

# Referrals to Your Voice

## Information about client agreement for referrals to Your Voice – Children's Out of Home Care Advocacy Service at Legal Aid NSW (Your Voice)

A child or young person<sup>1</sup> (young person) in out of home care has a right to access a lawyer. This is no different to their right to access a medical practitioner, counsellor, caseworker or any other professional service they may need from time to time.

Your Voice has been established to meet the legal needs of young people in out of home care.

### Who can be referred to Your Voice

Your Voice can accept referrals for any young person in care up to age 18.

While there is no minimum age, a very young child may be less likely to be able to instruct a lawyer. This is something we will assess on a case-by-case basis.

The consent for a young person to access a legal service is different to an assessment of their capacity to instruct a lawyer.

A caseworker only needs to be satisfied that a young person agrees or wants to access the service. A concern about a young person's legal capacity to instruct is an issue for their lawyer to assess.

If you have concerns about a young person's capacity to give instructions, information about those concerns should be included in the referral.

### What a young person needs to know to agree to a referral

When referring a young person to Your Voice it is important that they understand the general nature of the referral. They do not need to know *everything* about the service to agree to the referral. The young person just needs sufficient information to have a general understanding of the service. The young person needs to know the service is voluntary and has lawyers, an Aboriginal Field Officer and Senior Youth Caseworkers to help them with their legal problems.

Providing the young person with the Your Voice information brochure or assisting them to access the Your Voice Video and answering any questions which they may have will usually mean the young person has enough information to agree to the referral.

### Referrals to Your Voice

Your Voice welcomes referrals for any young person who wants to speak with a lawyer.

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<sup>1</sup> For the purposes of this factsheet, we define child or young person to mean any person under the age of 18 and will refer to them as **young person**. We acknowledge that the *Children and Young Persons (Care and Protection) Act 1998* has different definitions.

We are also happy to speak with any caseworkers who have questions or concerns about whether to make a referral.

## Further information

Legal Aid NSW works with young people in many different areas of law.

Legal Aid NSW represents children and young people across many jurisdictions and is also responsible for allocating child representatives in these jurisdictions. The Courts entrust Legal Aid NSW with this responsibility because of our acknowledged expertise in child representation.

Some of the areas in which Legal Aid NSW represents children and young people include:

- in criminal law matters – all children over 10 are expected to independently instruct their lawyer in criminal proceedings
- in care and protection proceedings – as an Independent Legal Representative (ILR) or Direct Legal Representative (DLR)
- as Independent Children's Lawyers (ICL) in family law proceedings
- as Separate Representatives in Supreme Court and NCAT proceedings, and
- in other types of civil law matters – generally lawyers act on direct instructions from young people (though there are some exceptions to this, which usually relate to matters which are being initiated in courts).

The law makes different assumptions about a young person's capacity to instruct depending on the legal issue and jurisdiction. Whilst this may appear complex, Your Voice lawyers are specialists in working with children and young people and are across these representation principles in every area of practice. Our lawyers will assess a young person's capacity to instruct for each and every matter which is referred.



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