

Your Ref:

Our Ref: Direct Advocacy

12 April 2012

The Hon. Tracy Davis MP
Minister for Communities, Child Safety and Disability Services
Department of Communities
GPO Box 806
Brisbane QLD 4001

By email: [REDACTED]

Dear Minister

QLS ISSUES FOR THE DEPARTMENT OF COMMUNITIES, CHILD SAFETY AND DISABILITY SERVICES

Further to my letter of 4 April 2012, I thought it may assist if I provided you with a snapshot of policy issues that should be considered by you in due course.

Youth justice issues

1. 17 year olds in Queensland's adult prisons

Queensland is the only State or Territory in Australia which considers 17-year olds as adults in the criminal justice system. The Society calls for the removal of 17 year old offenders from Queensland's adult correctional facilities and the placement of these young people within the jurisdiction of the *Youth Justice Act 1992*.

Please find **enclosed** our previous submissions on this issue.

- Letter to Hon Paul Lucas MP dated 30 September 2011 - 17 year olds in the criminal justice system

2. Children's Court Rules

Prior to the change of Government, a project was on foot to amend the Children's Court Rules. We request advice on whether this project will continue.

3. Appointment of Children's Court Magistrates

The Society notes the increase in both child protection and youth justice matters coming before the Children's Court. At present, there is only one specialist Children's Court Magistrate in Queensland. We advocate for the appointment of more dedicated Children's Court Magistrates to deal with the rise in case loads. We understand the appointment of more Children's Court Magistrates is in line with your

Government's policy as articulated in the March 2012 edition of the Society's Proctor publication. We note that in other States, the Magistracy contains several Children's Court Magistrates. For example, in NSW there are currently 13 specialist Children's Court Magistrates and 5 Children's to assist in administrative matters.

4. **Overrepresentation Aboriginal and Torres Strait Islander people in the Queensland criminal justice system**

The Society is concerned with the high rates of Aboriginal and Torres Strait Islander young people in the youth justice system. We encourage reforms which place the diversion and rehabilitation of Aboriginal and Torres Strait Islander offenders at the centre of the justice scheme. We **enclose** our submission regarding the Justice Strategy.

We support the use of the Murri Court as an effective and culturally appropriate regime. We call for the operations of the Court to be extended and recognised through legislation.

- Letter to Mr Phillip Reed dated 7 June 2011- Draft Aboriginal and Torres Strait Islander Justice Strategy
- Letter to Hon. Paul Lucas MP dated 28 February 2011- Evaluation of the Murri Court: Final Report

5. **Decriminalisation of children in care**

The Society has been involved in discussions with government and community stakeholders regarding concerns that children in care are being referred to police to manage behavioural issues that occur in residential care facilities. We would be pleased to continue working with the stakeholder group to find solutions to this issue. We **enclose** our submissions. :

- Letter to Hon. Phil Reeves MP dated 19 August 2011- Decriminalisation of children in care
- Letter to Ms Mabelle Flowers-Smith dated 1 February 2012- Stakeholder meeting January 2012- Decriminalisation of children and young people in Queensland residential care facilities

6. ***R v BBX***

The recent case of *R v BBX* [2011] QCA 8 has made uncertain the position of the admissibility of offences subject of a youth justice conference. We have called for an amendment of the *Youth Justice Act 1992* which will clarify that these offences do not form part of a young person's criminal history. We **enclose** our submission:

- Letter to Ms Linda Apelt dated 19 December 2011 - *R v BBX* [2011] QCA 8- Admissibility of offences subject of a youth justice conference.

Child protection issues

7. **Improvements to the child protection system**

The Society continues to advocate for the introduction of structure and predictability of the child protection litigation through the revision of the Children's Court rules and the publication of judgments.

The Society notes your election commitments to establish a new “Forde Inquiry” and to review the current child protection laws. The Society welcomes attention on this critically important area of law. The Society would commend to your attention recent reviews that have been conducted in the United Kingdom and Victoria. In the United Kingdom, the Munroe Review of Child Protection focused on reviewing the child protection system, with an emphasis on strengthening the social work profession. Victoria in recent years has issued an Ombudsman report, a Victorian Law Reform Commission project report, and earlier this year released the ‘Protecting Victoria’s Vulnerable Children Inquiry’ Report.

Given the Society’s role as a peak body representing legal practitioners and having a keen concern with child protection litigation in both the Children’s Court and QCAT the Society would advocate for attention being placed on the following issues:

1. Should the specialist expertise of the Children’s Court be extended by commissioning additional magistrates as specialists in the Brisbane Children’s Court and indeed throughout Queensland?
2. Should the jurisdictional boundaries between the Children’s Court and QCAT be removed in child protection matters so that a Children’s Court magistrate may simultaneously exercise jurisdiction in QCAT where appropriate?
3. Are children and young people adequately represented through separate representation and direct representation in the Children’s Court and QCAT?
4. Are parents adequately represented and is there sufficient availability of legal assistance for parents in the Children’s Court and QCAT?
5. Are the current complaints and review mechanisms available for children, young people and their families to the Department, the Children’s Commission and QCAT accessible and effective in dealing with concerns?

The Society particularly highlights the recent developments in the Victorian jurisdiction which have looked at these issues in that jurisdiction.

Family law issues

8. Domestic and Family Violence Protection Act 2011

The *Domestic and Family Violence Protection Act 2011* (“the Act”) comes into full force on 17 September 2012. The Act overhauls its predecessor by :

- Expanding and widening the definition of domestic violence to include physical, sexual, emotional, psychological abuse as well as threatening or coercive behaviour;
- changing the test for a party to obtain a protection order;
- emphasising police powers and duties to investigate possible and (where appropriate) charge; and
- increasing penalties from \$4,000 or one year’s imprisonment to \$6,000 or two year’s imprisonment.

It is vital that there is an extensive education campaign as these changes impact widely upon the community, the police force, social services and the legal profession.

The Society would be pleased to be involved in any consultation and training to facilitate this process.

I would be pleased to meet with you as soon as possible to further advance these issues. Please contact or have one of your staff contact our Senior Policy Solicitor, Ms Binari De Saram on [REDACTED] [REDACTED] to arrange a mutually convenient meeting time.

We look forward to hearing from you.

Yours faithfully

[REDACTED]

President