

STATEMENT ON INVESTIGATION

Published pursuant to section 26(3) of *Ombudsman Act 1972*

6 May 2019

Outcome of Ombudsman investigation into the actions of Families SA / the Department for Child Protection – alleged wrongful case closure

The Ombudsman has concluded an investigation concerning the actions of the former Families SA and the current Department for Child Protection (collectively, **the agency**) concerning the agency's investigation of allegations of sexual abuse in relation to a family, which resulted in a decision to close the case.

The agency commenced an investigation and assessment process in response to allegations of historical sexual abuse of a child from a previous marriage of one of the parents of the family. The agency's investigation concerned the risk of sexual abuse to the children living in the current family arrangement.

As part of the investigation and assessment process, the agency undertook a Safety Assessment and a Risk Assessment. The Safety Assessment was undertaken in order to determine whether the children were safe, conditionally safe or unsafe and whether the agency was required to take action. The Risk Assessment was undertaken in order to identify the likelihood of the children living in the current family arrangement being maltreated in the future and whether any support services may be appropriate for the family.

In order to undertake Safety Assessments and Risk Assessments, the agency utilises a Structured Decision Making Safety Assessment Tool in conjunction with a Procedure Manual (**the SDM**).

In this investigation, the Ombudsman noted that:

- in relation to the family's Safety Assessment:
 - only one threat was identified, being the allegations of historical sexual abuse, and the children in the current family arrangement were assessed as being conditionally safe
 - however, the Safety Assessment was undertaken by the agency at a later stage of the investigation and assessment process when it was required to be undertaken at the commencement of the process
- in relation to the family's Risk Assessment:
 - it appears the Risk Assessment was undertaken on the basis that the historical allegations could not be dismissed rather than because abuse had been substantiated

- an Initial Risk Assessment was undertaken and a risk outcome level of Very High was recorded. In the family's case, the Very High risk outcome could be attributable to historical factors.
- the SDM provided that cases may be closed in particular circumstances however, Very High risk cases were not to be closed. Despite this, the family's case was closed by the department using a 'discretionary override'
- the agency considered that the SDM allowed 'High Risk' cases to be closed when a risk level was driven solely by historical factors and there were no other risk-related problems. However, the Ombudsman noted that instead the SDM stated that a discretionary override may only be used to increase a risk level in an Initial Risk Assessment and not to decrease a risk level and, in any case, Very High risk cases could not be closed.

Outcome

The Ombudsman formed the view that, although some steps of the agency's investigation process appeared to have been in accordance with the relevant policies and procedures, the agency's investigation was ultimately undertaken and closed in a manner that was wrong within the meaning of the *Ombudsman Act 1972*, for the following reasons:

- the Safety Assessment was undertaken at a later stage of the investigation process when it should have been undertaken at the commencement of the process
- the Initial Risk Assessment of the family resulted in a Very High risk outcome but a discretionary override was used to close the case despite the SDM providing that Very High risk cases could not be closed and a discretionary override could not be used to lower a risk level score.

To remedy the error, the Ombudsman recommended that the agency reopen the family's case in order to undertake a Risk Reassessment of the family in accordance with the current SDM. The Ombudsman also recommended that the agency review all Risk Assessments closed by use of a discretionary override since the release of the *Life They Deserve: Child Protection Systems Royal Commission Report* to determine whether a systemic issue has existed with respect to the closure of Very High Risk cases.

The agency has accepted the Ombudsman's views and recommendations.