# Submission to Victoria Legal Aid State Family (Child Protection) Guidelines – Family Inclusion Network Victoria Incorporated

## Overall comments

Overall our organisation supports the proposed changes to VLA State Family (Child Protection) Guidelines as detailed in your Consultation Paper November 2015. As an organisation supporting parents involved with child protection we support any and all efforts to improve legal advice, representation and advocacy in this area. Numerous research reports document the destructive impact on parents when engaging with the child protection system. A lack of knowledge about processes and rights leads to confusion and powerlessness. This is especially true for parents with intellectual disability who are over represented in the child protection system. We are hugely concerned about the added impact of the new CYFA legislation.

Our major concern about your consultation paper is the stated criteria for eligibility for funding, in particular the plan to target funding to situations where:

“…there are reasonable prospects of the child returning to the parents’ care during the life of the order…(the) parent should have reasonable prospects of the child being placed in their care.”

We wonder how that would be assessed and fear that many parents could be written off as a lost cause, when in fact with the right representation and support their case could be more than viable. This has been our own experience in advocating for families with long term involvement with the child protection system. We recognise that whilst tight timeframes are being introduced to counter “care drift” the issue of parents being caught in “system drift” goes unrecognised. Time and time again we see parents impacted in their efforts by:

* constant worker turnover, resulting in lack of effective monitoring and assessment of their progress;
* case plans that have stalled and do not reflect current capacity for increased contact and/or reunification;
* lack of trauma informed approaches to interactions with parents impacting their capacity to best represent themselves in case plan meetings.

## Current State Family Guideline 1 – child involved in a child protection matter

No changes proposed.

**Response:** NIL

## Proposal 1 – Case Plan Meetings

* **Funding for legal advice and representation for post-court case plan meetings**

**Response:** Given the new legislation drastically reduces the accountability and scrutiny of DHHS case planning decisions we consider it vital that effective legal advice and representation be provided to parents at case plan meetings.

* **Alternative: additional fee to obtain the minutes of the post-court case plan meeting and provide advice**

**Response:** NIL

* **Pre-court case plan meetings**

**Response:** Whilst this would entail a significant shift in VLA’s current practice we strongly support the implementation of this proposal. It is imperative that parents are supported with advice, representation and advocacy as early in the process as possible. This can counter the confusion and disempowerment that impacts the capacity of many parents to work effectively with the system.

## Proposal 2 – Appearances and Adjournments at the Interim Stage

**Response:** NIL

## Proposal 3 – Interim Accommodation Order Contested Hearings

**Response:** We fully support this proposal to assist parents to maintain a strong bond with their child and maximum opportunity to demonstrate appropriate parenting. We see many cases where contact arrangements become static are not appropriately reviewed in line with parental capacity. Effective advocacy can achieve significant outcomes. In one example parents with intellectual disability were stuck in a supervised contact arrangement. They had met, and far exceeded, DHHS requests to complete parenting programs and to improve environmental conditions in their home. However, this was never effectively monitored and assessed. Once advocates became involved the family quickly progressed to unsupervised contact and then overnight stays as the parents were able to demonstrate their progress and capacity.

## Proposal 4 – Appeal of an Interim Accommodation Order

**Response:** NIL

## Proposal 5 – Review of case planning decisions

**Response:** We would also anticipate an increase in requests for DHHS Case Plan Reviews and VCAT applications as the implications of the new legislation take effect. Effective legal assistance in these processes will be vital given the removal of independent scrutiny 12 months into an Order.

## Proposal 6 – Change or breakdown in a child’s placement

**Response:** We support this proposal but targeting the funding to situations where a child is under a Family Reunification Order only is too limiting. We have been involved with parents where the case plan direction was non-reunification but following placement breakdown and effective advocacy the family achieved full re-unification.

## Additional Options that you propose VLA consider

**Response:** NIL