

CHILD PROTECTION AND SOCIAL SERVICES SYSTEM

Organisation: Mid North Coast Community Legal Centre

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14 December 2020

NSW Parliamentary Inquiry into Child Protection and Social Services System

Via email: childrenyoungpeople@parliament.nsw.gov.au

RE: Submission NSW Parliamentary Inquiry into Child Protection and Social Services System

Mid North Coast Community Legal Centre (**MNCCLC**) welcomes the opportunity to provide a submission to the NSW Parliamentary Inquiry into Child Protection and Social Services System.

Community legal centres are independent non-government organisations that provide free legal services to people and communities, at a time when that help is needed most - particularly to people facing economic hardship and discrimination. They provide a safety net to prevent people's legal problems from escalating. Without early legal advice, families can break down and health problems can escalate; people can be unnecessarily evicted and can lose their jobs. There are almost 40 community legal centres in NSW.

MNCCLC provides free legal advice, advocacy, and education to improve access to justice for disadvantaged communities on the Mid North Coast of NSW, from Nambucca to Coffs Harbour. We have two offices, in Port Macquarie and Coffs Harbour, and provide outreach to communities across our catchment, including to many young people in or exiting Out of Home Care (**OOHC**). As a result of clearly documented disadvantage, the MNCCLC strategically targets young people in and exiting OOHC as a priority for legal advice, support and assistance.

We will direct our submission and attached evidence contained in LevelUP: An innovative legal project to help young people in out of home care at addressing aspects of term of reference 2:

The respective roles, responsibilities, including points of intersection, of health, education, police, justice and social services in the current system and the optimum evidence-based prevention and early intervention responses that the current system should provide to improve life outcomes.

In 2016 the Law and Justice Foundation of NSW funded MNCCLC to run a project providing specialised legal advice, education and support to young people transitioning from OOHC to independence in the Mid North Coast FACS region of NSW. The project was called 'LevelUP' and the aim was to respond to the unique needs of young people as they transition from OOHC to independence by tailoring services to effectively and proactively address their legal needs within the context of vulnerability they have experienced.

LevelUP aimed to provide assertive, personalised and consistent legal assistance for young people by giving them access to dedicated lawyers to assist with minor and major transitions. Urgent legal advice, legal education and provision of warm referrals to other legal and non-legal services was made available and young people had regular 'Legal Health Checks' to ensure early intervention.

Young people in OOHC face complex challenges in accessing legal services and often lack the skills and legal literacy to identify legal issues. Even if a young person identifies they have a legal issue, having the knowledge and confidence to reach out is an immense barrier. Young people exiting OOHC are at a key transition point in their lives. Pre-care and in-care experiences of violence are common, and abuse and neglect accelerate transitions to adulthood. A lack of ongoing support once a young person turns 18 and 'ages out' of OOHC contributes to diminished life outcomes when compared to those of the general population.

Research indicates young people in OOHC experience significant social and economic marginalisation and a range of poor educational and health outcomes. In NSW, 68% of young people indicated they had been homeless during their first year of independence from OOHC. This suggests for many young people leaving care, with little social or economic support, the transition to independence is often a transition into homelessness.

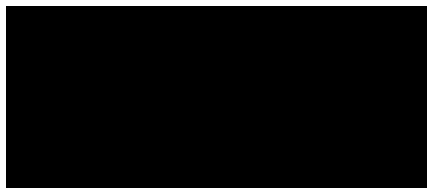
It is our position that government may underestimate the complexity and scale of the problems and the value to both the individual and the community in addressing these. The mainstream legal service delivery model needs to be radically altered in meeting the needs of young people in OOHC to ensure they receive equitable access to justice. By shattering the image of the traditional lawyer with a proactive, flexible, dynamic and truly accessible model, we can work towards addressing some of the inequity young people with an OOHC experience face.

LevelUP has demonstrated how this kind of program can proactively address legal need through early intervention and assist to improve life outcomes for this vulnerable group. The project has provided important lessons which will guide the rollout of such a program in the future. These are reflected in following seven recommendations (see attached report for full explanation of these recommendations):

Recommendation 1: Ongoing funding for a free civil legal assistance program and service targeted specifically at young people leaving OOHC.

- Recommendation 2: The free legal service for young people (16+) be flexible, grassroots and accessible. Community legal centres are best placed to provide this service.
- Recommendation 3: Solicitors should be provided with specialist training to alert them to the specific legal needs and transgenerational trauma arising from the OOHC experience.
- Recommendation 4: The design of this program should include an Aboriginal and Torres Strait Islander Engagement worker.
- Recommendation 5: Leaving Care Plans and File Audits should be made available, strongly encouraged and supported for all young people leaving care until at least 24 years of age.
- Recommendation 6: Government should adopt a system of warm, active referral of young people to an appropriate legal service with relevant supports and expertise prior to leaving care.
- Recommendation 7: Material to support practitioners should be developed to assist in rolling out a legal service in the future.

Yours sincerely



Melanie Kallmier
Legal Services Coordinator/Solicitor
Mid North Coast Community Legal Centre



LevelUP

An innovative legal project to help
young people in Out Of Home Care



ACKNOWLEDGMENT OF COUNTRY

MNCCLC acknowledges the Traditional Owners, Custodians and Elders of the Biripi, Birpai, Dunghutti and Gumbaynggirr people as the custodians of the land on which we work. We acknowledge the continued deep spiritual attachment and relationship of Aboriginal and Torres Strait Islander peoples to this country and commit ourselves to the ongoing journey of Reconciliation.

THANK YOU

MNCCLC thanks the Law and Justice Foundation of NSW for the opportunity to undertake the LevelUP Project. Without their generous support, we would not have been able to undertake this important work.

LevelUP was a collaborative effort by staff and volunteers in the MNCCLC. Special thanks to Stacey McMillan whose dedication, empathy and hard work was key to LevelUP's success. Special thanks also to Holly Lawson and Melanie Kallmier for their leadership and to all the staff and volunteers at the MNCCLC who provide essential free legal advice and support to so many vulnerable young people on the Mid North Coast of NSW.



Artwork

Thank you to Colleena Smith who designed the beautiful artwork that symbolises the LevelUP project.

The artwork represents connecting with kids, with the centrepiece showing kids coming together to get help and link with MNCCLC.

About this document

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INTRODUCTION

In 2016 the Law and Justice Foundation of NSW funded Mid North Coast Community Legal Centre (MNCCLC, a service of Advocacy Law Alliance Inc) to run a project providing specialised legal advice, education and support to young people transitioning from out of home care (OOHC) to independence and adult legal responsibility in the Mid North Coast FACS region of NSW.¹ This 2-year project was inspired by LegalPod, a project run by LawRight.²

The project was called 'LevelUP' and the aim was to respond to the unique needs of young people as they transition from OOHC to independence by tailoring services to effectively and proactively address their legal needs within the context of vulnerability they have experienced. LevelUP aimed to provide personalised and consistent legal assistance for young people by giving them access to dedicated lawyers to assist with minor and major transitions. Urgent legal advice, legal education and provision of warm referrals to other legal and non-legal services was available and young people had regular 'Legal Health checks' to ensure early intervention.

LevelUP highlighted the significant unmet legal need among young people who have had contact with the OOHC system. The impact of these interactions with the care system (which commence as a result of concerns for a child's wellbeing and safety) on a young person's legal issues are pervasive and ongoing. The project also revealed the complexity and scale of the problems and the value to both the individual and the community in addressing these.

Critical to the success of the project was the ability of the project solicitor to engage informally with clients, on their terms. The mainstream legal service delivery model needs to be radically altered in meeting the needs of young people in OOHC to ensure they receive equitable access to justice. As one of the most disadvantaged groups in our community, more must be done to ensure their journey into adulthood is not marked by poverty, homelessness and entrance into the criminal justice system.

Resources available to support the project were overstretched and the project would not have succeeded without background support from MNCCLC resources.

It is our position that government is not sufficiently aware of the complexity and scale of this unmet legal need. There is an urgent need for the government to fund a comprehensive program like LevelUP to support the civil legal needs of young people exiting OOHC.

LevelUP provided important lessons which will guide the rollout of such a program in the future. These are reflected in the recommendations contained in this report.

¹ This region extended from Coffs Harbour in the north to Forster in the south and extended beyond our regular catchment area of Taree in the south to Kempsey in the north.

² LawRight (formerly QPILCH) is a non-profit, community-based legal service that coordinates the provision of pro bono legal services for individuals and community organisations.

WHY TARGET YOUNG PEOPLE IN OOHHC?

Young people in OOHHC face complex challenges in accessing legal services and often lack the skills and legal literacy to identify legal issues. Even if a young person identifies they have a legal issue, having the knowledge and confidence to reach out is an immense barrier. Young people exiting OOHHC are at a key transition point in their lives. Pre-care and in-care experiences of violence are common, and abuse and neglect accelerate transitions to adulthood. A lack of ongoing support once a young person turns 18 and 'ages out' of OOHHC contributes to diminished life outcomes when compared to those of the general population.³

Research indicates young people in OOHHC experience significant social and economic marginalisation and a range of poor educational and health outcomes.⁴ In NSW, 68% of young people indicated they had been homeless during their first year of independence from OOHHC.⁵ This suggests for many young people leaving care, with little social or economic support, the transition to independence is often a transition into homelessness.⁶

The overrepresentation of young people in care in the criminal justice system is so prevalent they have been branded 'cross over kids': the drift of children from the child protection system into the criminal justice system. Young people in OOHHC are 16 times more likely than their counterparts in the general population to be under youth justice supervision and are more likely to reoffend.⁷ Of particular concern, many of these young people are in residential OOHHC care and charged with violent offences against members of staff or damaging their OOHHC property.⁸ Young people in residential care are often charged with criminal offences for behaviour that would not receive Police attention in a family home.

Many young people expressed feeling voiceless and disempowered by the system that is legally responsible for them and required to ensure their meaningful participation in decision making about their care. A survey by peak body, the Create Foundation, found young people identified a need for individual advocates and youth lawyers to assist them with their transition to independence from OOHHC.⁹

Evidence from the Law and Justice Foundation of NSW highlights the need for legal assistance that is targeted, joined-up, timely and appropriate to the needs of hard-to-reach target groups.¹⁰ Their studies show that people experiencing disadvantage were more likely to take no action in response to legal problems,¹¹ a fact evident in LevelUP clients.

3 Jacqueline Reed 'To improve the life outcomes for young people transitioning from statutory care to independence: An international perspective, Developing Practice Issue 44 2016

4 Mendes, P., Baidawi, S., & Snow, P., *Young people transitioning from out-of-home care: A critical analysis of leaving care policy, legislation and housing support in the Australian state of Victoria*. Child Abuse Review, 23(6), 402–414 (2014).

5 Joseph J McDowall Experience of Homelessness by Care Leavers in Australia Parity Volume 23 Issue 5 July 2010, 12)

6 Australian Housing and Urban Research Institute, *The risk of homelessness for young people exiting foster care* (27 June 2018) <<https://www.ahuri.edu.au/policy/ahuri-briefs/risk-of-homelessness-for-young-people-exiting-foster-care>>

7 Australian Institute of Health and Welfare, *Young People in Child Protection and under Youth Justice Supervision 2014–15* (2016).

8 Katherine McFarlane, 'From Care to Custody: Young Women in out-of-Home Care in the Criminal Justice System' (2010) 22(2) *Current Issues in Criminal Justice* 346.

9 Ibid

10 'Reshaping legal assistance services: building on the evidence base' Pleasence, P; Coumarelos, C; Forell, S; McDonald, H 2014 *Law and Justice Foundation of NSW* pp26-29

11 *ibid*, p17

It is impossible to assess the costs to the system of unaddressed legal problems for this cohort of disadvantaged clients, without more investment in research focussing on the economics of unmet legal need.¹² Our clients told us in their own words how much worse their situation would have been without the legal assistance offered by LevelUP.¹³



12 Productivity Commission 2014, Access to Justice Arrangements, Inquiry Report No. 72, Canberra p880

13 See Appendix 1

CLIENT PROFILES

Total of 60 referrals by LevelUP received for young people aged between 15 and 24. Of these, 45 were ongoing clients who engaged with the program. The average age of clients was 17.



50%

of clients identified as Aboriginal or Torres Strait Islander

100%

of clients were living with a disability or mental illness



100%

were living in financial disadvantage, of which 22% had no income



64%

had drug or alcohol use indicators



35%

had "self-placed" out of the OOHC system or had permanently left their family home.

35%

were experiencing unstable housing



22%

of clients were incarcerated at some point during the program



40%

were in a violent relationship



20%

of clients had children of their own at risk of removal.

METHODOLOGY

LevelUP took a multifaceted approach, with a focus on three broad areas:

- holistic assessment of a client's legal and non-legal needs using a 'Legal Health Check'
- legal advice and case work
- community engagement and legal education.

Key focus groups included young people with an OOHC experience or who had significant contact with Department of Community Justice (DCJ, previously FaCS), youth focussed services and OOHC providers.

Unlike traditional legal models, clients referred to LevelUP did not need to have any identified legal issues to initiate contact with a solicitor. Removing this requirement made referrals simpler and more accessible and did not result in inappropriate referrals. Project design was undertaken in consultation with Youth Agencies including Absec, Youth workers and OOHC providers.

The 'Legal Health Check' (LHC)¹⁴ is a resource which assists workers to identify the legal needs of their clients and to connect those clients with legal assistance. A LHC was used with each client referred to LevelUP, allowing the solicitor and client to identify all the legal issues they were experiencing. The questions in the Legal Health Check were adapted to focus on legal issues commonly experienced by this cohort. LHCs provided a catalyst for discussion of other common legal issues clients may experience in the future (e.g. employment law – allowing the solicitor to give general information about the strict time limits around unfair dismissal and the importance of getting legal advice quickly).

This approach sought to address the reality that young people have little understanding of civil legal issues and the impact these can have on their lives in the long term, not recognising that the law can work in their interests.¹⁵ LHCs were undertaken every 6 months throughout the project to identify emerging needs. Subsequent LHCs were effective in identifying new legal issues or those that had not been previously identified. Legal advice and ongoing case work was provided for each new legal issue identified.

LevelUP highlighted the fundamental importance of the relationship of a young client with the project solicitor. It was this relationship that ensured a client would contact again when they needed further assistance. As the project continued, clients began to initiate contact with the project solicitor for assistance with a wide range of legal and non-legal matters, demonstrating that they considered her to be a source of independent knowledge. The project solicitor was rightly seen as independent and bound by a duty of confidentiality and this provided an environment of safety for clients to seek help with non-legal matters as well as legal matters.

¹⁴ See Appendix 3

¹⁵ Timing Early intervention, Law and Justice Foundation of NSW no 47 August 2015



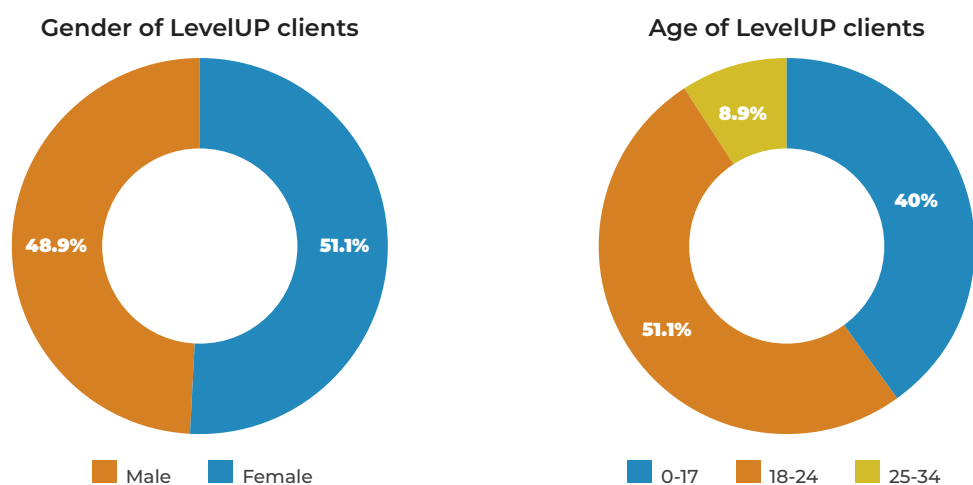
Project Solicitor Stacey's business card was purposefully accessible, with a cartoon image and as many options to link with LevelUP as possible.

There is great value in the unique approach taken by Community Legal Centres in providing services to this cohort: flexible, grassroots and accessible. Local connections and knowledge of appropriate service providers were vital aspects of the service provided through LevelUP.

Community engagement and education was also key in promoting the project and increasing legal literacy amongst young people and their workers. Legal education was provided across a broad range of youth spaces, services and education institutions. Community legal education provided an opportunity for relationship building and prevention, an important part of LevelUP's goals.

Engagement: Clients

LevelUP received 60 referrals during the project period (March 2018 – February 2020). 75% engaged with the project, with an average age of 17. Clients experienced extensive social and economic disadvantage. This included physical and mental health issues, unstable housing, incarceration, domestic violence (DV), drug and alcohol use and financial hardship. Data indicated as a client got older, the more likely they were to have an increased number of legal issues. Within this cohort, there were several key groups that were disproportionately represented.

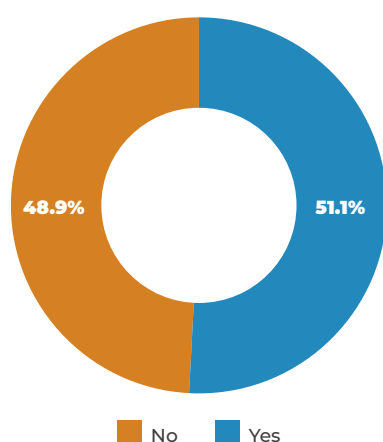


At the point of initial contact, LevelUP collected data about the incidence of disability or mental illness among clients. Almost 60% of clients identified as living with disability, either physical or psychological. However, through the course of contact with clients, many would disclose they had a diagnosed mental illness that they had not previously identified as a disability. This meant that over time, it was revealed that all clients were experiencing disability, mental illness or trauma.

In 2017-2018, 39% of young people in all forms of OOHC identified as Aboriginal or Torres Strait Islander in NSW. 51.1% of LevelUP's clients identified as Aboriginal or Torres Strait Islander.

The importance of Aboriginal and Torres Strait Islander young people being able to have cultural support and connection to their country and community can not be overstated. LevelUP greatly benefited from the involvement of an Aboriginal worker within LevelUP and Aboriginal oversight on the Steering Committee was an important feature of the program.

LevelUP clients who identify as Aboriginal or Torres Strait Islander

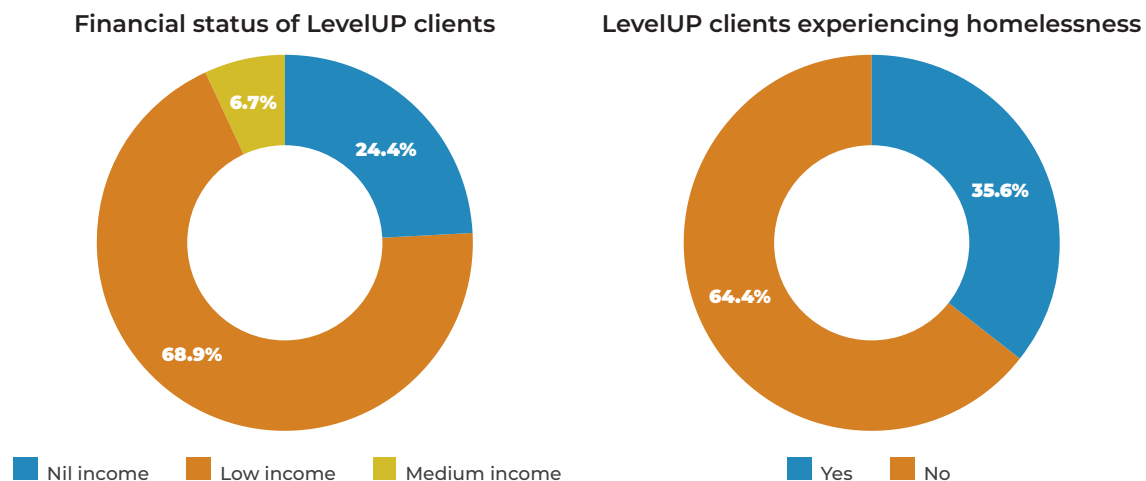


Many clients experienced an increasing number of family law issues as they entered relationships and had their own children. These issues often included relationship breakdown, parenting orders, custody arrangements and domestic violence.

Critically, it was noted clients had diminished confidence in their own parenting, particularly where DCJ was involved. Many clients reported fear of government services and hesitancy in accessing support from medical or community services for fear that their own children would be removed, just as they had been. At the conclusion of the project, 20% of clients had children at risk of removal.¹⁶ Many LevelUP clients disclosed their parents had also been removed, and we conclude the 'cycle of removal' is pervasive.

¹⁶ The prevalence of intergenerational links in child protection and out-of-home care in NSW - August 2017 - FACSIAR Brief

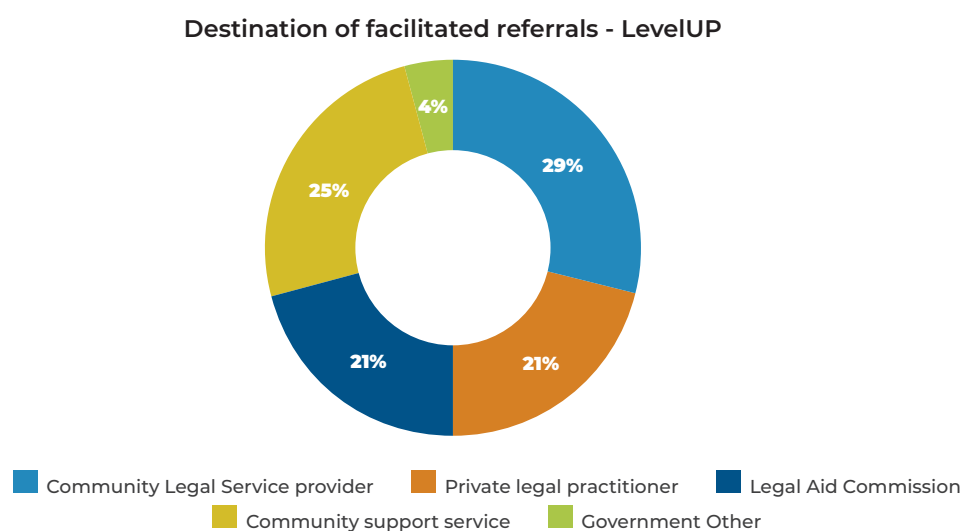
Clients experienced compounding challenges which inhibited their ability to access traditional supports, as shown in the client profile graphic.



Engagement Service Providers and Project Partners

LevelUP sought to provide a comprehensive wrap around service and found the most success connecting with young people via other service providers working with young people. Some service providers, particularly MY Foundations Youth Housing, the local youth service YP Space, Department of Juvenile Justice, Premier's Youth Initiative and the Aftercare team at UnitingCare Burnside were actively engaged with the project and very supportive with referrals and collaboration. The feedback from these Service Providers is at Appendix 2.

We facilitated referrals for clients to relevant support services including private solicitors, other community legal services, Legal Aid, counselling, DV support, financial counselling and housing services. LevelUP provided a gateway through which clients could receive increased holistic services.



Other service providers, particularly the NGOs in the Out of Home Care space and indeed FaCS (DCJ) itself, were open to education sessions delivered as part of the project but only made referrals to LevelUP where their client had complex needs and was disengaged from all services. This was despite continued engagement and encouragement to refer all clients on their caseload. This was disappointing as the project solicitor was aware that these services had many clients in need of the unique assistance LevelUP offered.

Overall, LevelUP struggled to effectively and consistently engage with Out of Home Care NGOs, despite ongoing efforts. This may relate to the high staff turnover, apprehension about the implications of the project for them as service providers and high caseloads.

The lack of engagement with services was concerning given the project solicitor's observations that many young people in OOHC were:

- Unaware they had a Leaving Care Plan
- Unable to access it because of a lack of support to use funds available for that purpose
- Aware they had a Leaving Care Plan that did not meet their needs but did not know that these plans could be varied.

It was also particularly concerning that clients of LevelUP disclosed that their complaints and concerns against OOHC providers were rarely actioned and, as a result, they felt that it was not worth making a complaint.

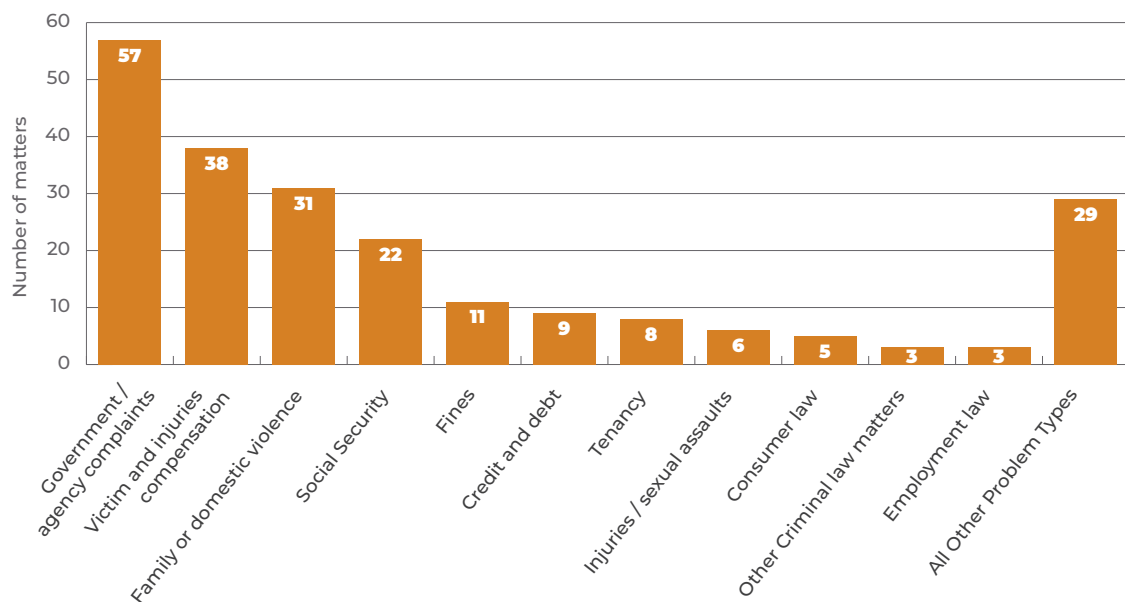
RESULTS

LevelUP demonstrated clients experienced multiple, intertwined legal issues. The average number of legal issues was between five and eight. Statistically, this is higher than the general population and reaffirms the vulnerability of this group.¹⁷

Domestic and family violence were common themes for LevelUP clients, with many citing incidents that occurred within their biological family, intimate relationships or in care. Many clients did not consider their circumstances as DV, despite some of these experiences involving significant physical violence. Clients needed help to identify acts of violence, make applications, ensure their DCJ files had been audited and follow up with Victims Services where applications had stalled. LevelUP found cases where clients files were not adequately audited and where Victims Services claims could have been made. Frequently, claims were not being processed by Victims Services if they required additional medical evidence that had not been obtained or if a decision had been made but they were unable to contact the client to accept the payment.

Other common issues included social security issues and Centrelink debts, minor criminal law matters including fines, debts and complaints about policing and care providers. Many clients had negative experiences during their time in care. This included abuse in care and frustration that their provider did not adequately meet their needs for support. We assisted clients with complaints to the Office of the Children's Guardian, NSW Ombudsman and DJC and referred to private practitioners for civil actions against the State.

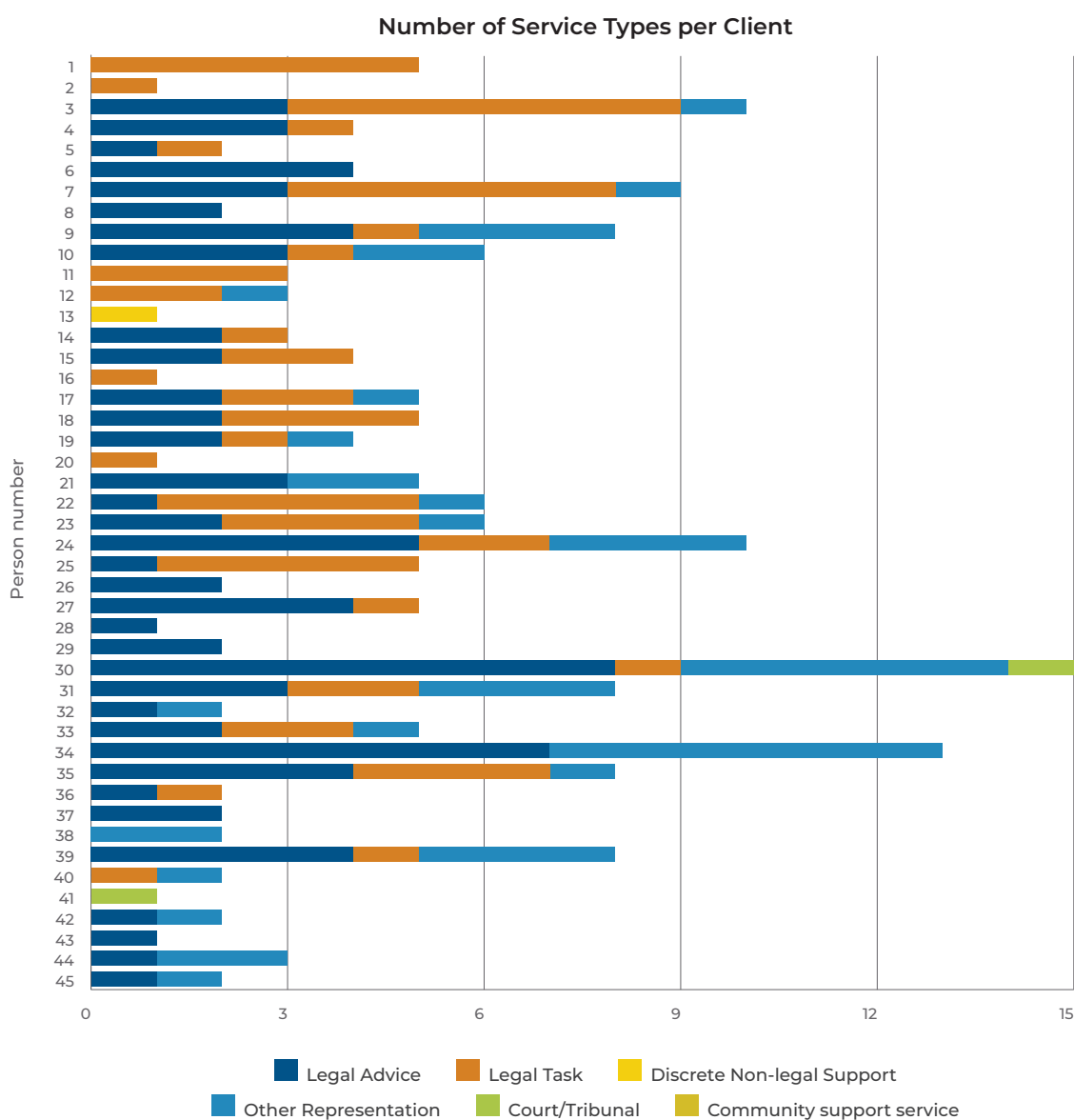
Total legal problem types experienced by LevelUP clients



¹⁷ 'Resolving legal problems: the role of disadvantage' McDonald, H.M and Wei, Z. Updating Justice no 56, June 2018


The chart below indicates the kinds of work done for each client – whether advice, representation, or legal task. These service types are defined by the Federal Attorney General's Department, in their *Data Standards Manual*¹⁸.

- “Legal Advice”: provision of fact-specific legal advice relevant to a person’s specific situation and request for assistance.
- “Legal Task”: discrete piece of work done to assist a person with their legal matter, or with a particular stage of their legal matter.
- “Representation”: where the Centre has carriage of a person’s legal matter in an ongoing, representative capacity.
- “Discrete Non-Legal Support”: a person receives specialist non-legal support for their specific situation (such as that provided by a counsellor, Aboriginal Liaison Officer or other specialist).
- “Court/Tribunal”: a person receives ongoing, representative assistance from the Centre in a legal matter before a court or tribunal.



¹⁸ <https://www.ag.gov.au/sites/default/files/2020-03/National-Legal-Assistance-Data-Standards-Manual.pdf>

CASE STUDY: HARRY



Harry is 23 years old, referred to us by a youth homelessness service. After leaving care at 18, Harry returned to live with his birth mother in Coffs Harbour. Harry's relationship with his mother broke down when she began drinking alcohol after being sober for 4 years. Harry's mother became violent and he was left homeless. Harry was sleeping in his car and had accrued several fines. Harry also had debts with Telstra and a gym membership that he had stopped using since he became homeless. Harry was getting frequent calls from debt collectors. During his last year in high school Harry had several mental health issues and stopped attending school for a month. Centrelink then raised a debt of \$6,000 because Harry didn't fulfil the attendance requirements of Youth Allowance.

What LevelUP did for Harry

- We assisted Harry to complete a Victims Support application in relation to acts of violence perpetrated by his Mum. Harry received an Immediate Needs Support Package of \$5000 which allowed him to secure rental accommodation and purchase essential household items such as a fridge and washing machine. We assisted Harry with 2 other Victims Services applications for acts of violence that he had experienced throughout his life. Harry received an additional \$20,000 in recognition payments from Victims Services.
- We assisted Harry to collect medical evidence and evidence from his previous school and review his \$6,000 Centrelink debt. This debt was waived.
- We connected Harry with a Work and Development Order sponsor and he paid off his fines by continuing his engagement with the youth homelessness service. We negotiated with the debt collectors harassing Harry and had these debts waived on compassionate grounds.

LEVELUP OUTCOMES



\$501 782 of Victim's Services payments identified - to date, clients have received \$280 782.



\$26 421 of Revenue NSW and Work Development order payment plans in place.



\$14 732 of Centrelink debt reviews.



700 hours of counselling referrals to support clients in their recovery.



12 successful referrals to private solicitors for assistance with personal injury and breach of statutory duty.



RESOURCES AND SUSTAINABILITY

The project solicitor juggled challenges in relation to resources. To adequately service young people engaged in the program and travel across the catchment, the project solicitor would ideally have had unimpeded access to a vehicle approximately two days per week. As it was delivered through existing MNCCLC resources, the availability of vehicles and the availability of clients was frequently hard to match.

For similar projects in future, more time should be spent reviewing the extent that resources are spent on clients who are failing to actively engage for a considerable period but have not communicated their express desire to no longer be involved. The project has highlighted several factors that should be reviewed although we note that this list is not exhaustive.

These factors include increasing resource provision to follow up with clients, a review of any access to justice barriers impeding engagement and the potential implementation of policies to determine at what point clients are phased out of the project. We note however that the latter two considerations may have a countering effect on one another and so a comprehensive review of both issues must be done in order to strike the right balance.

The original design proposed a total case load for the project solicitor of 50 clients. Based on the complexity of clients' legal issues and the above factors relating to engagement, this would not be feasible based on current project resources. As the project continued, the level of work meant that other solicitors at the MNCCLC assisted on client files within the project. It must be noted that the project solicitor remained the primary contact for all clients and for reasons outlined above, this was an essential feature in the success of the project.

Given this experience, the ideal structure and resourcing for a specialised civil legal program like LevelUp should include:

- Project Solicitor (full time) - to undertake pro-active casework and legal health checks with a manageable case load
 - Paralegal/social worker/youth worker (full time) - to assist with co-ordination and organisation of time, documents, attend non-legal support meetings
 - Access to an experienced legal team to assist with legal work behind the scenes
 - Access to an Aboriginal Engagement worker
 - Car (dedicated vehicle for the project would also be of benefit, to enable flexible movement to where clients find it easiest to engage)
 - Food budget
 - Access to effective counselling and mentoring for Project Solicitor and other staff involved in the project
-

WHAT DID LEVELUP TEACH US?

There is no 'one size fits all' approach when it comes to legal services aimed at this cohort. Effective services need to be dynamic, flexible and well connected with other agencies in order to facilitate appropriate referrals for a wide range of issues.

Young people, or those exiting care, have specific needs which have implications for legal practice. These needs, if not addressed, will inhibit service provision. If a person discloses an OOHC experience, consider how the service might be altered to overcome some of the barriers they face which inhibit access to legal and other services. Services seeking to improve outcomes for young people with an OOHC experience may consider the following factors in order to improve engagement.

Trauma informed practice

Clients had disproportionate experiences of trauma, abuse and sexual assault. Practitioners should be versed in providing trauma informed services in response, recognising the impact it has on clients' emotional, psychological and social wellbeing. While the aim of LevelUP was to increase client's capacity to self-advocate in respect of their own legal issues, in the context of trauma, this is not always possible. While a client may attain greater legal literacy, it may not be realistic for that person to become a better self-advocate within the project period. A good service must recognise the impact of trauma and ensure strong connections with other services that are able to provide practical assistance with issues outside the scope of the lawyer's role.

Mistrust of Government Agencies

LevelUP clients were often reluctant to engage with government services as they were viewed through the lens of previous interactions which, in most cases, clients felt had been negative. Clients lacked understanding about the independence of different agencies within Government. To optimise accessibility to any similar future projects and appease this mistrust, services should ideally be placed outside DCJ or another government department. Due to the project solicitor's ability to engage with clients, she was viewed as being independent and 'outside' the government system. This allowed clients a sense of security to seek assistance from LevelUP as it was not considered part of the 'system' many found so difficult. One participant noted "[Project solicitor] is the only person who has heard, listened, and engaged with me. Prior to this, no-one was there to help. They just wanted a paycheck. [Project solicitor] actually cares and wanted to help me."¹⁹

Lawyer/client relationship

Clients were advised about legal professional privilege at initial meetings. This aided in facilitating client engagement. Clients expressed they felt freer in the context of this privilege to disclose concerns without fear of reporting to child protection agencies. Explaining privilege may help a practitioner build trust with a client.

¹⁹ See Appendix 1

Clients also responded well to the principle of instructing a solicitor to act for them. Clients felt empowered by this dynamic and contrasted it to other workers in their lives who may be mandatory reporters and/or make decisions in their “best interests”. It is important to clarify this distinction for clients, so they understand the implications of the lawyer-client relationship to help them communicate without fear.

Contact and communication: alter expectations and be flexible

Clients were often difficult to contact due to relocation, change of phone numbers and/or homelessness. Clients would be uncontactable for months then reengage with LevelUP for another emerging issue. Be prepared to adapt modes of communication to take this into consideration. Get multiple modes of contact at the initial client meeting if possible. If appropriate, get authorities signed to speak with other relevant workers. Focus on client’s reengagement and provide a safe space to engage in times of difficulty, with a preference for text messages, digital communication and face to face meetings.

LevelUP was designed to facilitate quick access to legal advice, with clients able to bypass the general intake process and use the direct mobile number of the project solicitor.

Anticipate conflict of interest issues

LevelUP encountered a lot of conflict of interest issues. Commonly, clients sought assistance with claims in relation to acts of violence or abuse. These acts often involved other siblings (who also identified as young and in OOHC) or other children in foster homes or residential OOHC facilities. Clients also reported violence within romantic or intimate relationships where the perpetrator was also a young person with an OOHC experience. Conflict of interest issues were frequently observed intergenerationally within families. Measures should be put in place to ensure clients are assisted as much as possible whilst observing practice management and conflict of interest protocol. Within regional settings, this might include working closely with pro bono partners who can provide clients with a local service.

Flexibility in meeting with clients

In regional Australia, public transport is difficult to access and clients had limited funds for travel. Few clients held a driver’s licence. Flexibility with appointment locations and times and a willingness to meet clients somewhere convenient to them is crucial. Flexibility and understanding when clients miss appointment will encourage and facilitate their continued engagement. Allow sufficient time to take instructions and provide advice on numerous legal issues, as it is often difficult to contact clients after an initial meeting.

Address other immediate needs

Food became a successful tool for improving engagement with clients. LevelUP commenced low level fundraising independent of the project to buy clients a drink/meal. The value of this cannot be overstated. Many clients had little money and almost no experience with eating out. The opportunity for lunch provided an important incentive for clients to attend meetings and made the appointment less formal and intimidating.

Demonstrate you can get results

Demonstrating an ability to resolve some legal issues very quickly will greatly assist the legal practitioner in building trust with the client. It should be assumed that clients will come with little faith in the solicitor's ability to follow through. Issues such as fines, identification documents and some debt matters may be appropriate for on-the-spot resolution. Clients respond well to clear, tangible advice on future action and time frames. There were times where a client's non-legal issues were appropriate for LevelUP help which assisted in building trust.

Invest in relationship building, both with young people and youth workers

One of the focuses of LevelUP was providing CLE to both young people and youth services. Youth services were targeted to better equip workers with skills to identify civil legal issues and make appropriate referrals. This increased referrals from youth services as workers had a better understanding of the scope of LevelUP and the gamut of legal issues young people could be assisted with.

We found young people in care rarely congregate together and so targeted CLE is difficult. Instead we delivered CLE to disadvantaged young people generally, with the knowledge some of these young people were likely to have a care experience.

Proactively look for clients who have an OOHC experience

Despite their magnitude of legal issues, LevelUP's client cohort are difficult to find and engage with. Within generalist legal services, clients eligible for LevelUP were often identified through criminal clinics and traffic programs. Clients were unlikely to self-refer to LevelUP. Marketing LevelUP to those delivering services to young people with a care experience, including criminal lawyers, was a more successful avenue for client referrals.

How can a LevelUP model of service provision improve outcomes for this target group and reduce burden on the system?

This cohort of clients is vulnerable through no fault of their own. Their upbringing has been entirely shaped by State intervention. LevelUP offers an early intervention model of service provision which supports the transition to legal adulthood of young people who largely do not have the self-advocacy skills to access that support independently. Legal support through this model has demonstrated impacts, including:

- Securing financial stability
 - Gaining housing and tenancy support
 - Understanding workplace rights
 - Resolving debt
 - Understanding and navigating the family law and domestic violence systems.
-

RECOMMENDATIONS

Recommendation 1:

Ongoing funding for a free civil legal assistance program and service targeted specifically at young people leaving OOHC.

A systematic referral to this service from the age of 16 would ensure fewer young people slip through the cracks. This service should employ a solicitor and youth worker in regional locations to provide services across the NSW. It would also provide ongoing education for care workers, service providers and community members who connect with these young people, to help identify legal issues and support them to access legal assistance.

Recommendation 2:

The free legal service for young people (16+) be flexible, grassroots and accessible.

Community legal centres are best placed to provide this model of service because they are:

Flexible – ability to react and respond to need e.g. need to provide food to clients or meet outside the office

Grassroots – not another big government agency, but a local service that is in touch with community and has established strong relationships with other local service providers

Accessible - a commitment to engage proactively with young clients, with an approach that meets individual needs

Recommendation 3:

Solicitors should be provided with specialist training to alert them to the specific legal needs and transgenerational trauma arising from the OOHC experience.

Trauma informed practice is key to a successful civil legal assistance program for vulnerable young people. It is important that lawyers do not make promises they cannot keep, and that they are prepared to listen well to client's stories so that they do not make a client relive trauma unnecessarily. It's also important to recognise that some client behaviours (e.g. failing to show for appointments, failing to complete tasks, being disorganised or disjointed) are symptoms of their experiences and a commitment to them despite those behaviours is part of what works.

Recommendation 4:

The design of this program should include an Aboriginal and Torres Strait Islander Engagement worker.

Where an Aboriginal or Torres Strait islander solicitor is not available, an Aboriginal worker should be a critical part of the program itself. The high numbers of ATSI young people in the LevelUP project (50% of clients) reflects the high numbers of ATSI young people in Out of Home Care generally. These young people are also dealing with the generational trauma associated with the history of colonial policies and have specific cultural needs which must be safeguarded during the program.

Recommendation 5:

Leaving Care Plans and File Audits should be made available, strongly encouraged and supported for all young people who have an OOHC experience until at least 24 years of age.

All young people who have experienced a period of OOHC²⁰ should be automatically included in a process to develop a Leaving Care Plan and undergo a file audit upon turning 18. It became apparent through LevelUP that young people who have OOHC placements that end prior to them turning 18 years of age do not access the opportunity for a file audit without assistance. A file audit provides a crucial opportunity for case managers to consult with the young person, review their placement and ensure timely identification of situations where a Victims Compensation application can be made. Unfortunately, in many cases, caseworkers do not adequately identify all the legal avenues available to the young person. Due to strict time limitations in some legal matters it is imperative that young people are linked through the file audit process with appropriate legal assistance.

Recommendation 6:

Government should adopt a system of warm, active referral of young people to an appropriate legal service with relevant supports and expertise prior to leaving care.

This would prevent young people from experiencing the common situation where FaCS (DCJ) fail to progress a file audit or lodge a victim's services application for a young person. Accreditation for OOHC services should include a requirement to provide staff training in awareness of civil and other legal issues which their clients may face.

Early intervention family law assistance for young people exiting care would also be an important part of a targeted legal service program assisting this client cohort.

²⁰ This includes not only young people who self-place prior to 18, but also 1. where parental responsibility of the young person is given to a family member; 2. where the young person is restored to family; where the young person is placed under a Guardianship order; 4. where the young person is adopted.

Recommendation 7:

Material to support practitioners should be developed to assist in rolling out a legal service in the future.

These materials would include:

- Specific legal health check for young people leaving care (see Appendix 3)
- Training kit for service providers working with young people leaving care, including Legal Health Check training, delivered regularly
- Client safety assessments for off-site visits
- List of essential topics for training legal workers assisting young people
- Recruitment considerations including the ability to work with flexibility and to develop rapport with young people
- Awareness of issues around file management for this cohort of clients.

APPENDIX 1

Feedback from Clients

Telephone surveys were conducted by a MNCCLC volunteer unconnected with the LevelUP project to collect data from clients about their experiences using LevelUP. The project solicitor's name was used in the survey (Stacey) given many young people had intermittent contact with many service providers. We received responses from 10 clients, and their feedback was overwhelmingly positive. Of the 10 responses, all said they identified that they had a legal problem that Stacey was able to assist with. All said that they were happy with the outcome, and 8 of the 10 said that they would call a lawyer for help with a problem in future. Of interest to us were responses to some open-ended questions. We have extracted some of the responses below, and used our client's words:

"How were you feeling about your legal problem before you met Stacey?"

"I was going through a rough time."

"Like Sh*t."

"Stressed out and didn't know what to do."

"What kind of help did Stacey give you?"

"She sorted things out, told me what could be organised and got rid of my anxiety."

"Told me what rights I had."

"Helped me with the care that I'm in."

"Did you learn anything about the law from Stacey's help?"

"Yes and no. I had researched a bit but still learned new things."

"Yep, mostly everything."

"Not really."

"How do you think things would have gone if Stacey hadn't been there to help you?"

"I would be worse off. In a dangerous situation."

"I would have given up."

"Still struggling to find answers."

"Do you have anything you'd like to say about Stacey or LevelUP?"

"LevelUP should be outreached to a lot more people so they know what services we have."

"Stacey is the only person who has heard, listened, and engaged with me. Prior to this, no-one was there to help. They just wanted a paycheck. Stacey actually cares and wanted to help me."

"It's a good thing for young people coming out of care and should stay around."

APPENDIX 2

Feedback from Service Providers and Project Partners

We surveyed service providers involved with the project via surveymonkey in December 2019. The full survey results are attached as an appendix to this report and show overwhelmingly that the project was considered valuable by services working with disadvantaged young people.

All respondents answered that it was easy for them to refer clients to LevelUP and that the structure of the program was responsive to clients and their needs. They also all agreed that LevelUP was a program that “filled a gap” in legal services for young people leaving care. Half of the respondents had attended an education session and agreed or strongly agreed that it was helpful for their work with young people.

Some of the specific comments from respondents are provided below:

Have you ever referred a young person for assistance through the LevelUP program? If yes, why did you refer them?

“They had an out of home care plan they couldn’t access.”

“Personally, three times (however there have been more). Young people from our service access LevelUp for support with understanding legal rights and responsibilities regarding leases, support with VOC and claims against the state while in OOHC. Support while incarcerated for several young people to enable them to link in with appropriate supports.”

“Yes, legal support, advice and guidance with issues related to time in Out of Home Care system care and post care”

Do you have any further comments?

“Stacey (PMQ) has been very helpful and engaging with her approach to support a young person in our program. Our young person has attended without our support and this is a good indicator of a youth friendly service.”

“This service should be more widely available to other young people with OOHC experiences- including additional staff, but most importantly expanding the areas of service. We would really benefit from having LevelUp in the Newcastle area. LevelUp has not only been of great support to the many YP we have referred to the program, but also for the invaluable advice and guidance provided to us as staff, to better support us to link our young people in with appropriate legal services.”

“The flexibility of the program to meet a young person where they were at both location wise and socially.”

“The LevelUp program is great- the staff have good engagement skills with young people & are responsive to their needs. The training the service provides is great & very useful for community workers.”

APPENDIX 3

Legal Health Check

Name:

Date conducted:

By:



MONEY AND DEBTS	YES	NO
Do you owe anyone money? Unpaid bills? Mobile phone debts? Car accident where you were at fault? Are debt collectors chasing you for money? Payday loans? Renting household goods? Having trouble paying off a loan? Credit card debt?		
Do you have a problem with fines? Not able to pay off your fines? Dispute a fine? Has RMS cancelled or placed a restriction on your licence?		
Are you having problems with Centrelink? Unable to get payments? Payments have been cancelled? Owe Centrelink money?		
Does someone owe you money?		
HOUSING		
Which of the following best describes your living situation: a) Living with extended family; b) Staying with friends/couch surfing; c) Staying in a refuge, hostel, or boarding house; d) Sleeping on the streets/rough sleeping; e) Foster Care f) Resi Care g) Private rental h) Community housing		
Do you have problems with your housing? Getting evicted, behind in rent, problems with the landlord, not able to get repairs done where you live, having problems with flatmates, left belongings behind at previous house?		
Have you ever been put on TICA blacklist?		
Do you want to/have you applied for community housing?		
LIVING INDEPENDENTLY		
Are you having difficulty getting your own Medicare card/ID, enrolling in school, getting your birth certificate, or changing your name?		
Are you under a guardianship, FMO or community treatment order?		
ACCIDENTS AND ASSAULTS		
Have you ever been injured in an accident? In a car accident? At work, school, or on public transport?		
Have you ever been a victim of violence, physical assault or sexual assault?		
Has a family member ever been assaulted?		
Have you ever/would you like to apply for victims support?		
FAMILY VIOLENCE		
Are you currently experiencing Family or Domestic Violence?		
Have you previously been in a relationship where this was a factor? Have you been to court for an AVO?		

CHILDREN		
Do you have any arrangements, plans or orders about children? Who the children live with, spend time with or your involvement in major long term issues.		
UNFAIR TREATMENT, DISCRIMINATION AND HARASSMENT		
Have you ever been discriminated against, harassed or treated unfairly? At work, school/TAFE/University, pub/club, by government departments, real estate agents, shops or other service providers?		
Have the police ever detained or searched you without a lawful excuse? Have you ever been tasered? Have police used excessive force against you?		
GOOD AND SERVICES		
Do you have a problem with something that you bought or a service you paid for? Product was faulty/did not work as promised? Been refused a refund? Dispute over product warranty? Tricked into a scam or an unfair deal? Door-to-door sales? Service was unsatisfactory?		
EMPLOYMENT		
Have you experienced problems with your work? Have you been unfairly dismissed, bullied or harassed? Are you being paid the right rate, owed unpaid wages or superannuation?		
Are you prohibited from working with children, or, is your criminal record preventing you from working in your chosen job?		
FAMILY AND COMMUNITY SERVICES		
Have any problems with your placement or assistance? Problems with your caseworker? Not getting reimbursed for costs? Need DOCS to pay for something?		
Do you have a Leaving care plan/issues with LCP?		
SCHOOL AND EDUCATION		
Do you have any problems with school? Been expelled/suspended? Been in trouble for truancy?		
CRIME		
Do you have a notice to appear or are you due to appear in court?		
Do you have any outstanding warrants?		
CONTACT DETAILS		
Have you recently changed your phone number?		

Other contacts

Organisation	Consent to contact	Case Worker Name/organisation	Case Worker Contact Number
Juvenile Justice			
FaCS			
OOHC Care Service Provider			
Aftercare Service Provider			
NDIS			
MH / Guardian / Other worker/ carer			



MNC
MID NORTH COAST
Community Legal Centre