

27 March 2020

The Hon. Luke Donnellan, MP
Minister for Child Protection

By e-mail only: minister.donnellan@dhhs.vic.gov.au

Dear Minister,

Consultation on the proposed legislative reform relating to the *Children, Youth and Families Act 2005 (Vic)*

The Law Institute of Victoria (**'LIV'**) welcomes the introduction of a new framework announced on 14 February 2020 (**'the Framework'**) to support children in out-of-home care.

The Framework, which addresses the need for a multi-agency collaborative approach to reduce the impact of the criminal justice system on young people in out-of-home care (**'cross-over kids'**), is immediately required to reduce the abuse, neglect and trauma experienced by cross-over kids.

The LIV supports the multi-agency approach in working with the Department of Health and Human Services, the Department of Justice and Community Safety, Victoria Police, the Centre for Excellence in Child and Family Welfare and the Victorian Aboriginal Child Care Agency within the first 12 months during implementation of the Framework.

In continuance of this work, along with the Victorian Government's commitment to implement all 126 recommendations of the Armytage/Ogloff Youth Justice Review and Strategy (**'the Review'**), the LIV has identified additional opportunities to assist in reforming the child protection jurisdiction and wellbeing components of the *Children, Youth and Families Act 2005 (Vic)* (**'the Act'**).

LIV members represent the vast majority of cross-over kids through both the family and criminal divisions of the Children's Court of Victoria. The LIV's Family Law Section members are uniquely positioned to understand the issues and impact upon such children within the current legislative framework, and seek the opportunity to contribute to any proposed changes to the Act.

The LIV has received ongoing consultations on the elements of the Act that will be superseded by the Youth Justice Act, however we are seeking similar opportunities to provide input regarding amendments to how the Act addresses issues of custody and cross-over kids.

The LIV is concerned that if input is not sought from legal experts practising in these areas, certain considerations may be missed. For example, updating the Act without taking into full consideration the recommendations of the Royal Commission into Family Violence, and the Royal Commission into Child

Sexual Abuse, it is likely that a new legislative framework would then lack sufficient clarity between the child protection and youth justice jurisdictions. Issues regarding improved clarity of who is accountable for cross-over kids navigating the justice system, is one of many issues highlighted in the Report, which the LIV supports and wishes to assist in implementing.

The LIV would welcome an opportunity to meet with you to discuss how the LIV can contribute to your work in reforming the Act.

Lastly, in light of the COVID-19 pandemic and the Victorian Children's Court ("the Court") response to COVID-19 outlined in its Practice Direction 1 of 2020, some LIV members are concerned about the impact adjourning matters where children are spending time in Court ordered Out of Home Care will have on the ability of the Court to make Family Reunification Orders. LIV members are also concerned about the impact COVID-19 will have on the ability of necessary support services to work with families to assist them in reunifying children into their care.

In light of these concerns, the LIV enquires whether any amendments to the Act are being considered to address this issue. If so, the LIV would welcome any opportunity to contribute to the development of, and to review, a draft bill.

If you would like to discuss any of the matters raised in this letter please contact me, or Senior Lawyer for the Family Law Section, Paul Snow at psnow@liv.asn.au or on (03) 9607 9311.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S. Pandya', written in a cursive style.

Sam Pandya
President
Law Institute of Victoria