

## **MEDIA RELEASE – FOR IMMEDIATE RELEASE**

**28 June 2019**

### **Investigation highlights failures by the Department for Child Protection**

- **Ombudsman calls for changes to South Australia’s information sharing laws**
- **Failures in communication were ‘nonsensical’ and ‘wrong’**
- **‘Agency neglected or ignored a succession of opportunities’ to act**

An investigation undertaken by the Ombudsman has identified the agency formerly known as Families SA, now the Department for Child Protection, erred by failing to communicate with Steven Egberts and Janet Wells in respect of concerns about the care and protection of their late grandchildren.

The children (identified as Child A and Child B), and their mother, were murdered by the mother’s domestic partner in May 2016 in the family home near Hillier. The children were survived by an elder sibling (identified as Child C), who at the time of the murders was in the care of the paternal grandparents, Mr Egberts and his partner Ms Wells.

Recognising the likelihood of a coronial inquest into the three deaths, the scope of the Ombudsman’s investigation was limited to Families SA’s alleged failure to communicate with the paternal grandparents about the children’s welfare in the years preceding the murders.

The Ombudsman’s investigation did not consider in detail the question of the agency’s wider response to the notifications concerning the mother’s household.

The investigation established that Families SA received its first notification concerning the family in August 2008 and continued to receive notifications concerning the care and protection of the two youngest children until the time of the murders. These notifications primarily concerned allegations of substance abuse, excessive physical discipline and neglect within the family home. The investigation established that there were no notifications raising specific concerns about the perpetrator of the murders.

The investigation established that several notifications received by Families SA were “screened out” by the agency on the basis that the threshold for a child protection response had not been met. Other notifications were “screened in”, meaning that a child protection response was deemed warranted, and then closed without action due to resource constraints.

This included a notification made by the paternal grandmother. The circumstances of that notification, which caused the paternal grandparents to remove the eldest sibling from the care of the mother, eventually led to the commencement of family law proceedings concerning the care of the three children. The investigation established that Families SA did

not inform the grandparents of its decision to take no action in respect of that notification and declined other opportunities to meaningfully intervene in the family law proceedings.

The Ombudsman observed that, partly owing to the lack of a prompt and robust child protection response to the notification made by the grandparents, the family situation then proceeded 'to spiral out of control'.

The investigation established that Families SA investigated just one of 11 notifications that were made about the mother's household following the notification made by the grandparents. The Ombudsman established that that investigation commenced less than three weeks before they were tragically murdered.

The Ombudsman observed that, although there was ample basis to conclude that they were a significant protective factor in the lives of the children, Families SA declined to notify the paternal grandparents of the concerns regarding the mother's household.

The Ombudsman observed that:

- Families SA neglected or ignored a succession of opportunities to meaningfully assess the risk to which the children were being exposed
- information held by Families SA suggested that the children were at serious risk of harm while they remained in the care of the mother and that the family's situation was steadily deteriorating
- Families SA could reasonably have concluded that, absent a meaningful child protection response, further intervention by the paternal grandparents offered the best prospects for protecting the children.

The Ombudsman observed that although the Cabinet-endorsed Information Sharing Guidelines for Promoting Safety and Wellbeing would have provided sufficient basis for the sharing of information between the agency and the grandparents, at the time of the murders Families SA had limited its implementation of this instrument.

The Ombudsman criticised Families SA's approach to the question of information sharing, which the Ombudsman observed 'prioritised considerations of privacy and confidentiality over the safety and wellbeing of the children.'

The Ombudsman remarked:

'[I]t is ... nonsensical to interpret the agency's duty of confidentiality to preclude the sharing of information with a child's extended family where necessary to protect the child from serious harm. Here, again, the paramount consideration of the child's best interests must prevail'.

The Ombudsman concluded that Families SA should have communicated with the paternal grandparents in respect of the notifications it received concerning the welfare of the two children and that its failure to do so was wrong for the purposes of the Ombudsman Act.

In reaching this conclusion, the Ombudsman observed:

'It was wrong because well-meaning individuals, who recognised the risk to which the children were exposed, acted as the law said they should and then largely saw their concerns fall on deaf ears. And because the agency that was primarily responsible for ensuring the safety and

welfare of the children, out of inertia or complacency or misplaced priorities, elected to do nothing rather than something.

It was wrong because (the children) are gone and those remaining have lost all faith in the system that was set up to protect them’.

The Ombudsman made three recommendations:

1. That the Information Sharing Guidelines for Promoting Safety and Wellbeing be incorporated into South Australian law
2. That the *Children and Young People (Safety) Act 2017* otherwise be amended to authorise the disclosure of information where necessary to prevent a serious risk to the health and safety of a person; and
3. That in the interim, the Chief Executive of the Department for Child Protection issue a standing authorisation to permit the disclosure of information by agency practitioners under the Information Sharing Guidelines.

The Department for Child Protection has undertaken to implement recommendations two and three. The Ombudsman is communicating with the Premier in respect of the first recommendation.

For media enquiries, please contact Ombudsman SA on (08) 8226 8699. The Ombudsman’s report is available on the Ombudsman SA website at [www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au).