give them to her but it is coming out of the money for our retirement.²⁶

An example of the difficulties faced by grandparents in meeting the cost of education is further illustrated in the evidence given by Mr and Mrs Ward to the Committee:

We get \$28 a fortnight and \$150 a year in clothing allowance ... What can you buy with \$150? When she started high school it cost us \$1,200 to start her off in high school ... [she] likes brand name things now; there is no buying any old thing. She goes to the movies and the pool. ... We don't have to pay for books for her schooling but we still have to pay the levies.²⁷

²⁴ Transcript, 7/11/2002, p. 4,5

²⁵ Transcript, 7/11/2002, p. 46

²⁶ Transcript, 7/11/2002, p. 34

²⁷ Transcript, 7/11/2002, p. 13, 23

Attendance

Concerns were raised in evidence about poor attendance in general, and further, of multiple school attendance with some children having attended a number of schools due to the parent relocating.

High levels of truancy are often associated with children from dysfunctional family backgrounds. Mrs Doig illustrated this with her account:

[She] is a very disturbed child. She has been brought up with an alcoholic drug user and ... her mother has spent her adult life in and out of prison. ... I have letters from the school to say she misbehaves, she has been suspended. Of the 100 days at school that she should have attended before I had her, 49 were absent. She can be a nice kid but she can also be awful and she just turned my life upside down.²⁸

Concerns were further raised in evidence that poor attendance is not always followed up by the school, which was perceived by grandparents as perpetuating the problem.

Mr Ward identified this problem in relation to his grand-daughter's attendance record:

... She was attending Campbell Street Primary School and of 60-something school days she had attended on 29 of those days. The Education Department had written a letter to the mother to go to the school to a parent-teacher meeting and the mother hadn't gone. Why wasn't something done about that to see why she hadn't been to school? To me, if a kid is not at school there must be a problem.²⁹

School Counselling

Concerns were raised in regard to school counselling processes with suggestions made that the questions asked by some counsellors were not helpful or appropriate.

Mrs Youl provided the Committee with an example of insensitive treatment on the part of the school in dealing with her grandson's behavioural problems.

... There was a prank last year that kids played at school and [my grandson] was hauled over the coals and sent to the principal's office. The vice-principal decided that he should have a talk to the school counsellor, so we went along as well. This school counsellor wasn't interested in the prank or anything else; she was more interested when we spoke of [my grandson's] background ... 'This is okay. Tell me more'; that is how it went. The vice-principal ... also knew the background and history, and his words to [my grandson]

²⁸ Transcript, 7/11/2002, p. 66

²⁹ Transcript, 7/11/2002, p. 19

were, 'Well, you'd better watch yourself, mate, because you'll end up in jail'. I just don't think that was the right thing to say. The counsellor was absolutely useless.³⁰

Additional concerns were raised by grandparents in regard to the perceived lack of privacy for children attending school counselling sessions.

An example of such insensitivity was given by Mr and Mrs Ward who alleged an inappropriate breach of confidentiality regarding their grand-daughter's family circumstances.

If the kid goes to a counsellor at school, the teachers go into the teachers' room and talk about that and then they go into the classroom and say, 'What's wrong with your family at home? Why are you going to counselling here?' This should never ever happen. Those kids have enough problems ...³¹

Custodial grandparents also noted that schools could be more sensitive in relation to each child's personal situation; for example, on Mother's Day and other celebrations the school should consider the individual circumstances of students.

Recognition Of Primary Carer Role

Grandparents also faced difficulties being recognised by schools as primary carers of their grandchildren.

In the absence of legally determined custodial status, schools were constrained by privacy requirements and were hesitant to discuss matters of a private nature regarding students. As a result, there are no existing provisions for grandparents to establish primary carer status.

Department of Education Response

The Department of Education noted in evidence that support for custodial grandparents in the education system should start with the grandparents making themselves known to the school. Where grandparents do make themselves known to the school, the individual school can provide them with information regarding the current curriculum and other changes to the school system.

Ms Jacob, Deputy Secretary, Education Strategies, Department of Education informed the Committee that:

I wouldn't want to give the impression there was no support there. I think there is some good support. I think any grandparent in that situation should make their circumstances known to the school. That is the starting point. I would

³⁰ Transcript, 7/11/2002, p. 41

³¹ Transcript, 7/11/2002, p. 23

honestly say that if most schools are aware of that situation they would fall over themselves to help ...³²

The Department acknowledged that schools could be more proactive in providing opportunities for grandparents to be involved in schools through, for example, grandparent days, so as to make it easier for grandparents to access the education system which has changed so much since they last had contact with it.

Attendance

The Department advised that individual schools are obliged to follow up non-attendance of students with the parent. "Parent" is defined in the *Education Act 1994* as including "a guardian or other person having the care or control of a child".

In order to meet this legal requirement, schools must be satisfied that the person with whom they communicate regarding non-attendance is acting as a parent as defined under the act.

If there has been a long period of non-attendance by a child and the school has not followed it up, the school might believe that the child has left and gone to another school or another district. The department acknowledged problems in tracking children who disappear from the system and advised that a new attendance policy and a new electronic attendance recording system would be implemented during 2003.

The Department advised that due to the many reasons for non-attendance, a number of areas need to be considered in addressing the problem, including school-based, home-based, and socio-economic factors.

An initiative titled "At School, On Time, Ready to Work", is being developed by the Department of Premier and Cabinet in 2003 which acknowledges this problem as a whole-of-government issue.

School Counselling / Sensitivity

The Department advised that there are currently 34.7 social workers and 42.8 guidance officers employed by the Department, and additional district support services which have been increased.

The Department noted that schools operate within the legislative constraints regarding privacy, particularly in regard to the giving out of information about children to people other than parents.

The Department also noted that protocols were being developed in conjunction with the Department of Health and Human Services so as to utilise expertise across departments.

The Department believes that early intervention with children or families experiencing difficulties would prevent serious problems developing later, however it

³² Transcript, 4/12/2002, p. 18

was conceded that situations often reach a crisis point before teachers can spend the time and resources to deal with them.

In circumstances where the child is not living with the grandparents and the grandparents have reported a situation to the school, the school would need to protect the interests of the child and the parent, and in such circumstances social workers would need to be involved to investigate the situation.

Recognition Of Primary Carer Role

The Department advised that in circumstances where care and custody arrangements are not formalised, there are no specific criteria set down by the Department that schools can apply to determine primary carer status.

In such circumstances, the Department noted that assessments would be carried out by social workers on a case-by-case basis and by individual school principals who would be expected to make a judgment about the situation and for that assessment to be noted on the child's record.

The Department further noted that a set of flexible guidelines might be useful for schools to consult in such situations.

RECOMMENDATIONS

- That the Department of Education develop a set of formalised yet flexible guidelines for use by schools in the determination of primary carer status.
 - That education-related services and contact details be included in an information booklet for custodial grandparents.
 - That the particular difficulties arising from the circumstances of custodial grandparents and similarly situated families be considered in the context of professional development of Department of Education staff.
 - That the Department of Education develop and implement guidelines for schools to identify custodial grandparents and provide confidential information in respect to services and assistance that may be provided.
 - That the Department of Education develop an adequate attendance policy, provide guidelines to schools for implementation of that policy, and establish a means of monitoring the effectiveness of that policy.
 - That the Department of Education policy regarding privacy be reinforced to schools and counsellors and, where necessary, adapted to improve sensitivity to particular circumstances.
-

PHYSICAL, HEALTH AND EMOTIONAL ISSUES

In evidence presented to the Committee many witnesses highlighted their physical and emotional stresses. Many grandparents who unexpectedly assumed the day-to-day care of a grandchild face many emotional and physical stresses in trying to cope with their newly acquired responsibilities.

Whilst grandparents may see themselves as the most appropriate guardians for their grandchildren in the absence of the parents, they are not always in the best physical condition to contend with the demands of rearing young children. Physical exhaustion due to frailty or declining health can hinder the grandparents' best intentions. The lack of access to services such as respite care left many custodial grandparents with a sense of isolation.

Emotional stress was a major concern for custodial grandparents and was commonly manifested in:

- Feelings of isolation, battling alone without support or recognition;
- Fear of losing custody to unfit parents – as parents had all the rights and the informal custodial arrangements do not have legal standing;
- Stress caused by financial pressures;
- Stress through confusion and lack of information about entitlements and rights in respect to government agencies and the legal system;
- Stress in dealing with disturbed children or children with disabilities;
- Emotional stress in not being able to bridge the 'generation gap' between grandparent and grandchild, and grandparent and institutions such as schools.

Many custodial grandparents giving evidence before the Committee reported that they were emotionally tormented by feelings of guilt and failure in having to care for their grandchildren because of the inadequacy of their own children.

Emotional stress has a huge impact on both the children and the grandparents in circumstances where there is a need for the child to leave its mother and be taken into care.

Mrs Phillips explained that:

Virtually all these children that grandparents are looking after – there has to be some pretty terrible background for them to have come into care – almost without exception all have come from dysfunctional backgrounds. We are then picking up the pieces of their past life. ... they come with all this extra baggage ...³³

Mr John MacKean, President, Council on the Ageing informed the Committee that:

³³ Transcript, 7/11/2002, p. 45

Emotional support is incredibly important in that the duty of care is likely to have been thrust onto the grandparent. They may already be enjoying ... a relaxed and quiet retirement where they have their own life pretty well sorted out and they have organised it according to their income and all of a sudden they have a whole new lot of expenses to meet and also anxieties. There is a huge difference between looking after your grandchildren for a day or a week or something like that and looking after them day in, day out, 24-7 ... It becomes wearing and taxing and they can become resentful of the responsibilities that they have been faced with. It would be extraordinary if they didn't resent in some way the unhappy fate they have. Guilt is likely to follow that resentment; they are likely to experience extraordinary feelings of guilt that they should be feeling this resentment. Guilt is the most corrosive emotion there is. It begins to destroy your self-esteem and self-confidence. So while the children in this relationship are going to have serious emotional problems the grandparents also are likely to.³⁴

Mrs Phillips told the Committee that:

One of the greatest sadnesses, I think, is that we are no longer grandparents; we are 'old-age carers'. The idea of being a grandparent is that you've got a lot of the joy of the kids but you can hand them back.³⁵

Paradoxically perhaps many custodial grandparents stated that their greatest emotional stress came from the fear of losing custody of their grandchild.

Mrs Youl told of the vulnerability and fear she felt from the threat of losing her grandchild to the mother.

Within the period [my grandson] has lived with us there is always an ongoing fear that they could remove him from our care because, from legal opinion that we have had, we have been advised that grandparents have little or no chance of obtaining legal custody without considerable expense, and even then there is no guarantee of success.³⁶

The fear of losing a child in the care of grandparents to a seemingly unfit mother was an emotional stress shared by even those with more formal custody through court parenting orders.

Mrs Irvine told the Committee that:

³⁴ Transcript, 4/12/2002, p. 2, 3

³⁵ Transcript, 7/11/2002, p. 47

³⁶ Transcript, 7/11/2002, p. 38

There is always that risk. ... At any time we can be forced back to court. I don't know how we would ever pay for that; I don't know what we would do. We would have to fight for our grand-daughter; she has always lived with me. We would probably have to sell our home. There is that risk always with anyone with a residency order.³⁷

Some grandparents with young children in their care reported being stressed and confused because they did not know what to do in some circumstances and could not bridge the generation gap to connect with their grandchildren. In some cases this led to feelings of bewilderment and isolation.

Mrs Phillips explained how she was confronted with a lack of understanding and support from the community and her friends.

... in every different situation we find ourselves in we are confronted with this lack of understanding of what it can be like to bring up a grandchild all the time. ... People look at you in horror and say, 'Oh, I don't know how you could do it. I couldn't do it. I'm exhausted after one day of looking after my grandchildren' ... All of us are just struggling to survive ... we live from day to day because our possibilities of making plans for our future have completely gone. Our retirement years – it is farcical calling them 'retirement years' – are probably busier than we've ever been in our lives.³⁸

Mrs Doig, who is caring for the daughter of a child she had fostered, told the Committee how she felt a sense of isolation and lack of understanding:

It's just that you are thrown into this situation and there's no-one there to help you. If I had gone to Centrelink and someone had said, 'I'll explain everything you have to do', but instead of that I was given a form, which I didn't understand ...³⁹

Mrs Doig explained that matters were made worse by the behaviour of the young person in her care:

... it's the attitude that got me ... It is a long while since I have had young people and the young people of today are nothing like my children were.⁴⁰
I've been in tears sometimes. I've got myself all worked up with her and I've thought, I've been through all this with her mother. Don't start again, please, [but] you have no choice at all ... My kids were brought up in a vastly different atmosphere. My son is 48, so he was brought up in a different

³⁷ Transcript, 7/11/2002, p. 56

³⁸ Transcript, 7/11/2002, p. 43

³⁹ Transcript, 7/11/2002, p. 70

⁴⁰ Transcript, 7/11/2002, p. 67

atmosphere from children today. They seem as though they please themselves what they do at school and everything.⁴¹

The emotional stress suffered by custodial grandparents is often accompanied by physical stress and fatigue. Several witnesses reported physical exhaustion and a need for respite.

Mrs Phillips said that:

The emotional trauma was huge but it was the physical side of looking after four kids for 24 hours a day. ... I was lucky if I got two hours sleep.⁴²

Mrs Fizelle was critical of the help that her caseworker would offer, which involved books or video tapes, targeted at young mothers, and this is not what was needed. Mrs Fizelle told the Committee that:

I knew what the kids needed but I needed physical help. I need someone to come and clean up his room when he's trashed it because I am physically too tired. My back's gone and I need a young girl to come and run around and literally put the pillow back on the bed, put the blankets back on the bed, pick up the teddy bear, pick up the broken vase of flowers – that's what I needed.⁴³

As canvassed elsewhere in this report many of the support services needed to alleviate the problems faced by custodial grandparents are denied to them because the arrangements under which they care for their grandchildren are informal and therefore are not recognised by the system.

Formalising these arrangements is not always an option for custodial grandparents. Ms Johnson, Custodial Grandparents Support Group Coordinator, noted the emotional difficulties inherent in such a course of action:

The emotional side of that is how hard it is for a parent to stand up in court and say how awful their child is to protect the grandchild; it rips families apart emotionally and financially. Some start the process and don't ever finish it, others have gone through the process at enormous emotional and financial cost but they also feel the family law court system is not geared to deal with grandparents, it is geared to deal with parents. So all the time they come up against the square peg, round hole stuff.⁴⁴

⁴¹ Transcript, 7/11/2002, p. 71

⁴² Transcript, 7/11/2002, p. 50

⁴³ Transcript, 7/11/2002, p. 27

⁴⁴ Transcript, 11/6/2002, p. 5

Some positive approaches to these problems were presented by Mr MacKean, of the Council on the Ageing (COTA). Mr MacKean suggests that there are three essential elements that custodial grandparents need. These are information, emotional support and financial support. Custodial grandparents need a wide variety of information covering diverse issues, such as advice on schooling, social security entitlements, nutrition, legal advice etc. To disseminate this information Mr MacKean suggests several possible avenues including a telephone hotline which can be operated for little cost by organisations such as the Council on The Ageing or the Seniors Bureau, which would have the relevant expertise.

Mr MacKean also sees peer groups as a rich source of information for grandparents and recommends that more resources be directed towards establishing grandparent carer support groups. Such groups would be invaluable in directing information to grandparents through workshops on specific needs.

The COTA submission places a good deal of emphasis on the need for the community to acknowledge the existence of custodial grandparents and engage with them to provide the support they need. This is especially so in relation to respite care:

... grandparents may in fact need respite as much as all the other carers ... I think that targeted help is required ... if you look at CanTeen and Make-a-Wish Foundation and so on, there is a recognition that children facing death deserve some kind of targeted assistance. Children who have lost their parents, children who are grieving, children who are emotionally traumatised probably also need some kind of targeted help such as being able to go to a school camp, maybe even special school camps.⁴⁵

The physical, health and emotional needs of custodial grandparent are complex, idiosyncratic and in many instances hidden from public view. The Committee believes that further research is needed to elicit the precise nature of the difficulties facing custodial grandparents in these areas to ensure that initiatives for assistance are effective.

RECOMMENDATIONS

- That a campaign to increase community awareness of custodial grandparents be undertaken.
- That a dedicated telephone hotline be established to provide information and advice to custodial grandparents. This could be facilitated through community service organisations or grandparent support groups.
- That specialist counselling services be provided to custodial grandparents to address issues such as stress and assist with strategies for coping with the behavioural problems of children in their care.

⁴⁵ Transcript, 4/12/2002, p. 4

- That financial support be provided for the establishment of custodial grandparent support groups, and for relevant existing community based organisations to provide outreach programs.
 - That financial support be provided for dedicated respite services appropriate to the needs of custodial grandparents. The host family respite model presently in place to support children with disabilities should be considered and possible linkages or synergies between these groups should be explored.
 - That an emergency fund be established to provide a one-off payment to grandparents who are unexpectedly confronted with the day-to-day care of their grandchildren to help them meet the cost of the immediate needs of these children.
 - That further research be undertaken to elicit the precise nature and extent of the problems facing custodial grandparents in order to better tailor assistance and support.
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ADDITIONAL CONCERNS

The evidence presented by grandparents, raised concerns associated with systemic problems in the State Department of Health and Human Services and the Federal Centrelink agency. Although some evidence may overlap with other aspects of this report, these concerns are presented as, and need be considered both separately, and in addition to those issues covered in previous chapters.

Department of Health and Human Services – Administration and Policy

In the evidence presented by grandparents, problems were identified in regard to DHHS administration and procedures.

Grandparents raised problems including: difficulties in contacting case managers; a lack of after-hours crisis contact with only answering machine facilities; problems with continuity of contact when case workers are on holiday or work part-time, and after business hours; and non-returning of phone calls, including circumstances where school principals rang to report potentially abusive situations.

Grandparents noted that these problems highlighted what they perceived as inflexibility in regard to administration and case management, in particular in regard to case manager availability and access.

Mrs Phillips told the Committee of the difficulties she faced in dealing with the Department of Health and Human Services at a time of crisis:

Through that stage I felt really let down by the system. I was totally shattered and incapable of fighting anyone within the system at that stage ... There were a lot of community services and government departments, or people within government departments, who had been involved with my daughter and these four kids because of my daughter's drug background. These kids were seen to be at risk, so there were about half a dozen people within those different departments who had been involved with my daughter in the previous six months before she died, but they were all on holidays when she died. At that stage, when we desperately needed any sort of help to get through those days and weeks, we found there was virtually no help available.⁴⁶

Mrs Fizelle shared a similar experience and told the Committee that:

[My] first difficulty was trying to contact my case manager by phone. My case manager worked part-time so she might

⁴⁶ Transcript, 7/11/2002, p. 43

have worked, say, Monday, Tuesday, Wednesday, which means Thursday, Friday, Saturday and Sunday she was not available. She seemed to have a very heavy caseload, which means that most of the time on her working days she was out visiting her clients. So usually if I rang I would get an answer phone or someone else in the office would say, 'I'll leave a message to ring you back'. She invariably rang back when I was out. I remember once I waited a whole week to get an answer.⁴⁷

Concern was also expressed regarding the lack of follow-up by the DHHS for re-assessment when circumstances of a child change, such as when a child is relocated to another carer.

Grandparents also raised concerns in relation to DHHS policy regarding intervention and investigation.

Evidence presented by grandparents suggests that the DHHS intervenes and provides support only when a situations had reached crisis point, rather than stepping in earlier to prevent the break-up of families or the need to change custodial arrangements.

Mrs. Irvine told the Committee of her frustration with the response of DHHS when she reported her baby grandchild as being at risk:

I contacted Child and Family Services. [The mother's] doctor, who is her methadone provider, contacted them on two occasions. ... He knew she was in no fit state to look after a baby and that the baby was at risk. The pharmacist dispensing the methadone saw the baby – they were in touch with me. He wasn't cared for properly; they reported that he was at risk. I was on the phone all the time but they still kept telling me, 'He's in a shelter. He's fine.'⁴⁸

Mrs Irvine also spoke about poor follow-up by DHHS:

The Department of Health and Human Services were notified by five different professionals and myself that the baby was at risk ... They told me that they'd appoint a worker. They had had all these reports and they would appoint a worker, but until that happened I would be the contact person, whatever that meant. I never heard from them again. My daughter came home probably a fortnight later with the baby and has been with me ever since. That department still doesn't know, as far as I'm concerned, where that baby is, what happened to him, they do not know – well they know now because I phoned them yesterday and told them and

⁴⁷ Transcript, 7/11/2002, p. 26

⁴⁸ Transcript, 7/11/2002, p. 42

asked them, 'Why have you never done anything?' But they never followed that up. It was a 12-month-old baby at the time, with a drug-addicted mother who had left the safe place that they said was fine. They are an absolutely useless department as far as I am concerned.⁴⁹

Mr Ward also gave evidence in relation to the responsiveness of the department:

If you ring up there is an answering machine on. They don't always return your calls. What happens? Do these kids only get beaten up through the day when there's someone there to answer the phone? No, they get beaten up at all hours of the day and night. Those children are not protected. What can an answering machine do? ... The principal from the school will tell you the same thing; it is mandatory for them to ring up if a kid complains about being abused at home. I have been to five or six schools in the Hobart area and they have all told me the same thing; they ring up and tell them this has been going on and there is an answering machine on. They don't return the phone calls to the principals.⁵⁰

Grandparents further noted that intervention ought be occurring before circumstances reach a crisis point, particularly in situations where children were quite obviously suffering from abuse or neglect by the parent, and additionally, to provide support to grandparents to prevent them reaching a point where they are no longer able to cope.

This evidence also included concerns that DHHS investigations into reported situations of neglect and abuse are not carried out promptly enough, sometimes up to a fortnight later.

The Commissioner for Children spoke of the need for a complaints procedure so the Department's processes can be questioned:

I've drawn up a complaint process, what I call an internal review process, which they haven't had before and we've put it up on our web site ... I think its important for people in the community to be able to have something that they can turn to, to question and to hold the department accountable and that's never been done before. They've got processes that are different but not particularly for the community.⁵¹

Grandparents also indicated frustration with perceived inconsistency in the DHHS investigation process. Mrs Phillips provided an example where she was investigated for her suitability to care for an abused grandchild, while the abusing step-parent was not investigated and still had care of two other children.

⁴⁹ Transcript, 7/11/2002, p. 55

⁵⁰ Transcript, 7/11/2002, p. 18

⁵¹ Transcript, 18/11/2002, p. 3

[The grandchild's] stepfather had already been charged with physical assault of this child. The child was put into hospital ... he was hospitalised because there was proof of bruising around his neck. It was just to get him away from the house where he had been abused. The farcical thing is that when that child was released from hospital ... it was my house that was checked out. I was checked out to see whether I was an okay person to let this grandson come and stay with us because he'd been abused by someone who was no relative of mine, not under my care, not in my house at all. They made sure that I was a reasonable sort of person to look after this child, yet the abuser was at home looking after two other kids at the same stage and there was no checking up on him at all.⁵²

Department of Health and Human Services – Response

DHHS officers presented evidence to the inquiry, providing information regarding DHHS services, administration and policy and responding to the issues raised in the evidence received from grandparents.

In evidence provided by DHHS officers, information was provided regarding the DHHS intake and assessment system, noting that calls are prioritised based on the quality of information given, with set response times for dealing with calls according to priority.

The evidence of DHHS officers further noted that there is an after-hours phone service for urgent calls. In response to the issue of only an answering machine being available after hours, as reported in evidence by some grandparents, DHHS officers stated that this would not be considered an appropriate response by the Department.

The DHHS officers informed the Committee of a new state-wide centralised intake system to be in operation in early 2003, which was intended to bring greater consistency, improved coordination and improved feedback.

In response to the concerns raised by grandparents regarding the difficulties incurred in accessing the Department and about the appropriateness of advice received in some instances, the DHHS officers stated that these matters would need to be followed up internally when specific details were supplied.

In response to administration concerns in general, DHHS officers advised the Committee that a complaints mechanism was currently being set up to allow clients to report if they are unhappy about service delivery.

DHHS officers further advised that there are protocols in place with other agencies such as Tasmania Police and the Department of Education, and additional inter-departmental committees operating at various levels to address individual cases or systemic issues.

⁵² Transcript, 7/11/2002, p. 44

In response to concerns raised by grandparents in regard to insufficient support services, the DHHS officers advised that family support can continue to be provided by the Department after children have moved from an at risk situation with a parent to the care of grandparents.

They further advised that where custodial arrangements are changed, the situation would be assessed and referrals made for support services such as mental health, counselling, and respite services.

In response to the concerns regarding informal care arrangements, DHHS officers noted that the question of who has responsibility for children who come into the care of grandparents through such informal arrangements and what level of assistance is to be provided by the Department is a policy matter which needs to be addressed at government level.

Regarding policy matters in general, DHHS officers advised the Inquiry that DHHS services are mandated by the *Children, Young Persons and Their Families Act 1997*. The ability of the Department to respond in circumstances that may seem appropriate to the public are not necessarily within the purview of the act. The Department is primarily concerned with issues of child abuse and neglect, and in the context of custodial grandparents the children in their care are not generally considered to be in such danger.

Commissioner for Children

The Commissioner for Children presented evidence to the Inquiry, addressing several of the issues raised by grandparents.

The Commissioner noted in evidence a need for some linkage between grandparents with informal care arrangements and the DHHS Children and Families Division, due to the informal care system being 'invisible' to the Department and therefore problems could be occurring and not being dealt with.

The evidence presented by the Commissioner further noted concerns in regard to DHHS follow-up of cases. In particular, where the DHHS Children and Families Division has been called in by the Family Court to assess care and protection issues, attention needs to be given to departmental and community follow-up rather than closing the file.

The Commissioner put forward a kinship care model as a possible means of addressing the concerns of grandparents with informal custody of grandchildren:

In my functions under the Act – section 79(1)(b) – I can recommend services to the division. But the problem is that [grandparents with informal custody arrangements] do not actually strictly come under the Act ... especially if there are no perceived risk issues ...

I am trying to see whether we can organise, as opposed to foster care processes, some kinship care processes whereby we can bring [custodial grandparents] into the fold informally

by some sort of protocol so that they can be plugged into services and support, including financial support, either from the Federal Government or the State Government.⁵³

The Commissioner also suggested that informal protocols could be established using family support organizations already working in the community to provide services and assistance based around the principle of the best interests of the child, rather than working through the protective services area of DHHS, as some clients may not have confidence in that part of the agency.

In regard to the issue of DHHS complaints, the Commissioner noted the need to set up a complaints process to facilitate individuals raising questions with the Department and increasing accountability.

The evidence presented by the Commissioner further noted that Tasmania continues to have a high level of children in out-of-home care and stated that the new Act has not addressed the underlying structural problems, such as poverty, lack of employment, and housing problems, which can lead to family breakdown.

Centrelink

In the evidence presented by grandparents, problems were identified in regard to Centrelink administration, in particular regarding administrative complexities, systemic insensitivity and access difficulties.

Systemic Complexities and Insensitivity

The evidence presented by grandparents suggests that the Centrelink processes were perceived as being quite complex and the associated forms were difficult to fill out.

Grandparents also expressed concern that some Centrelink staff have not understood the situation properly and have given wrong advice with grandparents subsequently losing money they were rightly entitled to. Concerns were also raised by grandparents that officers from other agencies have also given conflicting advice, leaving grandparents in a state of confusion.

Grandparents further noted that the difficulties they are confronted with are often compounded by systemic insensitivity or complexity which creates particular difficulties for this group as they do not have the extra energy required to fight the system.

Access to Information and Services

Grandparents advised the Committee that they are often unaware of support services or facilities that could be accessed due to there being no central point of contact where information relevant to all agencies could be provided.

⁵³ Transcript, 18/11/2002, p. 2

Grandparents believe that a printed booklet or telephone help line would be useful due to the amount of time and energy spent by individual grandparents trying to access a system which they don't fit into or understand.

In addition, grandparents felt that although services may be available, difficulties arise in accessing these services due to the onerous criteria that need to be fulfilled and insufficient services to fill the need. As such, the provision of government assistance may be seen as minimal and tokenistic.

Centrelink Family Assistance Office

Centrelink officers representing the Family Assistance Office presented evidence to the Inquiry, providing information about Centrelink services and responding to the issues raised in the evidence received from grandparents.

Evidence presented by the Centrelink officers acknowledged the complexity of the system and advised that Centrelink is currently investigating ways of improving information and service delivery to this group.

Evidence was further presented that at a local level consideration will be given to producing a pamphlet about Centrelink services for custodial grandparents.

On the issue of sensitive customer service, Centrelink officers acknowledged the potential for their customers to be in a distressed state and advised that although staff are trained in that area, instances may occur where maximum assistance is not delivered. Centrelink officers further advised that social workers should be made available to clients in distress, especially where there has been a death in the family.

RECOMMENDATIONS

- That DHHS establish, reaffirm or vary protocols to improve service delivery, increase accessibility, ensure adequate follow-up and facilitate individual feedback on complaints for custodial grandparents, for example, by appointing a liaison officer position dedicated to such issues.
 - That DHHS establish a statewide 24-hour telephone helpline with recognition of custodial grandparents as a separate client group.
 - That DHHS undertake a review of procedures to ensure that clients can readily access case workers and that protocols are in place to ensure continuity of service delivery. Complaints mechanisms incorporated in this system should include a receipt of caller identification number.
 - That DHHS produce a comprehensive booklet or pamphlet containing information regarding services and entitlements for custodial grandparents.
 - That Centrelink establish, reaffirm or vary protocols to improve service delivery, increase accessibility, ensure adequate follow up and facilitate individual feedback and complaints for custodial grandparents.
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- That Centrelink make available the DHHS comprehensive booklet or pamphlet containing information regarding services and entitlements for custodial grandparents.

Parliament House, Hobart
20 May 2003

Hon. L. E. Thorp
Chairperson.

APPENDIX I

SUBMISSIONS RECEIVED AND TAKEN INTO EVIDENCE

1. Mr. and Mrs. J. B. Phillips, 29 Channel Highway, Taroona 7053
submission dated 9 February, 2002
 - (b) Supplementary submission submitted at hearings in Hobart on 7 November, 2002
 2. Mr. and Mrs. A. J. and R. Ward, 5 Stourton Street, Rosetta 7010
submission dated 13 February, 2002
 - (b) Supplementary submission submitted at hearings in Hobart on 7 November, 2002
 - (c) Videotape of Stateline - A Current Affair - "Grandparents" submitted at hearings in Hobart on 7 November, 2002 (This video is held in the Committee's office for Members to access)
 - (d) Correspondence between Mr. and Mrs. Ward and their Lawyers - Trezise and Partners and the Family Court.
 3. Mrs. J. M. Irvine, 44 Clare Street, New Town 7008
Submission dated 19 February, 2002
 4. Mrs. S. M. Mundy, 25 Balook Street, Lauderdale 7021
Submission dated 19 February, 2002
 5. Mr. and Mrs. P. and V. Youl, 80 North Terrace, Lauderdale 7021
Submission dated 15 February, 2002
 6. Mrs. E. J. Fizelle, 19 View Street, Sandy Bay 7005
Submission dated 20 February, 2002
 - (b) Supplementary submission submitted at hearings in Hobart on 7 November, 2002
 7. Mr. J. T. Graham, Old Colony Inn, 21 Montagu Street, New Norfolk 7140
Submission received 22 February, 2002
 8. Mr. and Mrs. C. and S. Craggs, 191 Brightwater Road, Howden 7054
Submission dated 21 February, 2002
 9. Mrs. Mary Grant, 72 Alomes Road, Forcett 7173
Submission received 14 March, 2002
 10. Mrs. Denise Kaye Brooks, 70 Grange Road West, Rokeby Heights 7019
Submission received 20 June, 2002
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11. Mr. David Batchelor, Area Manager, Centrelink, Tasmania
GPO Box 1507, Hobart. 7001
Submission dated 20 June, 2002
 12. Mr. David Batchelor, Area Manager, Tasmania, Centrelink draft
submission dated 19 June, 2002, submitted at hearings on 18 November,
2002.
 13. Mr. John MacKean, Council On The Ageing (Tasmania) Inc, 2 St. John's
Avenue, New Town 7008
Submission submitted at hearings on 4 December, 2002
 14. Ms. Anne McLeish, Director Grandparents Victoria and Grandparents
Australia, 14 Youlden Street, Kensington, Vic. 3031
Submission received by email 13 December, 2002
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APPENDIX II

DOCUMENTS RECEIVED AND TAKEN INTO EVIDENCE

1. The Mirabel Foundation PO Box 1320, St. Kilda South, Victoria 3182
Information Sheets and Booklet - 'When the children arrive...' A Resource Book for Carers by the Mirabel Foundation

 2. Copy of correspondence received by Ms. Jennifer Irvine of 4 Reynolds Court, Dynnyrne from the Department of Health and Human Services, Child, Youth and Family Support - Child and Family Services.
Document submitted at hearings in Hobart on 7 November, 2002

 3. Documents submitted by Centrelink at hearings on 18 November, 2002
 - (a) Information pamphlet – Myth Busters – ‘Grandparents as Parents’
 - (b) Extract from newsletter – Aged Pensioners News – ‘Caring for grandchildren’.

 4. Documents submitted by the Family Court of Australia at hearings on 18 November, 2002.
 - (a) Pamphlet on the charter of the Family Court
 - (b) Brochure entitled ‘Mediation Services’
 - (c) Brochure entitled ‘The Case Management Conference’
 - (d) Brochure entitled ‘Parental Responsibility’, and
 - (e) Brochure entitled ‘Marriage, Families and Separation’.

 5. Documents submitted by the Council On The Ageing at hearings on 4 December, 2002.
 - (a) Information pamphlet – Grandparenting Association NSW
 - (b) March and October 2000 issues of ‘Grandparenting News’
 - (c) Extract from newsletter – ‘Grandparents: Our Unsung Heroes’
 - (d) Extract from newsletter – ‘Grandparents and Child Care’
 - (e) Seminar paper entitled – ‘When Families Break Down: Rights of Grandparents and Grandchildren’
 - (f) Australian Institute of Family Studies, report by Christine Millward – ‘Aspects of Grandparenting’
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6. Letter dated 3 December 2002, from the Minister for Health and Human Services, providing information on board payments for children on care and protection orders.

APPENDIX III

WITNESSES APPEARING BEFORE THE COMMITTEE

Mr. Norman Reaburn, Director, Legal Aid Office

Ms. Kristen Wylie, Solicitor, Legal Aid Office

Mr. Bob Gregory, Registry Manager, Hobart, Family Court of Australia

Mr. Malcolm Cunningham, Manager of Counselling, Tasmania, Family Court of Australia.

Ms. Sheila Bird, Assistant General Manager, Child Support Agency (Commonwealth).

Ms. Vicky Rundle, Director, Child and Families Division, Department of Health and Human Services.

Ms. Lillian Haines, Senior Executive Officer, Child and Families Division, Department of Health and Human Services.

Mr. Danny Ransley, Policy Officer, Child and Families Division, Department of Health and Human Services.

Ms. Patmalar Ambikapathy, Commissioner for Children, Department of Health and Human Services.

Mr. Kenneth Abery, Advisor to the Commissioner for Children

Ms. Jan Ottee, Business Manager, Family Assistance, Centrelink

Mr. Anthony Lawrie, Families Assistance Office Co-ordinator, Centrelink

Mrs. Denise Brooks

Mr. John Ward

Mrs. Ruth Ward

Mrs. June Fizelle

Mrs. Sandra Mundy

Mr. Peter Youl

Mrs. Valerie Youl

Mrs. Beryl Phillips

Mrs. Jenny Irvine

Mrs. Barbara Doig

Ms. Linda Johnson, Co-ordinator, Volunteer Home Visiting Family Support Program

Mr. John MacKean, President, Council on the Ageing

Ms. Alison Jacob, Deputy Secretary, Educational Strategies, Department of Education
