

Education Act Prosecutions Working Group Report to NLA – September 2016

The Education Act (EA) Prosecutions working group met on 7 September 2016. Key issues discussed included:

Presentation by Katrina Wong, Legal Aid NSW Children's Civil Law Service

Katrina spoke to the Working Group about her service's work with the NSW Ombudsman which resulted in the preparation of a *Joint Protocol to reduce the contact of young people in residential out of home care with the criminal justice system*. This was formally signed by NSW Police, Family & Community Services, the Association for Children's Welfare Agencies (ACWA) and the Aboriginal Child, Family Care State Secretariat (NSW) on Tuesday 23 August 2016. The Protocol contains guidance and strategies to help residential services staff manage young people's behaviour, and steps they should follow when determining whether a call for police assistance is necessary. It also sets out how local police will work with service providers in responding to incidents that do occur.

Letter to NSW Ombudsman

Annamarie reported that a meeting had been held with the NSW Ombudsman regarding the letter sent by the Working Group. In this meeting the Ombudsman said they were in the process of consulting with a range of stakeholders with the aim to organising a round table meeting in the near future to talk about Education Act issues raised by Judge Johnstone, President of the NSW Children's Court and the Working Group.

Department of Education Enforcement Action Statistics

Data obtained from the Department of Education that Education Act indicated that enforcement actions in the Children's Court and Local Court had declined significantly in the past 3 years. Representatives from the Department of Education Legal Team noted that this may in part be due to current Education policy where matters involving young people aged 15 years are rarely taken to Court. Education prefers alternative processes to be used to reengage these young people into education options.

The issue of young people in out of home care not attending education was discussed in some detail, as it was reported that this issue has been raised as a concern by the ACWA in meetings with the Minister for Education. The Department of Education Legal Team noted they do not bring enforcement actions in matters involving children/young people who are under the parental responsibility of the Minister.

Consistency of Communications across Legal Assistance Services regarding Education Act Matters

The meeting discussed the type of and consistency of communications used by the Department of Education, Legal Aid NSW, Law Access and Community Legal Centres when parents and children contact them regarding Education Act matters. The Education Legal Team reported an improvement in the availability of legal advice for parents and children at the Courts since the increase in communications to panel and in house legal aid lawyers as well as an improvement in attendance at Court by parties involved. Legal Aid NSW is working on a brochure to be distributed to Courts and included in Education communications.

Annamarie Lumsden

Director – Strategic Planning and Policy, Legal Aid NSW
Chair NLA Educations Act Prosecutions Working Group, September 2016.