

8 November 2013

Our ref 337/12

Commissioners
Royal Commission to investigate
Institutional Responses to Child Sexual Abuse
GPO Box 5283
SYDNEY NSW 2001

By Post and Email to: solicitor@childabuseroyalcommission.gov.au

Dear Commissioners

Issues Paper 4- Preventing Sexual Abuse of Children in Out-of-Home Care

Thank you for providing the Society with the opportunity to comment on Issues Paper 4: Preventing Sexual Abuse of Children in Out-of-Home Care (the Issues Paper). This response has been compiled with the assistance of our Children's Law Committee.

We limit our response to question 11 of the Issues Paper, namely addressing what implications exist for record keeping and access to records, from delayed reporting of child sexual abuse.

From 1 July 2012 to 1 July 2013, the Queensland government held a Commission of Inquiry into the Queensland Child Protection System. As part of this Inquiry, the Society has made a number of observations regarding the legal needs of young people in care, which we consider are relevant to your consideration within the context of question 11.

The Society is aware of some situations where children have a right to commence civil proceedings for damages arising from incidents that have occurred prior to entering care or whilst they were in the care of the State. Our members report that material disclosed by the Department or filed in proceedings not infrequently contains information suggesting a child in care may need advice in relation to victim of crime compensation, negligence claims (including against the Department), and other matters. In our view, there is a lack of adequate mechanisms, or clarity in relation to such mechanisms, to ensure that young people in the care of the State have access to legal advice and information for these kinds of matters. It appears to our members that there is no systematic way within the Department of identifying and flagging these issues as they arise. We acknowledge the complexities involved, particularly where young people may need to obtain advice about a matter many years after the incident occurred. We consider that identifying these matters is an essential obligation of the Department to children in their care. It is crucial to ensure that the Department can obtain legal advice on the situation at the earliest possible opportunity and arrange for independent

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advice to be obtained on behalf of the child at an appropriate time given the child's age and the nature of the matter. Young people in care traditionally access legal advice from Legal Aid Queensland and community legal centres, but our members report that these organisations are inadequately resourced to respond to these particular legal needs.

We consider that a viable option for addressing this problem would be the development of a legal needs passport for a child in care. This would be similar to the health passport for a child in care which is retained and updated with new matters and details of action taken over the child's time in care, to then be provided to the child upon exiting care along with the appropriate referrals and support for advice. We consider that the Royal Commission should investigate this potential option. This may also require collaboration between the Government and legal service providers (Legal Aid Commissions, community legal centres, and private firms) to develop the necessary casework tools and to ensure that Departmental staff are adequately trained and supported to implement this.

Thank you for providing the Society with the opportunity to comment. Please contact our Policy Solicitor, Ms Raylene D'Cruz on (07) 3842 5884 or r.dacruz@qls.com.au for further inquiries.

Yours faithfully



Annette Bradfield
President