



7 December 2023

Submission of Youth Law Australia to the Youth Network of Tasmania's Discussion Paper: *Becoming an adult: the experience of young Tasmanians today*

Acknowledgment of Country

Youth Law Australia (YLA) acknowledges the Traditional Owners and Elders of the palawa people of lutruwita, the Bedegal People of the Eora Nation and all the other custodians of the land on which we work. We pay our respects to their Elders past, present and emerging, and commit ourselves to the ongoing journey of Reconciliation. Sovereignty has never been ceded. It always was and always will be, Aboriginal land.

Introduction

1. We welcome the work of the Youth Network of Tasmania (YNOT) on improving the experiences of young Tasmanians aged 18-25. We thank YNOT for the opportunity to make a submission to inform the development of a whole-of-government Action Plan that will focus on and address the needs of young people as they transition to adulthood.
2. In this submission, we have focussed on the intersections between legal problems and some of the challenges young people face in transitioning to independence, the legal needs of young people aged under 25, and access to justice and legal services for young people.
3. We have not sought to respond to all the questions posed in YNOT's Discussion Paper *Becoming an adult: the experience of young Tasmanian's today* (Discussion Paper). Rather, this submission focuses on the following questions which we consider most relevant to our work:
 - a. **Question 1:** What are some innovative ways that can support young adults to transition out of the family home into independent living?
 - b. **Question 5:** What would help smooth the transition from the youth and adolescent service system (up to age 18) to a service system designed for adults?
 - c. **Question 8:** How can services be better designed to acknowledge and meet the needs of young adults?
 - d. **Question 9:** How can young adults be better supported to navigate the adult service system?



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4. We have made seven recommendations in response to these questions, which we have set out at the end of this submission.

About Youth Law Australia (YLA)

5. YLA is an accredited, technology-enabled national community legal service that is dedicated to helping young people under the age of 25 years understand their legal rights and find solutions to their legal problems. YLA has a growing Tasmanian legal practice, with over **150 young Tasmanians** contacting us in the last financial year, a 25% increase from the year before. YLA also provides one of Tasmania's most accessed legal information websites, with over **12,000** total Tasmanian visitors in the last financial year. YLA does not currently receive funding from the Tasmanian Government.
6. In addition, YLA operates a **Student Legal Service** based in Hobart in conjunction with the Tasmanian University Student Association (TUSA) and the University of Tasmania (UTAS) Law School. The Student Legal Service provides free, generalist legal services to all UTAS students and supports the clinical legal education of students. Since November 2021, when this service started, the Student Legal Service has assisted over **150 young people** aged 18 to 25 years.

Access to justice for children and young people

7. YNOT has identified five key markers of independence for young people: moving out of home and living independently, moving into financial independence, moving from school into the workforce, moving into and accessing the adult service system, moving about and within their communities.
8. An awareness of legal rights can facilitate a young person's ability to navigate these transitions. Conversely, legal problems can impede these transitions, particularly where a young person has particular vulnerabilities, or does not have a supportive family. Internationally it has been recognised that access to justice is critical to ensure that other rights of children and young people are upheld, and that they can access remedies for breaches of their rights.¹
9. It is extremely difficult to identify the extent to which legal need among young people is being met or unmet, due to a lack of specific research in this area.² In particular, we are unaware of any recent general surveys of unmet legal need for young people in Tasmania. However, general estimates suggest that this cohort is likely to face significant legal needs.³
10. For these reasons, this submission focuses on addressing barriers to access to justice and improving the legal assistance which is available to young people.

Barriers to independent living

11. As noted in the Discussion Paper, young adults can often find themselves in precarious situations due to few or no stable housing options as a result of staying at home for longer and/or experiencing barriers to entry into the private housing market, financial insecurity as a result of the rising cost of living and an inadequate social security system, challenging relationships when transitioning to independent living and issues moving from school into higher education or the workforce for the first time.
12. In our experience, it is also apparent that young people face particular barriers to independent living due to the following factors:

¹ See for example Liefwaard, Ton 'Access to Justice for Children: Towards a Specific Research and Implementation Agenda' (2019) 17 International Journal of Children's Rights 195, 198.

² For examples of some assessments of unmet legal need, see the NSW Law and Justice Foundation Legal Australia-Wide (LAW) Survey 2012 and Balmer et al, 'Everyday Problems and Legal Needs', Victoria Law Foundation, 2023.

³ See NSW Law and Justice Foundation Legal Australia-Wide (LAW) Survey 2012.

- a. significant power imbalances when dealing with institutions or individuals such as landlords and employers;
 - b. living in rental properties, including subtenancy arrangements and share houses, or university accommodation which may be exempt from the protections of rental laws and/or be inadequate or inappropriate;
 - c. workforce casualisation, a general lack of secure work and workplace issues such as the underpayment of wages, discrimination and sexual harassment;
 - d. a lack of financial support for international students from governments and inadequate income support payments for domestic students; and
 - e. significant mental health issues, which can be caused by and/or exacerbated by the above issues.
13. Timely and age-sensitive legal assistance can help young people navigate some of these barriers and challenges.
14. For young people who are particularly disadvantaged because they are transitioning from the Out-of-Home Care (OOHC) system or who are involved in the youth justice system, there are additional barriers which arise due to experiences of trauma, distrust of government services, high rates of socioeconomic disadvantage, and a lack of accessible support services.
15. The above factors highlight the real need and benefit of having free and accessible legal services which take into account the particular barriers young people face and directly targets their legal needs.

Removing barriers arising from contact with the criminal justice system

Recommendation 1: Advocate for increasing the minimum age of criminal responsibility to 14 years and the minimum age of detention to 18 years.

16. The evidence is clear. The younger a child is when they first come into contact with the juvenile justice system, the higher the rate of recidivism and the greater the likelihood that the child will become entrenched in the adult criminal justice system.⁴
17. Locking up children does not work. Instead, it reduces their chances of being able to complete their education and find employment, which are key milestones of adulthood. It separates children from parents/carers, siblings and extended family, and it exposes them to association with older young people who may have more serious offending histories. It also has a disproportionate impact on Aboriginal and Torres Strait Islander children, children in OOHC, and children who have experienced socio-economic disadvantage.
18. As the Royal Commission into the Protection and Detention of Children in the Northern Territory observed:

*There are many considerations which ... establish that any apparent punishment and deterrent value of detention is far outweighed by its detrimental impacts, particularly for the minority group of pre-teens and young teenagers.*⁵

⁴ See for example Cunneen, C (2017) 'Arguments for Raising the Minimum Age of Criminal Responsibility, Research Report, Comparative Youth Penalty Project, University of New South Wales, Sydney', available at <http://cypp.unsw.edu.au/node/1461> and a 2016 report by Noetic Solutions for the Tasmanian Government Department of Health and Human Services, Custodial Youth Justice Options Paper which stated that the majority of young people in Tasmania reoffend within 6 to 12 months, and that the current custodial model does not effectively divert young people away from the custodial system.

⁵ Final report of the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, Volume 2B, Chapter 27, p. 419.

19. Raising the minimum age of criminal responsibility is consistent with international human rights law and the recommendations made by the United Nations' Committee on the Rights of the Child.⁶ It also has the potential to result in a new therapeutic approach to dealing with children and young people who engage in problematic behaviour, focused on their welfare. Such an approach has the potential to deliver benefits not only to young people and their families, but also to society more broadly as young people become adult members of our community.
20. We encourage this Action Plan to advocate for the increase in the minimum age of criminal responsibility to 14 years and the minimum age of detention to 18 years to address these structural barriers which prevent our most vulnerable young people from being able to experience the important moments and skills linked to adult independence.

Special assistance for children and young people transitioning from OOHC

21. Children who have spent time in OOHC face particular vulnerabilities, and are likely to face additional barriers to transitioning to independence. We recommend that YNOT give specific consideration to this group, to ensure that Tasmanian services and rights are best practice among other Australian states and territories, and internationally.

Recommendation 2: Advocate for the development of a tailored civil legal service for young people exiting OOHC.

22. LevelUP was a two-year project funded in 2016 to provide a tailored civil legal service for young people aged 15-24 years exiting OOHC. The project sought to specifically address the gap in legal services for young people transitioning from OOHC to adult legal responsibility as they turned 18 in the Mid North Coast region of New South Wales (NSW).
23. The program had 60 referrals, 75% of whom engaged with the project with an average age of 17, and each of whom had an estimated five to eight legal issues during the life of the program.
24. The report into this program found that it “highlighted the significant unmet legal need among young people who have had contact with the OOHC system”, and that the “mainstream legal service delivery model needs to be radically altered in meeting the needs of young people in OOHC to ensure they receive equitable access to justice”.⁷ Unfortunately, the project did not receive ongoing funding.
25. We note that such a project would align with and support the recommendations made in the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings Report* (COI Report), which the Tasmanian Government has agreed to implement.⁸
26. Recommendation 9.33 of the COI Report recommended establishing an independent Child Advocate, to be included in the Commission for Children and Young People, who would be responsible for an independent community visitor scheme and individual advocacy for children in OOHC.⁹ Recommendation 9.34 further recommended that the independent community visitor scheme should include funding for legal advocacy officers to assist children in OOHC with more complex concerns.¹⁰

⁶ Ibid.

⁷ Mid North Coast Community Legal Centre, 'LevelUP: An innovation legal project to help young people in Out of Home Care', January 2021, available at: [LevelUP-Final.pdf](#) (mnclegal.org.au).

⁸ *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse* (Report, August 2023), available at: [COI_Full-Report.pdf](#) ([commissionofinquiry.tas.gov.au](#)); Premier Jeremy Rockliff, 'Ministerial statement – Commission of Inquiry', 10 August 2023, available at: [Ministerial statement - Commission of Inquiry - Premier of Tasmania](#).

⁹ Ibid, p. 237.

¹⁰ Ibid, pp. 237-238.

27. As children and young people in OOHC prepare to transition into adulthood, they will likely continue to experience complex legal issues and there will be a need for ongoing independent advocacy. In light of this, we recommend that this Action Plan advocate for the development of a tailored civil legal service for young people exiting OOHC care in Tasmania, similar to the program successfully developed and delivered as part of the LevelUP pilot project.

Recommendation 3: Advocate for greater funding for the After Care Support Program for young people and their carers.

28. In Tasmania, young people transitioning from OOHC are eligible for a Transition to Independent Living Allowance provided by the Australian Government's Department of Social Services. This is a one-off payment of up to \$1,500 for living expenses, such as furniture, appliances, counselling, medical expenses or education.
29. Additionally, the Department of Education, Children and Young People, provides financial support to carers who support a young adult aged 18 to 21 years through the Extended Carers Payments and to young adults aged between 18 to 24 years old directly through the After Care Support Program, up to a maximum of \$2,500 per year.
30. In light of the rising cost of living, and in order to encourage young people to stay with their carers for longer if they want, we recommend that the Action Plan advocate for an increase in payments to young people and their carers for young people transitioning from OOHC. For example, we note that in NSW, young people are eligible for a \$250 fortnightly independent living allowance (a total of \$6,500 per year) which is considerably higher than the payments currently offered under the After Care Support Program.

Holistic service provision designed for young people

Recommendation 4: Advocate for greater resourcing of multidisciplinary practices in community legal centres to address the complex needs of young people.

31. Research demonstrates that there are significant benefits to lawyers working within multidisciplinary, wrap-around and holistic practices.¹¹ Multidisciplinary practices refer to services that address multiple aspects of wellbeing, including financial, legal, medical, psychological, and social services. These models have been found to better address the needs of marginalised community members through greater efficiencies, continuity of care and by adopting a client-centered approach.¹²
32. Through our experience with the Student Legal Service, we have seen the benefits of working collaboratively with the TUSA Student Advocates to enhance service delivery to young people. For example, if a young person presents to the Legal Service at risk of their tenancy being terminated due to rental arrears, the Student Legal Service can work with the young person to address their legal problem while also referring them to the Student Advocates who can give them additional support, including food relief, financial assistance and referrals to wellbeing and emergency accommodation services as required.
33. While we note that some community legal centres have already adopted a multidisciplinary model, in our view there are further opportunities for increased holistic service delivery within

¹¹ Brustin, S (2002) 'Legal services provision through multidisciplinary practice – encouraging holistic advocacy while protecting ethical interests' 73(3), University of Colorado Law Review, 787; Galowitz, P (1999) Collaboration between lawyers and social workers: re-examining the nature and potential of the relationship, 67(5), Fordham Law Review, 2123; Walsh, T (2012) 'Lawyers and Social Workers Working Together', 21(3), Griffith Law Review, 752; Maylea, C, Lewers, N, Scott, E, Weller, P, Winford, S (2018) 'Socialising the law: Multidisciplinary practice with lawyers and social workers' in S Rice, A Day, Briskman L (eds), Social Work in the Shadow of the Law, The Federation Press, Annandale NSW, pp. 25-33.

¹² Ibid.

the community legal sector. We therefore recommend that this Action Plan advocate for greater resourcing for multidisciplinary practices within the community legal sector to better address the complex needs of young people. This may include pilots to trial particular models or to target particular areas of need.

Recommendation 5: Develop models for legal service delivery that are specifically tailored to meet the needs of young people and are available across Tasmania.

34. While turning 18 comes with accompanying legal rights and responsibilities, legal services in Tasmania dedicated to young people are scarce¹³ and advocacy services are “patchy, subject to significant geographical variability and unintegrated”.¹⁴
35. Even if there are legal services available, it doesn’t necessarily mean that they are accessible to young adults. This is because services can be costly, have limited opening hours, and may not fully understand the challenges or opportunities facing young adults at this time of life. There are also barriers to getting to appointments at all, particularly in rural areas.
36. Because of young people’s particular vulnerabilities, legal assistance can involve other forms of advocacy or practical support that can often be provided by a paralegal. With 50 per cent of Tasmanians reading at a level 2 or below,¹⁵ legal assistance for young people can involve administrative tasks, such as providing information to a young person about how to pay or appeal a parking fine, helping a young person to understand correspondence, or assisting a young person complete or review a form. Because of this, the scope of service delivery for young people should be flexible and practical in its approach.
37. While legal services specifically tailored for young people should be co-designed with young people, we consider that legal services for young people should, at a minimum:
 - a. be independent;
 - b. accommodate intersectionality, including race, gender, sexual orientation, age, disability and socio-economic status;
 - c. be accessible, targeted, timely and appropriate;
 - d. be child safe;
 - e. be trauma-informed and culturally safe, allowing young people to build trust; and
 - f. work with other services, for example mental, physical and sexual health services, to enable young people to access a therapeutic response for issues connected with legal problems, to ensure that young people are supported holistically.
38. Special consideration should also be given to technology-enabled services to increase the availability of legal services for young people across Tasmania and to offer more choice to young people in regional, rural and remote areas. This is particularly important for young people seeking help for sensitive issues where it is important to be able to choose from a locally based service or a legal service outside of their community.
39. Place-based strategies embedded within legal services which are aimed at assisting young people to access mental, physical and sexual health services can also have positive outcomes. Health Justice Partnerships offer one avenue for this by using legal help to build the capacity of

¹³ YNOT, ‘Becoming an adult: the experience of young Tasmanians today’, November 2023, available at [Becoming an adult: the experience of young Tasmanians today \(ynot.org.au\)](https://ynot.org.au), p. 18.

¹⁴ Dr Maria Harries, ‘Advocacy for Children in Tasmania Committee: Report and Recommendations’, 8 November 2013, available at <https://ao.aasw.asn.au/document/item/6571>, p. 28.

¹⁵ Del Rio J and Jones K (2023) ‘Saving money by spending: solving illiteracy in Australia’, available at: [Code REaD NSRA FINAL compressed.pdf \(codereadnetwork.org\)](https://codereadnetwork.org), p. 25.

health services to identify and connect clients to appropriate legal help, and to support clients to gain control of underlying stressors, such as housing, financial insecurity and family relationships.¹⁶

Accessing young people in-place

40. In our experience, legal services that are accessible to young people in the places where they spend time, for example educational settings, can improve access to justice for young people and help them to navigate barriers that may impact their rights.

Recommendation 6: Advocate for the development of a school lawyer and a TasTAFE lawyer program that services each region.

41. The legal assistance sector can be fragmented and difficult to navigate. Being turned away from one legal service may act as a barrier to seeking legal help elsewhere. It can be particularly difficult for young adults to know what services are available and which one best suits their needs. Young people may be reluctant to reach out for help, or may not know what help is out there.
42. School lawyer programs are an effective way to provide early intervention to young people and address some of these barriers to accessing legal services. These programs have the additional benefit of providing in-place legal information and advice to students and increasing the levels of legal literacy among student cohorts. School lawyer programs also play a pivotal role in preventing school-to-prison pipelines from developing.
43. Some community legal centres, particularly in Victoria, have a lawyer embedded at high schools for students to access legal advice, assistance and support. For example, a two-year school lawyer program at The Grange in Victoria was set up in 2015 initially in response to identified unmet legal need amongst students and their parents or carers. Traditional legal services were difficult to access due to geographic isolation and unfamiliarity with and mistrust of the law.
44. The program had a lawyer at The Grange four days per week. During the initial 80 weeks of the pilot project, the school lawyer opened 30 case files, provided 137 advices, had 76 informal chats and conducted almost 100 legal education sessions.¹⁷
45. As a result of the success of the school lawyer program at The Grange, the program has since expanded to three other schools. School lawyer programs have also been developed in other jurisdictions, including New South Wales and the Australian Capital Territory.¹⁸ We consider that such programs can help young people gain confidence in identifying legal problems, and seeking legal help.
46. Similarly, our experience providing the Student Legal Service at UTAS has demonstrated the benefits of offering an in-place legal service for young people, including: being accessible and based on campus, specialising in legal issues that affect students (e.g. migration, housing, education, employment, and consumer law), not being means-tested, and assisting young people to navigate the legal assistance sector through referrals and pro bono partnerships.
47. In addition to enhancing a young person's access to justice, we consider that in-place legal services like the Student Legal Service can lead to improved health and wellbeing outcomes for students and student retention, as well as preparing young people with legal literacy skills that can be carried throughout their life.

¹⁶ Nagy, M and Forell, S (2020) 'Legal help as mental healthcare, Health Justice Insights' cited in Health Justice Australia, 'Annotated Bibliography: Resource for the review of the National Legal Assistance Partnership'

¹⁷ See WEstjustice, 'School Lawyer Project: End of Project Evaluation Report', August 2017.

¹⁸ See Shorna Moore 'New Wave Follows Success' Law Institute of Victoria Journal May 2017, p. 69.

48. Based on the success of school lawyer programs and our experience providing an on-campus Student Legal Service at UTAS, we consider it would also be beneficial to develop similar programs at TasTAFE which would be specifically targeted towards young people who are transitioning into independence.

Conclusion

49. We thank YNOT for the opportunity to provide a submission to inform the development of this important whole-of-government Action Plan.
50. Please do not hesitate to contact Sarah Loewy, Senior Solicitor, at sarah.loewy@yla.org.au or (02) 9127 7879 if you wish to discuss this submission.