

## **Submission of Youth Law Australia to the consultation on Tasmania's first Child and Youth Wellbeing Strategy**

### **Acknowledgment of Country**

Youth Law Australia acknowledges the Traditional Owners and Elders of the Bedegal People of the Eora Nation as the custodians of the land on which we work. Youth Law Australia also acknowledges the palawa people of lutruwita as the original and ongoing custodians of the land now known as Tasmania. We pay our respects to their Elders past, present and emerging, and commit ourselves to the ongoing journey of Reconciliation.

### **Introduction**

1. We welcome the commitment of the Tasmanian Government to the introduction of a long-term, whole of government Child and Youth Wellbeing Strategy, and we are so pleased to have the opportunity to contribute a submission to this important consultation. We commend the Tasmanian Commissioner for Children and Young People for her report on Investing in the Wellbeing of Tasmania's Children and Young People, which recommended the development of this strategy.
2. We also welcome the recent announcement of a Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings.
3. This submission addresses the intersection between wellbeing strategies and the human rights of children and young people. We discuss access to justice as a core human right, as well as an essential part of ensuring that other rights of children and young people are protected and promoted. We also address the importance of free legal advice, information, advocacy and assistance for children and young people, particularly those who have been sexually abused.
4. We conclude by suggesting that the Tasmanian Government ensure as part of its wellbeing strategy that these services are available to all children and young people in Tasmania, and that specialist, free legal services be made available for children and young people who are considering engaging with the Commission of Inquiry.

### **About Youth Law Australia (YLA)**

5. Youth Law Australia (YLA) is an accredited national community legal service that is dedicated to helping young people understand their legal rights, and find solutions to their legal problems. Any child or young person (or an adult representing them) can ask us about any legal problem at any time and receive free and confidential legal advice and help.
6. We are dedicated to addressing the human rights abuses of children and young people in Australia, and we monitor and advocate for their rights and best interests.

## Human rights of children and young people

7. Children's rights should be a cornerstone of any strategy directed at improving the wellbeing of children and young people. Indeed, as the Commissioner for Children and Young People noted in her report, 'The implementation of the Convention is a mechanism through which wellbeing can be achieved'.<sup>1</sup>
8. The Discussion Paper acknowledges the rights of children and young people, and notes that the United Nations Convention on the Rights of the Child, to which Australia is a signatory, has provided the framework for understanding child wellbeing.<sup>2</sup> However, there are very few other explicit references to the rights of children and young people in the Discussion Paper.
9. While wellbeing strategies seek to measure the wellbeing of children overall, they do not guarantee that an individual child will not have very poor outcomes. Nor do they provide a remedy when they do. Child rights bring a focus on minimum standards and the justification for a violation of a person's rights. They provide a mechanism for holding duty-bearers accountable for individual violations. This may be contrasted with the cost-benefit analysis inherent in a wellbeing strategy.<sup>3</sup> Together, strengthened child rights and a child wellbeing strategy can help to ensure the best outcomes for children and young people across Tasmania.
10. Scotland has recognised that children's rights and child wellbeing, while being discrete concepts, are 'intrinsically linked'. It uses Child Rights and Wellbeing Impact Assessments to assess policy and legislation with reference both to child rights, and child wellbeing.<sup>4</sup> However, it has recently gone further, and passed a bill which incorporates the United Nations Convention on the Rights of the Child into Scottish law.<sup>5</sup>
11. This new legislation goes well beyond the reporting measures that have been in place in Scotland, referred to in the Discussion Paper,<sup>6</sup> and which have been described elsewhere as 'toothless'.<sup>7</sup> The Children and Young People's Commissioner of Scotland described this legislation as 'the most important thing we can do to protect and promote the rights of children and young people', and said 'There's no question this will

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<sup>1</sup> Commissioner for Children and Young People, Investing in the Wellbeing of Tasmania's Children and Young People, February 2020, page 10.

<sup>2</sup> Tasmanian Government, Tasmania's Child and Youth Wellbeing Strategy, Discussion Paper, January 2021, page 10.

<sup>3</sup> Tisdall, EKM, 'Children's rights and children's wellbeing: Equivalent policy concepts?' (2015), *Journal of Social Policy*, vol 44, no 4, pp 807-823 at 13. For commentary on child rights and child wellbeing, see also Tisdall, EKM, 'Children's Wellbeing and Children's Rights in Tension?' (2015) *International Journal of Children's Rights* 23(4), 769-789.

<sup>4</sup> See Introducing Child Rights and Wellbeing Impact Assessment, Scottish Government, February 2019: <https://www.zerotolerance.org.uk/resources/Introducing-Child-Rights-and-Wellbeing-Impact-Assessments.pdf>.

<sup>5</sup> United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill; <https://www.gov.scot/news/landmark-for-childrens-rights/>.

<sup>6</sup> Tasmanian Government, Tasmania's Child and Youth Wellbeing Strategy, Discussion Paper, January 2021, page 60.

<sup>7</sup> Tisdall, EKM, 'Children's Wellbeing and Children's Rights in Tension?' (2015) *International Journal of Children's Rights* 23(4), 769-789. See *Children and Young People (Scotland) Act 2014*, Part 1.

improve life for all children, but those who will feel the biggest impact are children whose rights are most at risk.<sup>8</sup>

12. We encourage the Tasmanian Government to consider mechanisms or strategies to give greater prominence and weight to children's rights both as part of the wellbeing strategy, and alongside it.

### **Access to justice for children and young people**

13. Access to justice has been described as 'a fundamental right in itself and an essential prerequisite for the protection and promotion of all other human rights'.<sup>9</sup> In 2003, the United Nations Committee on the Rights of the Child issued a general comment, in which it stated:

*For rights to have meaning, effective remedies must be available to redress violations. This requirement is implicit in the Convention [United Nations Convention on the Rights of the Child] and consistently referred to in the other six major international human rights treaties. Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So states need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives. These should include the provision of child-friendly information, advice, advocacy including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance. Where rights are found to have been breached, there should be appropriate reparation, including compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation and reintegration...<sup>10</sup>*

14. In a 2013 report on access to justice for children, the United Nations High Commissioner for Human Rights observed:
  - a. The complexity of justice systems makes them difficult to understand for children. Children are often unaware of their rights and the existence of services, lacking information about where to go and whom to call to benefit from advice and assistance.<sup>11</sup>
  - b. As children are usually at a disadvantage in engaging with the legal system, whether as a result of inexperience or lack of resources to secure advice and representation, they need access to free or subsidised legal and other appropriate assistance to effectively engage with the legal system. Without such assistance, children will largely be unable to access complex legal systems that are generally designed for adults.<sup>12</sup>

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<sup>8</sup> <https://cypcs.org.uk/news-and-stories/uncrc-incorporation-makes-government-accountable-scotland/>.

<sup>9</sup> United Nations General Assembly, 'Access to justice for children', Report of the United Nations High Commissioner for Human Rights, 16 December 2013 at para 3.

<sup>10</sup> United Nations Committee on the Rights of the Child, General comment no. 5 (2003): General measures of implementation of the Convention on the Rights of the Child.

<sup>11</sup> United Nations General Assembly, 'Access to justice for children', Report of the United Nations High Commissioner for Human Rights, 16 December 2013 at para 14.

<sup>12</sup> United Nations General Assembly, 'Access to justice for children', Report of the United Nations High Commissioner for Human Rights, 16 December 2013 at paras 40 and 58.

15. Our experience in providing free legal advice, assistance and information to children and young people in Australia over the last 27 years is consistent with these observations. Free and accessible legal assistance for children and young people can:
- a. help young people make an informed decision about an issue in their lives
  - b. reduce the need for more intensive and expensive intervention later on
  - c. help young people realise the law can work in their interests
  - d. help a young person advocate for something that would benefit them (or advocate for that on their behalf)
  - e. help connect a young person with other services that may be able to help them.<sup>13</sup>
16. In our experience, young people from disadvantaged backgrounds can experience multiple legal issues that are closely related with other problems in their lives. While legal assistance won't necessarily solve all of a young person's issues, it can be a good starting point to remove some of the barriers to addressing other issues.
17. At the end of this submission we have included a case study on the report of the Mid North Coast Community Legal Centre's LevelUP Project, which provides a practical illustration of these issues.

#### **Importance of advocacy, advice and information for children and young people**

18. Advocacy is about enabling a child or young person to speak for themselves, or speaking for them. It can be individual, or systemic. Individual advocacy is about representing the views of an individual for changes to be made to benefit that individual. Systemic advocacy involves representing the views of an individual or a group of individuals to try to bring about systemic or structural changes.<sup>14</sup> Legal advocacy, or advocacy by a lawyer, is just one form of individual advocacy.
19. As the previous passages indicate, legal and non-legal advocacy has, along with information, advice and representation, been recognised by the United Nations as being central to ensuring the effective implementation of children's rights and contributing to their access to justice.
20. Within Australia, advocacy has been recognised as an important part of ensuring that the voices of vulnerable people and groups in society can be heard, and an important guard against abuse, neglect and other rights violations. For example, the Australian Government funds the National Aged Care Advocacy Program and the National Disability Advocacy Program. The Royal Commission into Aged Care Quality and Safety recognised in its final report the 'essential role' of advocacy services in safeguarding older people.<sup>15</sup> The Commissioners recommended an immediate increase in funding, and a consultation

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<sup>13</sup> See also Law and Justice Foundation of NSW, 'Law informed: The value of telephone legal information services to clients', December 2020; Law & Justice Foundation of NSW, 'Is early intervention timely?', Justice Issues paper 20, August 2015.

<sup>14</sup> See Advocacy for Children in Tasmania Committee (ACTC), Report and Recommendations, Dr Maria Harries, 8 November 2013 at page 11.

<sup>15</sup> Royal Commission into Aged Care Quality and Safety, Final Report: Care, Dignity and Respect, Volume 3B The new System, page 547.

to determine the extent of unmet need for prompt advocacy services by people seeking or receiving aged care services.<sup>16</sup>

21. The Tasmanian Government has also recognised the importance of advocacy for children and young people. The Commissioner for Children and Young People has the functions of systemic advocacy, as well as individual or group advocacy for young people who are on remand or detained within Ashley Youth Detention Centre. The Child Advocate (a non-statutory, government role) provides individual advocacy for children and young people who are in out of home care. The Discussion Paper refers to other advocacy services for children and young people in relation to housing, and there are other services in Tasmania that provide advocacy to specific groups.
22. We acknowledge that the Discussion Paper does not attempt to provide a comprehensive or exhaustive picture of all programs available for Tasmanian children and young people, and instead maps some Tasmanian Government initiatives against the Framework domains.<sup>17</sup> However, we encourage the Tasmanian Government to specifically consider the need to ensure children and young people across Tasmania have access to independent individual advocacy services, particularly those who are especially vulnerable or disadvantaged.
23. The 2013 report of the Advocacy for Children in Tasmania Committee noted that while there is evidence of some high-quality individual advocacy for children and young people in Tasmania, 'Advocacy services are seen to be patchy, subject to significant geographical variability and unintegrated and, at worst, confusing to young people and their families as well as many professionals'.<sup>18</sup>
24. Individual advocacy for children and young people can be undertaken informally by a range of people who work with children and young people, including in government and non-government services.<sup>19</sup> Indeed everyone who works with children has a role to play in advocating for their interests. However, there is a need for independent advocacy services that can provide assistance free from any conflict of interest.
25. Those who work for organisations that provide services to children and young people may not be able to be truly independent, particularly where a young person's concerns relate to that organisation. The Royal Commission into Institutional Responses to Child Sexual Abuse, for example, found that an organisation's concern for its reputation, can be a cause in failing to respond appropriately to concerns of abuse.<sup>20</sup> Other potential conflicts include concern about funding implications or employment if concerns are raised. As the Advocacy for Children in Tasmania Committee recognised, for those who

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<sup>16</sup> Royal Commission into Aged Care Quality and Safety, Final Report: Care, Dignity and Respect, Volume 3B The new System, recommendation 106.

<sup>17</sup> Tasmanian Government, Tasmania's Child and Youth Wellbeing Strategy, Discussion Paper, January 2021, page 24.

<sup>18</sup> See Advocacy for Children in Tasmania Committee (ACTC), Report and Recommendations, Dr Maria Harries, 8 November 2013 at page 28.

<sup>19</sup> See Advocacy for Children in Tasmania Committee (ACTC), Report and Recommendations, Dr Maria Harries, 8 November 2013 at page 28.

<sup>20</sup> See Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Improving institutional responding and reporting, Volume 7, page 64.

work within government, concern about a lack of strong whistleblower protections can also have a ‘gagging’ effect.<sup>21</sup>

26. Lawyers have strict professional obligations to ensure that they do not act with a conflict of interest, and can be subject to disciplinary proceedings for breaching these rules.<sup>22</sup> While lawyers are not, and should not be the only source of advocacy services, free and accessible legal services for children are an important complement to other advocacy services.

### **Responding to sexual abuse of children and young people**

27. Access to free legal advocacy, information, assistance and representation is a core aspect of ensuring children and young people’s access to justice. We consider that it is also a key aspect of early reporting of and effective responses to abuse and violence against children and young people, and in particular sexual abuse.

28. The first paragraph of Article 19 of the United Nations Convention on the Rights of the Child states:

*States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*

29. This is reflected to some degree in Tasmania’s Child and Youth Wellbeing Framework which recognises that ‘being loved and safe’ includes ‘feeling safe, secure and protected at home and in the community’, and ‘having a voice and the ability to raise concerns and have these concerns addressed’.<sup>23</sup>

30. It is difficult to say how prevalent child abuse and neglect is in Australia, as Australia has not previously had a methodologically rigorous, nationwide study on the prevalence or incidence of child abuse and neglect.<sup>24</sup> Indeed, this was one of the first recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

31. However, estimates of child sexual abuse are alarming, suggesting between 14 and 26 percent of girls, and between 5 and 12 per cent of boys experience non-penetrative abuse before the age of 16.<sup>25</sup> It is likely that the real figure is higher, as we know that

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<sup>21</sup> See Advocacy for Children in Tasmania Committee (ACTC), Report and Recommendations, Dr Maria Harries, 8 November 2013 at page 28.

<sup>22</sup> See Legal Profession (Solicitors’ Conduct) Rules 2020 (Tas), rules 14-16.

<sup>23</sup> See Tasmanian Government, Tasmania’s Child and Youth Wellbeing Strategy, Discussion Paper, January 2021, page 25.

<sup>24</sup> See Australian Institute of Family Studies, ‘The prevalence of child abuse and neglect’, CFCA Resource Sheet, April 2017; Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Volume 2, Nature and Cause, from page 76 (recommendation 2.1). The first national study of child abuse and neglect in Australia, including prevalence, has since been announced. See: <https://research.qut.edu.au/child-adversity/projects/the-first-national-study-of-child-abuse-and-neglect-in-australia-prevalence-health-outcomes-and-burden-of-disease/>.

<sup>25</sup> See Australian Institute of Family Studies, ‘The prevalence of child abuse and neglect’, CFCA Resource Sheet, April 2017; Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Volume 2, Nature and Cause, page 69.

child sexual abuse is under-reported, and that there is often a delay in reporting.<sup>26</sup> Recent developments including the response to a recent petition created by a young female in Sydney calling for earlier consent in sex education classes to be introduced, which reportedly attracted over 14,000 signatures and over 2,000 testimonies – some from girls as young as 13<sup>27</sup> – are of immense concern. They suggest Australia has a long way to go to ensure children and young people are protected from sexual abuse.

32. The difficulties associated with disclosure for victims of child sexual abuse, in particular, are well documented.<sup>28</sup> Research indicates that only around one third of adults who were sexually abused as children disclosed that abuse during childhood.<sup>29</sup> The Royal Commission into Institutional Responses to Child Sexual Abuse found that on average, survivors who told the Commission they had disclosed as adults, took over 31 years to disclose that abuse. It noted that these figures are consistent with research.<sup>30</sup>
33. The benefits of disclosing abuse early and safely are clear. It can be the beginning of a process of recovery from the trauma of abuse, including by allowing affected children to receive support and counselling, and it is a critical part of protecting the child from further abuse, as well as protecting other children.<sup>31</sup>
34. The Royal Commission into Institutional Responses to Child Sexual Abuse stated that one of the best ways to support children and young people to disclose abuse is to make sure safe adults are available and accessible.<sup>32</sup> This is supported by research.<sup>33</sup>
35. Unfortunately, not all children and young people have parents or guardians who they feel comfortable disclosing to. Sadly, in some cases a parent or guardian may be the cause of abuse. For example, recent studies have highlighted the frequency with which a family member, particularly a biological or adoptive/step father, are responsible for online sexual exploitation of children and young people.<sup>34</sup> This highlights the importance that children and young people can access other sources of safe, trustworthy and confidential advice and assistance.

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<sup>26</sup> See for example Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Volume 2, Nature and Cause, from page 67.

<sup>27</sup> As reported on Student Edge, 'Sydney Woman's Petition Reveals Over 2,000 Alleged Sexual Assaults in Australian Schools, 23 February 2021: <https://studentedge.org/article/sydney-womans-petition-reveals-over-2000-alleged-sexual-assaults-in-australian-schools>.

<sup>28</sup> See for example, Royal Commission into Institutional Responses to Child Sexual Abuse, Volume 4, Final Report, Identifying and disclosing child sexual abuse, pages 33-36.

<sup>29</sup> See Royal Commission into Institutional Responses to Child Sexual Abuse, Volume 4, Final Report, Identifying and disclosing child sexual abuse, Volume 4, pages 33-36.

<sup>30</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, Volume 4, Final Report, Identifying and disclosing child sexual abuse, pages 33-34.

<sup>31</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, Volume 4, Final Report, Identifying and disclosing child sexual abuse, pages 26-27.

<sup>32</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, Volume 4, Final Report, Identifying and disclosing child sexual abuse, from page 158.

<sup>33</sup> See M Ungar, LM Tutty, S McConnell, K Barter & J Fairholm, 'What Canadian youth tell us about disclosing abuse', *Child Abuse & Neglect*, vol 33, no 10, 2009, p 707; M Ungar, K Barter, SM McConnell, LM Tutty & J Fairholm, 'Patterns of abuse disclosure among youth', *Qualitative Social Work*, vol 8, no 3, 2009, pp 341-56.

<sup>34</sup> See Michael Salter, 'New research shows parents are major producers of child sexual abuse material', 20 February 2021, *The Conversation*: <https://theconversation.com/new-research-shows-parents-are-major-producers-of-child-sexual-abuse-material-153722>.

36. In Tasmania, as in all other jurisdictions within Australia, mandatory reporting laws apply to certain people who work with children, including health practitioners, teachers, and others who provide welfare or child care services.<sup>35</sup> The mandatory reporting laws in Tasmania require these prescribed people to make a report to the child protection authorities if they suspect on reasonable grounds that a child has been or is being abused or neglected, or is an affected child within the meaning of the Family Violence Act 2004; or that there is a reasonable likelihood of a child being killed or abused or neglected by a person with whom the child resides.<sup>36</sup>
37. Mandatory reporting laws are important for all the reasons the Royal Commission into Institutional Responses to Child Sexual Abuse, among other inquiries, have identified.<sup>37</sup> In our experience, many children and young people are well aware of these laws, even if they don't necessarily understand how they will or may operate in an individual case. They also take them into account when deciding whether to disclose violence or abuse, and if so to whom.
38. One young person told us that they were sexually abused by a childhood friend for a really long time, and only recently came out about it. The young person told us that the childhood friend's family were attempting to sue them for defamation. The young person told us that their parents were not supporting them, and told us, 'I can't speak to anybody else about it because I don't want them to report it'. Another young person told us they had accidentally accessed child pornography, and wanted help, but were very scared that if they told anyone about it they would get in trouble from mandatory reporting.
39. Similar observations were reported by the ACT's Children and Young People Commissioner, who stated that 'Young people do whatever it takes to keep family violence a secret. They know most people won't understand and mandatory reporting can do more harm.'<sup>38</sup>
40. The importance of easy-to-access anonymous helplines to help children and young people disclose abuse, and obtain assistance, counselling and referrals, has been well-documented overseas.<sup>39</sup>
41. Lawyers are exempt from mandatory reporting laws in most jurisdictions, including Tasmania. They owe clients a strict duty of confidentiality, and can only disclose confidential information in certain circumstances, for example for the sole purpose of preventing imminent serious physical harm to the client or another person.<sup>40</sup> Accessible, free and confidential legal services can provide a safe place for young people to disclose abuse, and receive advice, information and referrals to assist them to make an informed

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<sup>35</sup> Children, Young Persons and Their Families Act 1997 (Tas), s 14.

<sup>36</sup> Children, Young Persons and Their Families Act 1997 (Tas), s 14.

<sup>37</sup> See Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Volume 7, Improving institutional responding and reporting, from page 38.

<sup>38</sup> ACT Children and Young People Commissioner, 'Now you have heard us – what will you do? Young people's experiences of domestic and family violence: [Booklet-young-peoples-experiences-of-family-violence.pdf](https://www.act.gov.au/booklet-young-peoples-experiences-of-family-violence.pdf) ([act.gov.au](https://www.act.gov.au))

<sup>39</sup> See Marieke Noz, 'Child helplines as awareness-raising, referral and reporting mechanisms on sexual violence against children' in *Protecting children from sexual violence: a comprehensive approach*, Council of Europe pub, Strasbourg, 2010.

<sup>40</sup> Legal Profession (Solicitors' Conduct) Rules 2020 (Tas), Rule 13.

decision about to whom, when and how they may disclose that abuse going forward. The importance of this service cannot, in our view, be overstated.

### **Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings**

42. We welcome the recent establishment of the Commission of Inquiry, and in particular the focus of the terms of reference on what the Tasmanian Government should do to better protect children against child sexual abuse in institutional contexts in the future.<sup>41</sup>
43. We submit that in order to fulfil the terms of reference, the Commission should have regard, to the extent possible, the views of children and young people in Tasmania, including those who have experienced sexual abuse in institutional settings.
44. In our experience, it is critical that people who have relevant experience can seek independent and confidential legal advice before speaking with such a Commission, as well as legal assistance and support throughout any engagement with the Commission. Legal services should have expertise in dealing with children and young people, and in sexual abuse matters.
45. The Australian Government has recognised the importance of these services in comparable inquiries; funding Knowmore to assist people engaging with the Royal Commission into Institutional Responses to Child Sexual Abuse, and the Your Story Disability Legal Support Program for people sharing their story with the Disability Royal Commission.

### **Conclusion**

46. In conclusion, we encourage the Tasmanian Government to:
  - a. consider and implement mechanisms or strategies to give greater prominence and weight to children's rights both as part of the wellbeing strategy, and alongside it
  - b. recognise the importance of access to justice as part of the wellbeing strategy, including the need for all children and young people in Tasmania to have access to free and confidential legal advice, assistance and information and legal and non-legal advocacy services
  - c. ensure that children and young people who are considering engaging with the Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings have access to free, confidential and specialist legal assistance.

**19 March 2021**

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<sup>41</sup> Order Upon the *Commissions of Inquiry Act 1995*, terms of reference (i).

### **Case study – Report of the Mid North Coast Community Legal Centre’s LevelUP Project**

The report of the 2016 project LevelUP, run by the Mid North Coast Community Legal Centre of New South Wales and funded by the Law and Justice Foundation of NSW provides an example of the importance of free and accessible legal assistance and support.<sup>42</sup>

That project provided specialised legal advice, education and support to young people transitioning from out of home care to independence and adult legal responsibility in the Mid North Coast FACS region of NSW.

The LevelUP report observed that the relationship of a young client with the solicitor was of fundamental importance. It said: ‘clients began to initiate contact with the project solicitor for assistance with a wide range of legal and non-legal matters, demonstrating that they considered her to be a source of independent knowledge. The project solicitor was rightly seen as independent and bound by a duty of confidentiality and this provided an environment of safety for clients to seek help with non-legal matters as well as legal matters.’<sup>43</sup>

The report also noted that, despite engagement with NGOs in the Out of Home Care space (as well as the Department), they only tended to make referrals to the project where the client had complex needs and was disengaged from all services. The report stated that this could relate, among other things, to ‘apprehension about the implications of the project for them as service providers’. It noted with concern that clients of LevelUP ‘disclosed that their complaints and concerns against OOHc providers were rarely actioned and, as a result, they felt that it was not worth making a complaint’.<sup>44</sup>

The report stated that LevelUP clients ‘were often reluctant to engage with government services as they were viewed through the lens of previous interactions which, in most cases, clients felt had been negative. Clients lacked understanding about the independence of different agencies within Government.’<sup>45</sup>

Finally, the report observed: *Clients were advised about legal professional privilege at initial meetings. This aided in facilitating client engagement. Clients expressed they felt freer in the context of this privilege to disclose concerns without fear of reporting to child protection agencies. Explaining privilege may help a practitioner build trust with a client.*

*Clients also responded well to the principle of instructing a solicitor to act for them. Clients felt empowered by this dynamic and contrasted it to other workers in their lives who may be mandatory reporters and/or make decisions in their “best interests”. It is important to clarify this distinction for clients, so they understand the implications of the lawyer-client relationship to help them communicate without fear.*<sup>46</sup>

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<sup>42</sup> LevelUP: An innovative legal project to help young people in Out of Home Care, Mid North Coast Community Legal Centre.

<sup>43</sup> LevelUP: An innovative legal project to help young people in Out of Home Care, Mid North Coast Community Legal Centre, page 7.

<sup>44</sup> LevelUP: An innovative legal project to help young people in Out of Home Care, Mid North Coast Community Legal Centre, page 11.

<sup>45</sup> LevelUP: An innovative legal project to help young people in Out of Home Care, Mid North Coast Community Legal Centre, page 17.

<sup>46</sup> LevelUP: An innovative legal project to help young people in Out of Home Care, Mid North Coast Community Legal Centre, pages 17-18.