

The Council for the Care of Children

Services for child victims of crime

Victim Support Service Discussion Paper

SUBMISSION

18 March 2016

The Council for the
Care of Children



 Government of
South Australia

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1 Key messages

The Council for the Care of Children (Council) supports efforts to improve services/responses for children and young people who are victims of crime.

As indicated in the Council's monitoring framework *A snapshot of young South Australians June 2015* <http://www.childrensa.sa.gov.au/wellbeing/outcomes-framework.html> in 2014;

- 2,145 children and young people aged 0-17 years were victims of an offence against the person reported to the police (excluding sexual offences)
- 847 children and young people aged 0-17 years were victims of a sexual offence reported to the police.

A copy of the Council's Snapshot is attached for information.

The Australian Government ratified the United Nations Convention on the Rights of the Child (UNCRC) in December 1990. In 2015, Australia marked the 25th anniversary of being a signatory to the UNCRC. As the first legally binding international human rights instrument the UNCRC incorporates the 'civil, cultural, economic, political and social rights' of children and young people in 54 articles and two Optional Protocols.¹

Pursuant to Article 12, UNCRC, children and young people under 18 years of age have a right to express their opinions and views about matters that affect them and to have their views taken seriously. Therefore, children and young people should be involved in all matters that impact on them including in connection with services for victims of crime. The discussion paper indicated that they have not yet been consulted. They should be consulted as a matter of priority, including to accurately and holistically identify the key issues from their perspective.

Specific attention should be given to identifying the needs of young victims who are Aboriginal or Torres Strait Islander, from a culturally and linguistically diverse background, who have a disability and/or who are under the guardianship of the Minister for Education and Child Development. Their needs may be different or additional to those of other young victims.

Pursuant to Article 3, UNCRC, the best interest of children and young people should be considered in the courts and by all providers of services and support. Every effort should be made to avoid compounding harm to children and young people through having contact with the justice system eg by training and upskilling professionals working in statutory agencies and the courts.

The courts should have a full picture when making decisions that impact on children and young people, including the mental health and drug and alcohol abuse histories of parents/carers, with the aim of preventing avoidable harm to children and young people eg as a result of domestic violence. Therefore, the need for improved information sharing remains a high priority.

Depending on the circumstances, the South Australian Information Sharing Guidelines (ISG) allow for early intervention at low thresholds upon anticipation of risk and promotes obtaining consent for disclosure in all cases where safe and reasonable.

The ISG prioritise and require disclosure (without consent) on suspicion of harm for children in accordance with the *Children's Protection Act 1993* (SA). A child's right to safety always overrides an adult's right to privacy.

Copies of some of the ISG resources are attached for information.

¹ National Children's Bureau (2015), *Involving Children and Young People in Policy, Practice and Research*. Edited by Hugh McLaughlin. Published by NBC, London. <www.ncb.org.uk>.

2 Recent legislative amendments in SA

The Council notes that amendments to the *Victims of Crime Act 2001* (SA) passed by both Houses of Parliament in South Australia on 11 March 2016, yet to come into effect, provide for;

- extended eligibility ie that the child, under 18 years (at the time of the offence), of a homicide victim will qualify for a grief payment of up to \$20,000.
- indexation of payments annually with the aim of ensuring payments remain relevant over time.

3 Observations

3.1 One-stop-shop model

The Discussion Paper proposes a one-stop-shop model.

For consideration:

A one-stop-shop model may appeals to adults, but not to children and young people, especially if it is in a central location that is inaccessible to many children and young people for reasons including distance, disability, language difficulties, socioeconomic circumstances and privacy concerns.

3.2 Consultation with children and young people

The Discussion Paper refers to Families SA (FSA) undertaking 'annual reviews for children under guardianship...' as an example of consulting with children and young people. Annual reviews are a legislative requirement and FSA guidelines provide for the voice of the child.

For consideration:

The Guardian for Children and Young People (GCYP) has advised the Council that the voices of children and young people are largely missing from these annual reviews. Therefore, at present, annual reviews are not a good example of consulting children and young people.

To respectfully and meaningfully gather the views of children and young people, the Victim Support Service could seek to partner and collaborate with key stakeholders, including to hear the voices of specific groups of children and young people such as those referred to above (see 'Key messages').

3.3 Victims who are also perpetrators

The Discussion Paper does not address the matter of victims who are also perpetrators.

For consideration:

The Council considers this to be an oversight and recommends that the matter be taken into account and be addressed.

3.4 Disability Justice Plan initiatives

The Council has sought the advice of the Attorney-General's Department (AGD) about the AGD's work to operationalise the Communication Partner Service, a priority action of the state's Disability Justice Plan.

On 5 February 2016, the AGD launched a specialist training program for investigative interviewers in South Australia Police, Child Protection Services, FSA, the Department for Education and Child Development, and Disability SA. The training has been developed by Professor Martine Powell, Founding

Director, Centre for Investigative Interviewing, Deakin University
https://www.deakin.edu.au/research/story?story_id=2014/11/11/centre-for-investigative-interviewing-launched).

The Council has been further advised that the *Statute Amendment (Vulnerable Witnesses) Act 2015* and forthcoming Summary Offences Regulations 2016 provide for a scheme of registered volunteer communication partners to assist children and people with disability who have complex communication needs, in and out of court. This should result in SA having a communication assistance service that will be available to victims, witnesses, suspects, offenders.

The *Statute Amendment (Vulnerable Witnesses) Act 2015* was assented to on 6 August 2015 and will come into effect on 27 June 2016. The AGD aims to have the communication partners in place in some initial trial sites by 27 June 2016 when the Act comes into effect.

For consideration:

The Council recommends close liaison and collaboration with the AGD and other key stakeholders with the aim of avoiding duplication and establishing/providing complementary services to children and young people who are victims of crime.

3.5 Mapping of existing services

It is apparent from the paper that existing services for victims in SA have not been mapped at this stage. Anecdotally, such existing services *may* include:

- the Commissioner for Victims' Rights booklet 'Information for victims of crime' which lists support services for children
- Children's Protection Service of the Women's and Children's Health Network
<http://www.wch.sa.gov.au/services/az/divisions/paedm/childprot/index.html>
- Parent Helpline, Child and Youth Health - DCSI
- Kids Helpline
- Child and Adolescent Mental Health Service
- Witness Assistance Service (WAS) established in 1995 by the DPP to 'provide information and support to victims, witnesses and their families at increased vulnerability due to the nature of the alleged offences against them, and/or the nature of their personal circumstances.' Witness Assistance Officers (WAOs) work with primary/secondary victims of crime including child and 'adolescent' victims. In fact, all child and adolescent victims and witnesses under 18 years must be referred to the WAS.
- the Courts Administration Authority Aboriginal Youth Justice Officer program in the Adelaide Youth Court
- Aboriginal Legal Rights Movement
- Police Victim Contact Officers
- Yarrow Place Rape and Sexual Assault Service (for those over 16 years)
- Keeping them Safe therapy service (long term therapy for those under 12 years who are under the guardianship of the Minister or who are Aboriginal)
- Child Abuse Report Line.

For consideration:

It is strongly recommended that existing services be mapped to assist in accurately identifying any gaps.



About the Council for the Care of Children

The Government of South Australia established the Council for the Care of Children in 2006 under the *Children's Protection Act 1993* and the Council's functions and responsibilities extend to all children and young people in South Australia (SA) from birth up to 18 years of age.

In looking out for children and young people across all communities and sectors in SA, the Council advises government and others, and works collaboratively with state and national stakeholders, with the aim of ensuring children and young people in SA are cherished, nurtured and respected.

Broadly speaking, the Council's role in SA can be summarised as:

- advocating for and supporting the active participation of children and young people as valued citizens
- improving outcomes for children and young people by providing expert advice to government on their rights, needs and interests and the implications for policy, practice, and research
- raising awareness of issues impacting on children and young people
- monitoring the wellbeing of children and young people from birth to 18 years of age
- promoting the wellbeing, safe care and development of vulnerable children and young people (especially those with disability and/or under the guardianship of the Minister and/or who are Aboriginal or Torres Strait Islander).

One of the South Australian Government's seven key priorities is priority no 4, *Every chance for every child* which refers to all children and young people in SA up to 18 years of age. *Every chance for every child* aims to provide children and young people with the best possible start in life and to assist families to provide the best possible support for their children.

The Council supports *Every chance for every child*. This strategic direction is well-aligned with the Council's legislative mandate in SA and with the principles of the international human rights instruments which Australia upholds including the:

- United Nations Convention on the Rights of the Child (UNCRC)
- United Nations Convention on the Rights of Persons with Disability
- United Nations Declaration on the Rights of Indigenous Peoples.

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