



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: IndgIssuesREvk:912300

12 November 2014

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House

By email: community.affairs.sen@aph.gov.au

Dear Committee Secretary,

Inquiry into out of home care – supplementary submission

I am writing on behalf of the Indigenous Issues Committee of the Law Society of New South Wales ("Committee"). The Committee provided a submission dated 7 November 2014 to this inquiry and has asked me to write again to provide further information on a point relevant to drivers of the increasing numbers of Aboriginal and Torres Strait Islander children in out of home care.

As noted in the Committee's previous submission, some breaches of Apprehended Violence Orders ("AVOs") can lead to the unnecessary removal of children when they are not in fact in unsafe situations. In the previous submission, the Committee noted that some breaches of AVOs caused by the broad definition in s 5(h) of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) can lead to the unnecessary removal of children.

The Committee notes that another such situation where a breach of an AVO leads to unnecessary child removal is when there is an AVO that has children listed on it, and family law contact orders are not sought for the defendant parent/carer to have contact with the children. For example, the primary carer might experience circumstances such as illness where the other parent/care giver could be required on short notice to care for the children on a short term basis. This can lead to breaches of AVOs which may then lead to the removal of children. However, the Committee's view is that where the safety of children has not in fact been compromised, breaches of this nature should not lead to the removal of children.

In the Committee's view, these situations can be resolved with proper process in the family law system where consideration is given to all contributing factors including child safety, environmental safety and Aboriginal cultural consideration.

Thank you once again for the opportunity to comment. Questions can be directed to Vicky Kuek, policy lawyer for the Committee, at victoria.kuek@lawsociety.com.au or (02) 9926 0354.

Yours sincerely,

Michael Tidball
Chief Executive Officer