

28 September 2017

Dear Sir/ Madam

Submission: Law Council of Australia Justice Project, Consultation Paper August 2017

The Centre for Excellence in Family Welfare ('the Centre') is the peak body for child and family services in Victoria. For over 100 years we have advocated for the rights of children and young people to be heard, to be safe, to access education and to remain connected to family, community and culture. We represent over 150 community service organisations, students and individuals throughout Victoria working across the continuum of child and family services, from prevention and early intervention to the provision of out-of-home care.

The Centre supports the work of the Law Council of Australia in undertaking the Justice Project. We welcome the fact that the needs of our most vulnerable children and families are being recognised in terms of their access to justice.

The Centre is particularly concerned about the over representation of Aboriginal and Torres Strait Islander children, and children living in out-of-home care, in the juvenile justice system. The Centre supports the work of the Law Council in specifically recognising the challenges facing these children and young people.

We would also like to draw your attention to another highly vulnerable group of young people: those leaving state care.

Under current policy in Victoria, young people in care are expected to transition to independence when they turn 18 years of age. They lose much of the supports previously available to them at a time in their lives when the risk of offending is at its highest. Though some young people in care may be ready to transition into independent living by the age of 18, many are not developmentally ready to live independently with limited resources and supports.¹ A 2006 study estimated that 72 percent of care leavers in Australia were involved in the youth or adult justice systems.² Premature transition out of care without clear or adequate planning can lead to offending behaviour and involvement in youth justice.³

¹ Cusick, G. et. al. 2010, *Crime during Transition to Adulthood: How youth fare as they leave out of home care*, Washington DC: National Institute of Justice.

² Morgan Disney & Associates, & Applied Economics 2006, *Transition from Care: Avoidable Costs to Governments of Alternative Pathways of Young People Exiting the formal child protection care system in Australia*, Volume 1: Summary Report.

³ Mendes, P., Snow, P., & Baidawi, S. 2012, *Young people transitioning from Out-of-Home Care: Strengthening support services for dual clients of child protection and youth justice*. Melbourne: Monash University.

One survey of 60 care leavers in Victoria found that nearly half the Victorian care leavers interviewed had had some type of involvement with the police or justice system, and 12 percent had spent time in detention in the year after leaving care.⁴

The National Out-of-Home Care Standards introduced in December 2010 require that all young people have a transition care plan commencing at 15 years of age. The plan should outline proposed assistance with housing, health, education and training, employment and income support.⁵ However, there is no specific reference to the availability of support in those cases where the young person is involved with youth justice during their transition from care.

Along with clear and comprehensive planning, linkages with community and support services are important to a successful transition.⁶ Connection to community can be used as a tool for addressing trauma and for preventing or addressing offending behaviour.⁷ Attachment and commitment to family, community or education can support the transition to adulthood and potentially discourage offending behaviour.⁸

Recent research and international examples show that poor educational, housing and health outcomes experienced by young people who have been in state care can be significantly reduced if the option is provided to remain in care until at least the age of 21 years.⁹ A successful and sustained transition to independent living would have significant flow on effects for the numbers of children leaving care who end up in the youth justice system.

The Centre has been focusing its efforts on improving educational outcomes for young people in, and transitioning from, out of home care with the *Raising Expectations* project. The Centre, Federation University Australia and La Trobe University are currently collaborating with Anglicare and MacKillop Family Services on the project which aims to improve educational outcomes for young people in, and leaving, care. In Victoria, around 8000 children and young people live in out of home care, with around one-in-twelve being Aboriginal children.¹⁰ Young people living in out of home care often experience trauma, instability and disruption, affecting their ability to learn.¹¹ This means they are usually behind their peers academically and are far less likely to complete secondary school or attend university. The *Raising Expectations* project recognises the particular issues and challenges faced by care leavers in going on to and completing higher and tertiary education. It seeks to lift the

⁴ Raman, S. Inder, B. & Forbes, C. 2005, *Investing for Success: The Economics of Supporting Young People Leaving Care*, Monograph 5, Melbourne: Centre for Excellence in Child and Family Welfare.

⁵ FaHCSIA, 2011, *An Outline of National Standards for Out-of-Home-Care*, Canberra: Commonwealth Government.

⁶ CREATE Foundation 2010, *What's the Answer? Young people's solutions for improving transitioning to independence from out of home care*.

⁷ Mendes, P., Baidawi, S., & Snow, P. 2014, 'Young people transitioning from out of home care in Victoria: Strengthening support services for dual clients of child protection and youth justice', *Australian Social Work*, Vol. 67, Issue 1.

⁸ Cusick, et. al. 2010.

⁹ Anglicare Victoria, 2016, *Raising Our Children: Guiding young Victorian in care into adulthood*, Deloitte Access Economics for Anglicare Victoria.

¹⁰ *Roadmap for reform: Strong families, safe children*, 2016, Melbourne: Department of Health and Human Services.

¹¹ VAGO, 2015, *Residential care services for children*, Melbourne: Victorian Auditor General's Office.

educational aspirations and achievements of young people leaving care and strengthening the available supports and services to enable success in higher education.

In 2016, Victoria Legal Aid (VLA) undertook a review of its child protection service and prepared a consultation and options paper *Child Protection Aid Services Review Consultation and Options Paper October 2016*. The Centre consulted with member organisations and prepared a written response that advocated for the following provision of legal services for children and young people:

- All legal services should be delivered in line with the Best Interest principles embedded in the *Children, Youth and Families Act 2005*, irrespective of the age of the child
- All representation of children should be conducted by the VLA
- Within the context of the Best Interest principles, local community based services should continue to play the key role in early, positive and supportive intervention for children and families to prevent unwarranted involvement in the legal system
- All efforts should be made to minimise 'legalising' of processes and to reduce court-centric service models
- Consistent legal representation across both family and criminal divisions is critical
- Workforce development and training along with strengthened and monitored practice standards must be a high priority
- Meaningful re-imagining of child protection legal services for Aboriginal and Torres Strait Islander children and families cannot be addressed as part of the proposed options but require a specific and separate review and response.

The Centre's written submission to the VLA paper is attached for your information.

The Centre applauds the work of the Law Council in the Justice Project and supports outcomes that will ensure the communities most vulnerable have access to justice.

Please do not hesitate to contact me should you wish to discuss any aspect of our submission on (03) 9614 1577.

Yours Sincerely



Deb Tsorbaris
Chief Executive Officer