

*Fair Work Australia Act 2009*

**FAIR WORK AUSTRALIA**

No.

**State of Victoria**

**and**

**Community and Public Sector Union**

**WITNESS STATEMENT OF DENISE MCLAUGHLIN**

I, Denise Catherine McLaughlin, Manager Children, Youth and Families North and West Metropolitan Region of the Department of Human Services (DHS), of 145 Smith Street, Fitzroy, in the State of Victoria, say as follows:

1. I am employed by the Secretary of DHS on behalf of the Crown as Manager Children, Youth and Families of the North and West Metropolitan Region (NWMR).
2. I am authorised by DHS to make this statement. I make this statement on the basis of my own knowledge. Where I state matters based on information provided to me, I believe such information to be true.
3. I have over 35 years' experience in the education and government sectors. I have worked with DHS for approximately 12 years. Among other things, I have managed the Child Protection Operating Model Project, Disability Accommodation Services in NWMR, and Community Care and Disability Services in the Hume Region.
4. I hold a Bachelor of Arts degree. I also hold a Trained Special Teachers Certificate and a Trained Primary Teachers Certificate.
5. In my current job, I am responsible for the strategic and operational management of the child protection, placement and family services and youth justice in the NWMR. My role includes planning and management of performance across the NWMR. I report to the Regional Director of the NWMR.

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6. NWMR is the largest DHS region. Approximately 30 per cent of Victoria's population reside in NWMR. In a calendar year, DHS typically receives around 12,200 reports of children in need of protection in NWMR. There are currently approximately 3,600 vulnerable children being monitored and protected by 301 full time equivalent staff employed by DHS in NWMR.
7. Caseload ceiling bans by Child Protection Workers in NWMR are due to start on 17 November 2011.
8. I describe below the work of Child Protection Workers under my management, and the impact that the bans are likely to have on that work and, significantly, on vulnerable children in NWMR. In summary, the bans are likely to result in:
  - (a) delays in vulnerable children being assessed and investigated by Child Protection Workers;
  - (b) children who are at risk of harm not being assigned a Child Protection Worker to look after and protect them;
  - (c) delays to intervening in cases of children who are at risk of sexual exploitation;
  - (d) delays in seeking warrants for children who are missing; and
  - (e) disruption to court-ordered supervised contact between children and their parents, as well as attendance at school, medical and counselling appointments.

#### **Intake**

9. There are 29 Child Protection Workers in the NWMR Intake Unit. Eighteen (around 62 per cent) of those workers have told their Managers they will participate in all of the bans.
10. The proposed bans will severely reduce the capacity of NWMR staff to assess the danger faced by children quickly. In turn, this will delay staff from giving appropriate care and support to children at risk of physical, sexual or emotional harm and neglect, and there is a real risk that these children will suffer actual harm as a result of such delay.
11. As at 14 November 2011 there were 694 children on the Intake Unit's case list. A Child Protection Worker has been assigned to assess and make decisions regarding each of these children.
12. When the bans are imposed on 17 November 2011, I estimate that:

- (a) approximately 440 children on the intake list will no longer have a Child Protection Worker assigned to their case; and
  - (b) each day the bans are in place, on average 70 new children will be added to the Intake List. There will not be a Child Protection Worker available to care for these children, unless we can prioritise the new cases over those 440 children already awaiting a worker and over the children already on workers' current case lists.
- 13. Approximately 25 per cent of children are assessed as needing urgent protection at the Intake phase. Children at immediate risk of sexual or physical harm and abandonment are considered to be urgent cases.
- 14. It is DHS policy that children in this category be visited within 2 days of the initial report being made.
- 15. When the bans take effect, it is highly probable that many children most at risk of harm will not be visited within two days. More importantly, any necessary action to make a child safe that occurs after a home visit is likely to be delayed. As a result, these children might be subjected to further serious harm.
- 16. A recent example of a case that required urgent attention was that of a woman with a significant drug addiction who had just given birth. The woman did not engage with service providers during her pregnancy, such as antenatal care and appointments with drug and alcohol clinicians. The woman was homeless and there were concerns about her mental health and the health of her baby. The woman's baby was born withdrawing from drugs and the baby required intensive medical care for elevated heart rate, agitation and tremors.
- 17. There was a real risk that the mother would remove her baby from the hospital immediately after birth. This would be highly detrimental to the baby, who would be at risk of 'withdrawing' from the drugs without medical treatment or intervention. It is also likely that if the baby was taken from the hospital, the baby would suffer from dehydration, and possibly die. The baby would also be exposed to his mother's drug addiction, placing him at significant and immediate risk of ongoing harm.
- 18. Hospital staff reported this case to DHS. Without intervention, the mother would have been entitled to discharge herself and her baby from hospital. DHS was however able to intervene

prior to the baby being removed from the hospital and apply for a court order to ensure the baby received the care he needed. With the bans in effect, a new, urgent case such as this may not be able to be allocated to a Child Protection Worker. Without an allocated worker, it would not be possible to take the necessary action in investigating appropriate ongoing care for the child and seeking any necessary court orders.

19. When the bans commence, all Child Protection Workers will be working at capacity, and the number of children on the Intake list will just keep increasing. The time it will take to assess each child will therefore grow longer. Any delay in the assessment process leaves children at risk of further and greater harm.
20. Another example of a case that may well be affected by the bans concerns a report from a neighbour of two children between the ages of 7 and 10. The neighbour reported that children are out on the street until well past 11 o'clock at night, playing on a busy road and not well-dressed for a cold night. The neighbour also reported that the children's mother appeared to be using drugs, and that men have been coming and going from the house. In the past, Police have attended the house and there have been loud arguments.
21. Although this case is currently assigned to a Child Protection Worker, it is probable that that worker will be assigned to a more urgent case once the bans are in place.

#### **Response / Investigation & Assessment Phase (Response Units)**

22. Around 25 per cent of all reports received in the Intake phase are referred for investigation and assessment.
23. It is DHS policy that a first home visit is made within 2 or 14 days of cases being reported to the Intake Unit, depending on the urgency of the case. For example, urgent cases require a first home visit within 2 days of the initial report to DHS. I expect that DHS's ability to ensure that first home visits occur within these timeframes will be significantly compromised by the bans. Delays of this nature will mean that DHS will not be able to assess the risk to a large number of children and take appropriate action to ensure their safety.
24. There are four Response and Investigation Units in the NWMR. Of the 70 workers working in those units, 46 plan to participate in the work bans commencing 17 November 2011.

25. As at 14 November 2011, the Response Units were monitoring and protecting 1010 children. Of these, 198 children did not have a Child Protection Worker assigned to them.
26. When the bans commence, I expect that the number of children without a dedicated Child Protection Worker will increase by 176. I have arrived at that figure by considering current case loads, applying the case load limits (according to the experience of staff) and calculating the number of children for whom there will no longer be a Child Protection Worker. The significance of the figure is that 176 children who have been assessed as needing the individual attention of a Child Protection Worker will no longer have that support. These children face increased risk of harm, which might include physical injuries, sexual assault, emotional abuse, homelessness and prostitution.
27. As at 14 November 2011, DHS records show that there are 156 children in the NWMR who are waiting for their first home visit. With the bans in place, I expect that only those cases where an immediate risk to a child is identified will receive a first home visit.
28. When the bans commence, I expect that DHS will be unable to keep up with the number of new cases in NWMR that require investigation and response. It will take longer to address these new cases because the work bans will mean that few cases receive home visits, or assessment and decisions about risk level and subsequent services required. I also expect that our response time will lengthen. Vulnerable children in NWMR who rely on DHS for care and support will not receive it at all, or in a timely manner. The health and safety of these children will therefore be placed at risk.
29. A unit that will be particularly hard-hit by the bans is the Planned Investigations Unit in Preston, where all 23 Child Protection Workers will participate in the bans. The Planned Investigations Unit is one of the four Response Units in NWMR. This unit presently manages 249 children, of whom 70 are not allocated to a worker. A further 63 will lose their existing Child Protection Worker once the bans start. Even if some or all of these children are assigned to a Child Protection Worker not participating in the bans, they will still be at increased risk. This is because those remaining workers will be required to cope with their own work, plus the additional work in responding to the additional children.

30. In addition, Team Leaders in the Preston Protective (Planned) Investigations Unit have advised that they will:
- (a) refuse to accept case transfers (that is, cases referred from Intake to Investigation);
  - (b) not de-allocate a case to accept a new case of greater urgency;
  - (c) not monitor awaiting cases once they reach their caseload ceiling;
  - (d) operate the duty system for only 12 cases each, rather than the all cases that do not have an allocated worker. The duty system operates to allow Team Leaders to assign workers to discrete, immediate tasks for cases that have not yet been allocated to a worker. Examples of work allocated on the duty system are requesting workers to attend court for a child's matter.
31. These restrictions increase the impact of the bans because, in addition to there not being sufficient available workers to care for children in danger, those who are available will not necessarily be assigned to the children most in need of care. This is because, as set out in paragraph 30 above, once the caseload ceiling is reached, cases will not be assigned to ensure that those most requiring the attention of a Child Protection Worker receive it.
32. The Preston Planned Investigations Unit Manager has agreed to oversee awaiting cases and accept new cases transferred from Intake, however she requires assistance to action new cases or issues. As at 15 November 2011, it is expected that there will be 149 children waiting to be allocated to a Child Protection Worker. This means that, because of advice from Team Leaders that they will operate the duty system for only 12 children each, the Unit Manager will have to monitor 101 children awaiting assistance.

**Other NWMR units affected by work bans**

33. The NWMR has four **Child Youth and Family Engagement (CYFE)** Units. These units are responsible for cases referred from the Response Units. Typically, around five cases are referred to the CYFE Units per day.
34. The CYFE Units work to reunite children with their families. These children have been removed from their parents because the parents are not able to care for them safely.
35. CYFE staff plan and prepare interventions with children and families, prepare court reports and present to the Children's Court about family circumstances and care of children. Workers also monitor the safety and wellbeing of children living at home on Supervision

Orders, and arrange and supervise court-ordered access visits between parents and children. They may also transport children to and from school.

36. There are currently 970 children supervised by the CYFE Units; 171 of those children do not have Child Protection Workers assigned to them.
37. I expect that when the bans commence, a further 139 children will lose the Child Protection Worker assigned to them, because the case load restrictions will mean that workers will have reached their case load ceiling. This will produce the result that 310 of the 970 cases in these units will not have an allocated Child Protection Worker. This will affect the welfare of children in the CYFE unit. For example, it is likely children will not be able to visit their parents (in accordance with court-orders), attend school or counselling appointments. I am concerned that without the usual regular visits by DHS, children's circumstances may change and, without regular contact, this is unlikely to come to the attention of DHS.
38. The five **Community Case Management and Care Units** in NWMR primarily assist children who are unable to live with their parents and reside in out-of-home care. These units also assist high-risk adolescents. DHS has contracts with community service organisations to provide case management for a large number of cases. However, statutory case planning, production of court reports and court appearances is undertaken by contracting DHS Team Leaders. These Team Leaders also make applications for warrants in respect of children reported as missing. Team Leaders generally have a caseload of between 30 to 40 cases. I have been informed that 10 of the 13 Team Leaders in these Units are participating in the bans.
39. The **Aboriginal Focussed Unit**, which is one of the five units managed within Community Case Management and Care, is responsible for 338 of Aboriginal children who are to be reunited with their families, including 55 who are not allocated to a worker. The bans will mean that 19 children will no longer be allocated to a Child Protection Worker, resulting in 74 children without a Child Protection Worker assigned. This a complex area of work, raising as it does complex family issues. Workers generally need a longer than usual period of time to engage with these families and to develop solutions. I anticipate that the bans will result in delays in responding to the unallocated cases, and in responding to new cases.

40. Currently, there are 1036 cases on the Community Case Management and Care Unit list, of which 77 are unallocated. If work bans commence, 187 cases will lose their existing Child Protection Worker, resulting in 264 of the 1036 current cases being without active supervision.

#### Contingency planning

41. The following steps are being taken to minimise the impact of the proposed industrial action:

- (a) managers are being rostered to take any phone calls after 4.30pm;
- (b) staff from other DHS program areas with child protection experience have been asked to work in the Intake Unit and Response Units;
- (c) team leaders and unit managers have been asked to prioritise their current cases as high, medium or low risk, in an effort to ensure children at high risk continue to have a Child Protection Worker available to them; and
- (d) managers have been asked to make an additional effort to monitor and triage cases that cannot be assigned to a Child Protection Worker.

42. I expect that these contingency plans will be insufficient to avoid the full impact of the bans. For example, children assessed as medium or low risk will no longer have the assistance of a Child Protection Worker. The risk to the health and safety of these children should not be underestimated. Cases considered to be low or medium risk can change quickly. An example of this is a child whose father is a convicted sex offender. The child's father is not allowed to attend the child's home, but DHS monitors the situation to assess the child's ongoing safety. Usually, a Child Protection Worker visits the home or speaks to the child or service providers regularly about the child's situation. If this case is no longer allocated to a Child Protection Worker, DHS will not know about any change in circumstances (such as the father's return to the home) and will not be able to respond to any increased danger to the child.

43. Another limitation of the contingency measures is that any additional staff able to help in NWMR will not be current Child Protection Workers. They will not be familiar with the DHS CRIS system, which is DHS' electronic records and information system. Workers are required to input relevant case histories and actions, including risk assessments, into CRIS for other workers to understand the status of a case. Unfamiliarity with CRIS will result in delays to helping children at risk.

44. At this stage, although we have made a request for replacement staff, I do not know how many additional staff will volunteer to assist in NWMR. Those that can assist, will not necessarily be able to do so full-time, or with the level of skill and independence required of Child Protection Workers. Only a handful of people who may assist are likely to have sufficient experience to undertake an investigation or take an intake report independently.
45. Another example of the type of case likely to receive less attention as a result of the bans is as follows. DHS recently responded to a case where there were concerns about a mother's neglect of her children. There were reports that the mother had not properly fed, clothed or bathed her children (aged 13, 11, 9 and 6 years) for more than 6 months.
46. While the case was under investigation, the mother's partner was allegedly murdered by the children's father. The Police were concerned for the welfare of the mother and children, as the father had previously threatened the mother's life and had been to prison for breaching an intervention order. The children were left with their paternal aunt while the mother was questioned by Police. The children remain in their aunt's care, however we have received reports that the children have not attended school, and that their aunt and her husband use cocaine, speed and amphetamines at home.
47. This case requires urgent attention from DHS. The contingency plan is to have workers assess their cases as high, medium or low priority. I anticipate, however, that most workers will have at least 12 urgent cases to attend to. Consequently, a new, and urgent case of this nature is likely to have to wait for attention, thereby placing the children at risk of further harm.

#### **Effect of work bans**

48. The bans will also affect other areas. For example, Managers and specialists triage and assess cases. 13 of the 23 managers and specialists in NWMR have advised they will participate in the bans. This means that DHS will not be able to promptly assess children in need of care in NWMR, including assessing which cases require urgent action. This is an important task. It means ensuring children most in need of support receive it promptly. If children do not receive that assistance promptly, they will be exposed to harm.

49. The sheer size of NWMR means that a great many vulnerable children will be affected by the bans. There are currently 3600 current cases on NWMR list. 417 of these cases do not have a Child Protection Worker allocated to them. The caseload limits will mean a further 945 children will not have a Child Protection Worker looking after them. That is, 1362 children assessed as being in need of Child Protection Worker will not have one. These children are vulnerable and will be exposed to significant risk to their health and safety.

DATED November 2011

  
DENISE MCLAUGHLIN