

Youth Law Australia acknowledges the Palawa people of lutruwita, the Bedegal People of the Eora Nation, the Kaurna people of the Adelaide plains, and all the other Traditional Custodians of the lands on which we work. We pay our respects to their Elders past and present and commit ourselves to the ongoing journey of Reconciliation.



30 January 2026

Child Safety Commission of Inquiry

Queensland

By email: info@childsafetyinquiry.qld.gov.au

Submission to the Child Safety Commission of Inquiry regarding corporate parenting and the link between the child safety and youth justice systems

1. Youth Law Australia (**YLA**) welcomes the work of the Commission of Inquiry (**the Commission**) in conducting this Inquiry into the Child Safety System (**the Inquiry**). We thank the Commission for the opportunity to make a submission to inform the development of a child-focused and rights-based Child Safety System, which appropriately considers the needs of young people known to both the child safety and youth justice systems. We also thank the Commission for the short extension of time to provide this submission.
2. We acknowledge the disproportionate, ongoing and intergenerational harm experienced by Aboriginal and Torres Strait Islander children and young people and their families and communities. The child safety and youth justice systems are especially harmful and unjust for First Nations children and young people who are overrepresented in care and detention.
3. We also acknowledge the many young people who have been courageous and hopeful in sharing their experiences with us and will continue to support individual children and young people to engage with the Inquiry.

About Youth Law Australia

3. YLA (formerly the National Children's and Youth Law Centre) is an accredited community legal centre dedicated to helping children and young people under the age of 25 years and their supporters to understand their rights and find solutions to their legal problems. YLA is Australia's only national, technology-based community legal service, providing specialist child safe and trauma-informed legal services and referrals through options including email, phone and live webchat.

Youth Law Australia

4. YLA has significant experience advising and supporting young people and their advocates with matters involving their experiences in care and the youth justice system. We provide a holistic legal practice for children and young people, which means that whatever the presenting legal problem, we can also assist with any other legal problems that arise. Relevantly, involvement with Youth Justice or Child Safety not only constitutes a legal issue itself but may also impact a young person's broader legal issues for years to come. Therefore, awareness of the Child Safety system – and its intersections with youth justice – permeates much of YLA's casework and advice services. Importantly, we provide these services until the age of 25 – seven years after young people have lost their Corporate Parent. This provides us with insight into the lasting ramifications of contact with Youth Justice or Child Safety.
5. As a national service, we provide advice and casework services across all states and territories, but in FY25, 793 Queenslanders sought support from YLA – just over one fifth of those matters related in some way to child protection involvement¹ - whether historical, current, or anticipated.

Introduction

6. Queensland's youth have been a high-profile media topic in recent years, with responsibility for addressing negative presentations consistently discussed. In this context, it is not uncommon, in the comment sections below news articles and in general discussion to hear the question 'where are their parents?' Our community expects that parents of young people who are struggling, failing to thrive, or behaving in ways which put them at risk, bear responsibility. For children and young people in care, the Department holds this responsibility, and the question of what that *should* look like is deeply important to the young people we work with.
7. At the outset, we acknowledge young people in care are not a monolith. Much of this submission focuses on the children in care identified as struggling – those in youth detention or who have been victims of crimes. Generalisations may be made, but the experience of each child is unique, and their path in life is not determined by the Department's involvement. The Department does, however, have a duty to protect and set these children up for the best possible beginning to their adulthood.
8. Our submission focuses on our area of expertise: children and young people's experiences. It will also be informed by children's human rights, including and particularly the *Convention on the Rights of the Child*. Against these key drivers, we have explored each question posed by the Call for Submissions. This is intended only as an initial response, and we anticipate building on our observations, and providing specific recommendations, in future submissions.
9. This broad discussion does not *at this point* consider the intersecting needs of children and young people who are First Nations, LGBTQIA+, Culturally or Linguistically Diverse, or who have disabilities, and how their identities impact their treatment and experiences under guardianship.² Each of these cohorts deserve particular and careful attention in this context, and we look forward to exploring the experiences of these specific groups in our future submission.

¹ Derived from FY25 data, indicating 166 matters related to child protection or services - 20.93%.

² We note also the specific relevance of various Articles in the *Convention on the Rights of the Child* to young people within these identity groups, not limited to Articles 8, 23, and 30.

10. This submission draws from cases and observations specific to the Queensland systems, however, as a national service some of our learnings derive from work across Australia. We also utilise case studies inspired by amalgamations of multiple clients' experiences and matters, not based on any one person's story. Any resemblance to real people is coincidental. No client names are used.

Corporate Parenting

11. The word 'parent' can be loaded for a child who has been removed from their family of origin, and there is no single satisfactory definition. However, parenting generally involves an intimate relationship between a small number of persons. While this may not be equal – the parent has more power and authority than their child – it is reciprocal. It is based on an ongoing and personal connection, built incrementally through care.
12. This is a relationship which the Department – composed of hundreds of individuals – cannot easily replicate, as acknowledged in the Call for Submissions. Instead, a child in care may experience multiple people performing parenting functions in their daily life (**Parent Representatives**),³ increasing where other stakeholders (Youth Justice, NDIS and Health, for example) are involved. This can result in teams of people collaborating on parenting decisions, each familiar with one aspect of the child's life. This may be unwieldy from a service perspective, but from the child's perspective it is inconsistent and impersonal. It also renders each parental figure they encounter as inherently incomplete.
13. This is something expressed by children in care from quite young ages – many of our clients recognise the role of the Department in their lives, and even the duty of care owed to them, but would not characterise the Department as their 'parent.' They are not alone in that – we note, for example, that Child Safety is explicitly excluded from the definition of parent⁴ for the purposes of family and domestic violence legislation.
14. In this context, we note that while the term Corporate Parent (as defined in the Call for Submissions) can seem oxymoronic, it does convey the combined impersonal, statutory and personal nature of the Department's relationship with the individual children in its care. This captures one of the fundamental confusions children face when advised that the Department is their legal parent. We have used this terminology throughout this submission.

Child Perspectives of the Corporate Parent

15. For some of our clients, the risk of the Department's involvement has deterred them from disclosing harm. As legal practitioners generally not subject to mandatory reporting requirements⁵, we are often the first service children have told about their circumstances, and witness their careful weighing of the risk of home life against the risk of government

³ These figures are not the child's parent, despite carrying out parenting functions. To distinguish them from the Corporate Parent, we have used the term Parent Representative to reflect their role in a child's life.

⁴ Section 16(1)(a) *Domestic and Family Violence Protection Act 2012* (QLD).

⁵ The offences relating to failure to report child sexual offences by an adult in Queensland are broadly stated to apply to all adults, but it has been acknowledged that the offence is not intended to override privilege, including legal professional privilege, see: <https://www.qld.gov.au/law/crime-and-police/types-of-crime/sexual-offences-against-children/failure-to-report>.

involvement.⁶ This is because, for a child, the Corporate Parent relationship often begins with the severing of another – generally, Department takes its place in a child’s life by force, which impacts how they interact with and perceive it.

16. The perception of the Corporate Parent as a potential threat can persist once children are under guardianship. Many young people favourably compare their birth families to the Department, reflecting on what they consider to be relative safety, familiarity and love. Accurate or not, these impressions can become entrenched for young people, especially if there is limited transparency about how they came into care. Concerns raised about their care experiences include:

- Feeling unsafe or experiencing abuse in placements;
- A lack of stability or certainty that they will remain in one placement long-term;
- Frustrations with changing caseworkers and carers;
- A sense of not being listened to, and an inability for a true dialogue about care;
- The understanding that their carers are being compensated for being in their lives (particularly in residential care);
- Limitations being placed on existing supportive relationships, including siblings, family friends, and community members; and
- Feeling they are perceived as too ‘complex’ or ‘difficult’ for either their family of origin or the Department to care for.

17. Outside of these experiences, there is minimal direct contact between the Corporate Parent as an entity and the child. This can impact both parties negatively – the child will not have a full understanding of the decisions made regarding their care (leading to distrust) and the Department does not have true access to their voice, impacting the quality of those decisions. This imbalance can shape a child’s early relationship with the Corporate Parent. This is a risk as without a strong foundational bond a child may disengage, placing them at greater risk in community. Relevantly, with the Corporate Parent so removed from its children, the main function it performs is to direct elimination of perceived risk. We have observed that risk-mitigation has almost become synonymous with care. This lessens the emphasis on proactive, individualised and emotional support, which all require personal connection to the child.

Corporate Parenting and Conflicts of Interest

18. Conflicts of interest can exist between a child and their family of origin, as recognised in the *Child Protection Act 1999*.⁷ But the equation is more complicated for the Corporate Parent who must consider Government commitments, their duties as an employer, and most importantly, the best interests, safety and wellbeing of *any other child in their care*. None of these interests can easily be set aside, but neither will they always align.

⁶ Young people often raise concern about how Child Safety involvement will impact their access to younger siblings. In this way, young people might consider the Corporate Parent a threat to their existing family.

⁷ See the Paramount Principle at section 5A, which holds that any conflict between the child’s safety, wellbeing and best interests, and the interests of an adult caring for them, must resolve in the child’s favour.

19. This complicates the Department's responsibility, per state laws and international instruments,⁸ to hold the 'best interests of the child' as a central concern. Many of the issues raised by young people in care could be viewed as arising from or relating to conflicts of interest, from inter-house violence in residential care, to complaints about caseworkers. This is in part because most of the figures in a child's life will *also* be owed a duty of care by the Department. Some conflicts may be more complex again – consider responsibilities the Department may hold in family situations, whether this relates to siblings in care, or even young parents where the Department has guardianship of both parent and infant simultaneously.
20. This places the Department in the position of needing to assess and weigh the interests of the various entities it is beholden to. But how can one truly weigh the benefits and costs of conflicts this fundamental? At what point does the *discomfort* of a child tip from a 'manageable cost' to untenable, and how can this consistently be applied across thousands of different lives?
21. Further, as a government Department, the Corporate Parent's errors or failings are a matter of public interest and may be subject to high levels of scrutiny. This necessitates another balancing – the Department must act not purely in the best interests of the child, but in a way that will be *perceived* as the best interests of the child. This is a fine distinction, but can lead to rigid approaches to at-risk behaviours, as the Department cannot be seen to endorse action that may put a child at risk or is contrary to community expectations, even where this is at odds with the practical situation. This can create pressure on caseworkers and carers, who, while acting on behalf of the Corporate Parent, may disagree with the approach taken.⁹
22. This is not to say that the Department and its staff do not all seek to uphold the best interests of the child to the greatest extent they can. However, it is important to recognise the impossibility of *always* or even *mostly* upholding the best interests of *all* the children in their care. These conflicts of interest underpin our submission and inform each of the concerns we raise in response to the Commission's questions.

Question 1: is the Department an effective Corporate Parent and is it meeting community expectations in relation to parenting children and young people who are placed in non-family-based (residential) care and young people who are transitioning out of care into adulthood?¹⁰

23. There are no clear criteria to assess whether the Department is an effective Corporate Parent, however the stability and wellbeing of its children is an appropriate metric to begin discussion. Young people in care have already experienced an interrupted upbringing, and it can be hard to separate this initial disadvantage from any negative impact of their time in care. However, drilling down to this distinction misses the key point – in taking a child into care, the Department has taken the responsibility to *mitigate* that disadvantage.
24. We have discussed some of the barriers to this below, however, the people best placed to critique the Department as a Corporate Parent are the children and young people who have

⁸ *Child Protection Act 1999 QLD*, s 5(a); *The Convention on the Rights of the Child*, 1990 art 18.1.

⁹ Although not the focus of this submission, we note this conflict between the Corporate Parent and its representatives can cause real moral injury on its workers, who bear the brunt of representing and implementing decisions which they may disagree with.

¹⁰ Note we address the experiences and expectations of Dual-Involved young people in Questions 2 and 4.

experienced that parenting themselves. We strongly endorse the efforts of the Commission to consult with young people (including young adults) who grew up under the Department's care.

Residential Care and the 'Parent-Employee'

25. All young people in care experience a division of parenting responsibilities and roles between their carers, caseworkers, and the Department. This renders each Parent Representative as inherently incomplete (a carer may know a child best but cannot make administrative decisions about their placement). The bureaucracy can feel heightened for children in residential care, which regardless of effort and intent, is furthest from a traditional family setting. We note:

- The residential 'home' is equally a workplace for the Parent Representatives (carers).
- Carers attend on rotating shifts and may be replaced by casual staff as needed. A child may be woken up in the morning by a different care team than the one who put them to bed the night prior.
- Policies and work, health and safety procedures may dictate how the house is run, when children can leave, and the ratio of carers to young people required.
- Household decisions (including, for example, a holiday outing) may require the input of external persons, like caseworkers or disability support coordinators.
- House crises must be managed by procedures, including paperwork and risk management required afterwards.
- Young people are regularly monitored in their home environment, with written records of 'shifts' also being potentially invasive records of a young person's daily experiences.
- Young people are more likely to have experienced placement breakdowns and shifts than their peers, reducing the sense of a home environment.¹¹
- Children and young people are often acutely aware of ongoing assessments and litigation processes to vary their care arrangements.

26. In this context, carers operate simultaneously as a Parent Representative and a worker – a fact the young people they care for are conscious of. These Parent Representatives face similar conflicts of interest to the Corporate Parent. As well as having a responsibility to the young people in their house, carers must consider:

- **Their employer:** carers have a responsibility to follow their role descriptions, applicable policies and procedures. This is complicated when caring for young people who do not have positive associations with the Department and may feel decisions made by their Corporate Parent are unfair. It is also notable that carers are required to follow directions (for example, redeployment) their employer makes for the good of the broader organisation. As flagged above, this may not align with their own opinion of the best course of action for the child.

¹¹ Note 78% of young people in residential care have lived in 4 or more placements, per page 15, Department of Families, Seniors, Disability Services and Child Safety, *Children in Care Census 2024*, 2024. Accessed at: [2024 Census of children in care | Our Performance](#).

- **Their colleagues:** as workers in potentially volatile environments, carers need relationships of trust and respect with their co-workers. A united front can be important for maintaining order in the house. However, this approach has risks, particularly if a carer disagrees with a colleague's approach, or observes tension between a child and their colleague.
- **Themselves:** carers are employees and must consider whether they *want* to continue working as a Parent Representative. We do not make this observation to be critical – it is entirely fair that employees consider factors like career progression, job satisfaction, work-life balance and (in some cases) safety or wellbeing. However, this means that they cannot place the best interests of the child in the forefront of their decision making.

Young people are aware of these divided loyalties, and it can impact the strength of their relationships with their care teams, as well as the quality of care. There is a sense that these bonds are temporary and contingent on specific circumstances.

27. Strong emotional connections do develop between carers and young people, but the relationships form in an employment setting and cannot exist outside that framework. This imposes parameters that do not usually exist in parent-child bonds. An obvious example is access and intimacy: it would be unprofessional for a carer to communicate with a child outside their scheduled shift time, share overly identifying information about their own lives, or provide personal contact details like phone numbers or social media accounts. However, this would be expected in a familial child relationship.
28. In addition, as Corporate Parent and employer, the Department determines if this relationship continues, regardless of either party's wishes. A positive relationship may cease due to staff redeployment, placement shifts, promotions, or the young person aging out of care. The Department considers the child's best interests when making decisions, but as mentioned above it is not their *only* consideration.
29. At the same time while the terms of their employment require carers to care *for* young people (for example, supporting with laundry, cooking and cleaning) the Department cannot force them to care *about* the young people. This is a distinction our clients are very aware of, and which impacts how home-like their environment can be.
30. Caring, stable relationships are beneficial to young people, as reflected in the legislative standards of care,¹² and carers are the most able to provide these. However, the Department cannot require their employees to form this emotional bond, nor can they enforce a child being 'cared about and valued' by Parent Representatives.
31. Beyond this, carers hold a significant amount of power in the residential care house, and failure to properly utilise or consider this can lead to poor practices and breach of children's rights. Often, these oversteps are due to inexperience, but it is important to consider that the broader context may be carers more heavily weighing their duty to their employer (adherence to procedure, extreme attentiveness to risk) than their duty to the child. Where the child suffers

¹² *Child Protection Act 1999*, QLD, s 122(1)(c).

harm due to an error in judgement or poor practice, a further potential conflict emerges, as the Corporate Parent theoretically should have protected their child and then support them to access independent advice and support on potential breaches of *their own duty of care*.

CASE STUDY: [REDACTED]

[REDACTED] reached out for support to understand his rights in residential care. He said carers search his room repeatedly, barging in unexpectedly, and going through his belongings while he is out of the house. He stated the carers say they are doing this as part of their 'Duty of Care' to him, but he feels this is not genuine and it crosses a line. It frustrates him.

32. In some cases, explored later in this submission, carers' decisions may be based on a genuine perception that the risk to their own safety outweighs the child's emotional wellbeing *in that moment*. This may not be an unjustified assessment, but it can become a reflexive response to the slightest perception of risk. When the Parent Representative knows they are one of many people who provide care, this one moment may not seem significant. However, when every Parent Representative opts to withdraw or rely on restrictive practice (including chemical and environmental restrictions) the 'one moment', becomes the total of the child's care experience.

Right to develop, be looked after properly and be free from abuse

33. International law states parents have the responsibility to prepare children to 'live an individual life in society'¹³ – this support to grow and develop is usually provided over years, in millions of small moments. In community, parents approach this process in different ways, and there is no consensus on how it should progress. However, ideally it is a consistent and incremental process, with a built-in understanding that there may be setbacks and young people will test boundaries.

34. In a residential care setting, this responsibility falls largely to carers, who will each have individual attitudes towards parenting, layered atop the policies and directives of the Corporate Parent. In this context, members of a care team may not all agree on the best approach to take towards supporting any one young person. Anecdotally, we have observed that carers may, in the worst case, default to either:

- Asserting the young person is wholly independent, and they need not provide any support. This hands-off approach can leave young people feeling unsupported. Even where a young person may already have developed some life skills, certainty that staff are there to assist if they need it is essential for building trust.
- Infantilising the young person, regardless of whether they are Gillick competent¹⁴ or not. While more supportive, this also reduces opportunities for connection and growth and undermines the right of the child to participate in decision making.

35. Neither approach is consistent or appropriate, and differences in carer practice can lead to miscommunications and conflict between young people and their care teams, as expectations vary between shifts. The Corporate Parent can provide guidance here to increase consistency of

¹³ *The Convention on the Rights of the Child*, 1990, preamble.

¹⁴ *Gillick v West Norfolk and Wisbech Area Health Authority* [1986] AC 112 ("Gillick").

practice, but again it must be noted that their practical awareness of the daily circumstances of any young person will be incomplete.

36. This becomes extremely complex when supporting a young person's emotional and personal development. As teenagers grow and explore their identities, parents often support them through discussions about topical issues like consent, sexual activity, and drug use or offending behaviours. These conversations are normal and important. However, carers may not have the skill or the relationship to engage in these with a young person. Even if they attempt this, it is important to note the complexity of doing so from a professional perspective, where they must represent the views of the Department, and keep an eye on potential risk to the young person. This cannot, therefore, be a truly open conversation.

Expiry Date: Leaving care and the end of parenting

37. Generally, it is presumed that children in care become responsible for themselves once they turn 18 – this deviates from community experience, where a birthday does not end the relationship between child and parent (though it can shift it). Recent data indicates 35% of young people in care who turn 18 in the next 12 months will remain with their carer (though it is not specified how long for). This leaves a significant majority anticipating a move to either public housing or NDIS support.¹⁵ By contrast, about half of young Australians aged between 18-29 reported living with their parents in 2023 –¹⁶ over 10 years after a child in care theoretically ages out.
38. The Corporate Parent remains involved to some extent after a child turns 18 – but this operates on a sliding scale of ages and services,¹⁷ rather than as an unconditional ongoing connection. They are also generally 'opt in' supports, not an automatic entitlement, which places the onus on the vulnerable young person to seek support. For a service-provider, this is a fair and reasonable model of care provision. For a parent, it falls markedly short.
39. Though turning 18 marks a shift in the law's perception of a young person, it does not necessarily mark any real practical change in how they interact with and understand the world. This can in fact lead to increased vulnerability, as their life skills and abilities fail to match the community's perception of them as a full adult. The shortfall can result in serious and long-term consequences for a young person, including criminal records, unemployment and debt. These are moments when capacity to seek advice, or even comfort, from a trusted ongoing relationship can function as a safety-net. But the state's children will (and do) age out of that relationship far sooner than their peers are expected to.

¹⁵ Department of Families, Seniors, Disability Services and Child Safety, *Children in Care Census 2024*, 2024, p 29. Accessed at: [2024 Census of children in care | Our Performance](#)

¹⁶ The Household, Income and Labour Dynamics in Australia Survey: Selected Findings from Waves 102, as noted in Sarah Marinos, "More Australian adult children are living with their parents longer" *Business and Economics University of Melbourne* 12 February 2024. Accessed at: [More Australian adult children are living with their parents longer | Pursuit by the University of Melbourne](#). Report at: [Past reports](#)

¹⁷ We acknowledge Support Case Services, usually for about 12 months post leaving care; Extended Post Care Support until 21 for young people in care who turned 18 after 1 July 2023; Youth Housing and Reintegration Services until 21, and Next Step Plus and Transition to Independent Living Allowance until the age of 25. We note there are a variety of one-off supports (for example – Youth Housing Essentials) which are also available to young people, as well as non-government organisations funded to provide supports.

CASE STUDY: [REDACTED]

[REDACTED] reaches out to Youth Law Australia without a specific legal problem to raise. What she urgently needs, she advises, is a parent. In her early 20s, she feels she cannot cope with life without support and care. She asks if there is a way for her to be taken into child protection as an adult.

Question 2: What is the link, if any, between the child safety system and the youth justice system? For instance, do elements of the child safety system operate as a 'feeder system' to the youth justice? What are the factors contributing to children in care entering the youth justice system?

40. It has been asserted that children in care may face harsher treatment than their peers when they encounter the youth justice system,¹⁸ and we have observed the connection begins early in a young person's care journey. We have briefly explored this below based on our own experience, but there is increasing scholarship discussing care criminalisation which should be relied upon.

Setting the Scene: Early Exposure to Law Enforcement

41. It is generally accepted that the earlier a child encounters the justice system, the more likely their recidivism. It is relevant, then, that children in care may have encountered police at a very young age, including as witnesses or victim-survivors of crimes in their family of origin, or where police assisted in their removal.
42. Once they are under the care of their Corporate Parent, particularly in residential care, the risk of police contact may increase. In this context, their Parent Representatives may be more likely to resort to involving law enforcement. This could be in response to incidents at the house (whether involving the young person or their peers) or attempts to self-place / return to family. All these points of contact can normalise both engagement with police *and* police being deployed against a young person. For the child, they may also increase mistrust of police, leading to tension as the young person grows and is more likely to be perceived as a risk.

Criminalisation in Residential Care

43. Residential care is a volatile environment, where changes in placement matching and staff can result in conflict between young people, as well as carers. It is also substantially more likely to house young people who came into care at older ages, are diagnosed with or suspected to have disabilities, have been excluded from school, and have self-harmed. This is an extremely complex environment for young people, managing their own and their peers' emotional responses.
44. At the same time, this type of care environment is subject to heightened surveillance and strict standards, with the many variables requiring consistent approaches. We note:
- Carers are required to complete paperwork reflecting the day's events and behaviour of young people;
 - Any incident occurring on the property is not only reportable as such, but also a workplace issue. There may be specific plans in place for staff response, including contacting police, increasing the likelihood of further contact with the youth justice system;

¹⁸ Queensland Family and Child Commission (2023) "Queensland Child Rights Report 2023" accessed at [Queensland Family & Child Commission :: Queensland Child Rights Report 2023 :: Spotlight: Youth Justice in Queensland](#).

- Different carers will have different responses to behaviours (based on personal beliefs, trauma, and skill-level) which can lead to inconsistencies and increase conflict.

45. This is a complex environment to manage. Carers attempt to impose a parent-like relationship, on a shift-by-shift basis, and within the strict parameters set out above. This is not always successful, and attempting to impose authority may lead to further conflict. In that context, carers (particularly if they do not have rapport with the young people) can make assumptions about young people based off past presentations, associations or appearance, and resort to police as a behaviour management response. This can feel violating for a young person.

CASE STUDY:

■■■ lives in a residential care placement with another girl, ■■■ who has been involved with youth justice. They are friendly, but ■■■ tries very hard not to involve herself in ■■■ crowd and gets out of the way whenever ■■■ is dysregulated. However, ■■■ has noticed her carers have started to respond to ■■■ behaviour as though she is a risk, whether ■■■ is around or not. She can see the carer preparing for an incident even if she only raises her voice in frustration or slams her door. This is frustrating, and she worried about what they are saying about her. She is also worried that if she ever does anything wrong – even for the first time – they will call police.

Trauma and Justice Involvement

46. There is no one way to process or recover from adverse childhood experiences, and not all young people who experience trauma will engage in offending behaviour. However, recent South Australian studies indicate a significant majority of young people engaging in offending behaviour *have* experienced trauma.¹⁹ This is reflected in the 2024 *Children in Care Census*, which reported that dual involved children in care were more likely than their peers to have experienced chronic or reoccurring abuse.²⁰
47. The Department cannot entirely prevent children from suffering or experiencing trauma prior to their involvement. However, once the child is in their care, the Corporate Parent has the responsibility to prevent them experiencing further trauma and abuse and proactively link them in with supports at early stages. This is recognised in policy, where the Department acknowledges its responsibility to provide care arrangements and support services responsive to young people's therapeutic, behavioural and emotional needs.²¹
48. Unfortunately, coming into care is not always stabilising for young people. Children may face years of moves, implied rejection and sudden disconnection across all areas of their lives including home, school, health and disability care providers and community engagement. This can compound existing stress and may lead to systems trauma.

¹⁹ 88% of participants had experienced four or more ACEs – see Malvaso C, Day A, Cale J, Hackett L, Delfabbro P & Ross S 2022. Adverse childhood experiences and trauma among young people in the youth justice system. *Trends & issues in crime and criminal justice* no. 651. Canberra: Australian Institute of Criminology, p 5. <https://doi.org/10.52922/ti78610>.

²⁰ Young people who were under youth justice orders were 20% more likely than their peers to have experienced chronic or recurring sexual abuse. See p 13 in Department of Families, Seniors, Disability Services and Child Safety, *Children in Care Census 2024*, 2024. Accessed at: [2024 Census of children in care | Our Performance](#).

²¹ Department of Families, Seniors, Disability Services and Child Safety, *Child Safety Policy: Placement of Children in Care (578-5)*, 2024, p. 3. Accessed: [Support a child in care | Child Safety Practice Manual](#) on 20 January 2025, p 3.

Question 3: Experiences of information sharing, communication and engagement between government agencies in relation to 'dual order' youth offenders

49. When the Corporate Parent is represented by multiple interconnected and changing roles, information sharing is crucial to ensure care decisions are made and implemented in a thoughtful and consistent fashion. This is particularly important for dual-involved young people, who may move between community and detention. This can impact the child's engagement with health services and education, and carers' understanding of the child's recent experiences and needs.

The Child's Privacy vs Service Efficiency

50. This desire for open and collaborative communication is tempered by obligations to ensure that young people's information is shared *only* where necessary. This is acknowledged in policy, which requires consent be sought "wherever safe, possible and practical, including from children who have the capacity to understand the sharing of information."²² While in line with the child's right to privacy,²³ this is time-consuming for an over-burdened workforce. This is particularly the case when the young people are in detention, limiting opportunities for communication.

51. Anecdotally we have observed professionals may have an automatic level of faith in each other, leaving them comfortable sharing information they consider to be for the good of the child. It's important to remember a young person will not necessarily have the same level of trust in a new service. Unfortunately, particularly if a service provider has not yet developed rapport with a young person, it may seem simpler to seek information from a colleague. However, engaging at those early stages with a young person has benefits, including:

- Supporting rapport- building between a young person and their service provider;
- Demonstrating ongoing work to support the young person (enabling their understanding of their circumstances, and trust in the service) and keeping them informed of updates; and
- Preserving (and encouraging) the young person's sense of ownership of their own story.

52. Additionally, most official records will be from the perspective of the caseworker, not the young person. While these records can be useful to understanding the broad strokes of a young person's experience with the system, there is far less onus on service providers to record good days, than bad days. The result can be a record which skews heavily negative, due to focus on risks. It may also be incomplete, particularly if the child has not contributed their voice. The Department's assessment of things like triggers, or behaviours when heightened can be lacking or based on misunderstandings if they rely only on the accounts of adults who were present.

53. This is an issue for dual-involved children, who generally come into contact with Youth Justice due to conflict or presentation in community. Here, information sharing can be intended to preserve the safety of all involved, which is important. However, where a service is encountering a young person for the first time, their perspective of the child will often be built around the

²² Department of Families, Seniors, Disability Services and Child Safety, *Information Sharing for Service Delivery Coordination (403-7)*, 2024 Accessed: [Support a child in care | Child Safety Practice Manual](#) on 20 January 2025, p 3.

²³ *The Convention on the Rights of the Child*, 1990, Article 16.1.

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perspectives of their colleagues, not their personal assessment of the child. This also removes any opportunity for the child to start 'fresh', in a new environment.

54. We have observed that, depending on the information shared, young people can feel violated when services are made aware of their personal details *before* they have come to trust them. However, we can also see how desensitized young people become to their personal information being commonly accessible, reflecting a loss of perceived ownership over their own stories.

Siloes and Collaboration

55. Despite the above, we have observed that increased service oversight does not automatically lead to collaborative support between systems. Short remand times and strained resources can lead to a less-than-proactive service approach prior, as services fall back on the knowledge that it is not certain how long a child will remain in their care. Simultaneously, with the child no longer residing in the community, the Department may be less engaged, allowing the 'parenting' duties to rest with youth justice. This can leave a child in limbo.
56. In detention, young people will be dealing with different education staff, disability supports, counsellors, carers and case workers than in community. In this way, the list of people delivering some level of care may increase, but so will the number of perspectives (and therefore *interests*) on the child's life. Services may have opposing priorities, goals or interpretations of what constitutes the best interests of the child.
57. It can be unclear who will take the lead in coordinating services. This may be in part because of an automatic assumption that these children will be taken care of because they are under guardianship. Service providers, especially when balancing the needs of many children, may be relieved the Corporate Parent's involvement removes variables which complicate release planning for young people based with their families. This level of faith can lead to less emphasis on arrangements and supports post-release

Censored Childhoods: accessing their own information

58. While discussing information sharing between systems, we note that said information is rarely available to the young people it pertains to. As noted above, young people may not be permitted to know the rationale for care decisions, barriers to placement, or the circumstances of their removal from their families of origin. But as this information may be on file, a service provider could know these details before ever meeting the relevant young person.
59. The decision to withhold information from young people is often framed through the nebulous concept of their 'best interests' – a difficult assertion to rebut because it is assessed by the Corporate Parent. Particularly when the information relates to a trauma the child themselves experienced, this can seem misjudged. We emphasise the importance of any decisions around information sharing considering the age and maturity of the child involved. As noted above, children in care can sometimes be infantilised by the systems that care for them, but as young people who have experienced trauma and navigated systems for much of their young lives, they

may possess maturity far older than their biological age. Respecting this is relevant to both Gillick competence, and international law.²⁴

60. Young people frequently seek our advice regarding accessing their child protection records after they have left care, but this urge does not begin when they turn 18. In fact. Many young people are conscious of the narrative being built around them by various Parent Representatives and service providers and want to examine and potentially challenge it while still in care.
61. Where a young person does access their file after leaving care, there are limited opportunities to correct any misrepresentations they see reflected. Instead, the narrative of the Corporate Parent becomes the official narrative of their life. This often feels inaccurate to them. This problem is not beyond solving – ideally young people have the opportunity to provide their voice, or have genuine and meaningful opportunities to review documents at the time, rather than after they have left care. While this may require the support of an advocate, it is feasible.

Question 4: The experiences of non-family based (residential) care workers, foster carers and kinship carers in dealing with children in care who are known to the youth justice system and/or youth offenders

62. When considering risk mitigation for dual-involved young people, the Department may be conscious not only of potential risk to the child, but perceived risk *posed by* the child. In this way, the child *becomes* the risk carers are expected to manage – this complicates care provision. In this context, behaviour which would be viewed as minor or disruptive but not problematic can be reframed as indicative of escalation and high risk, without assessment of surrounding circumstances.
63. Dual-involved young people may also be monitored by multiple systems able to impose risk-mitigation measures on them, impacting how they can be cared for by Parent Representatives. We note they may be subjected to:
 - **Approved behavioural responses:** there may be approved plans requiring carers to notify police or seniors in the event of certain behaviours and risks.
 - **Youth justice obligations:** conditions can have significant impact on young people's movements (curfew, home detention) and community contacts. They can also mandate engagement with service providers.
 - **Protection orders:** depending on the nature of the offending, this could relate to a partner, family member, or in some cases even current members of care teams. Respondents risk criminal charges if they breach their conditions.
64. Even one of these frameworks can be extremely confining for a young person, particularly if they do not understand the conditions or parameters. It falls to carers to implement or monitor these layered restrictions, creating multiple points of potential conflict with the young person. This can create a self-perpetuating cycle, with carers imposing strict conditions which lead to tension and with the young person. This conflict can then lead to an assessment of increased risk, and stricter conditions being imposed. This is a difficult cycle to break, for young person or carer. It also

²⁴The Convention on the Rights of the Child 1990, Article 12.1

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creates a risk of serious ramifications for the child, if they do not adhere to conditions – this raises the pressure on carers, particularly if they do have strong emotional bonds with the child.

65. Parent Representatives who remain in this environment long term can experience burnout. As well as the damage this will do to them as an individual, it can also present as de-sensitisation to young people in crisis *and* the consequences they face when police are involved. This normalisation of law enforcement responses to dysregulation can have lifelong impacts on the young person, both in terms of criminal record and trust of the systems.

“Too Hard” To Care For

66. Parent Representatives’ relationships with the children they care for are not considered to impose inalienable obligations on them in the same way as a biological parent-child relationship. Parent Representatives can, if necessary, opt out of the lives of the young people they care for, whether by resigning (or career change) or ending a placement.

67. Above, we explored the way in which carers can experience conflicts of interest between their employers, the child, and themselves. The added pressure of Youth Justice involvement can tip the scales as the perceived risk increases. This is particularly the case with offending which occurs within the residential care home, but it can also impact foster-carers. A child becoming dual involved can lead to foster-carers assessing they can no longer care for them or sustain their placement. Like the Corporate Parent, and their peers in residential care, a foster carer may have other commitments which conflict with caring for a child in crisis – these could include biological children (or even other children in their care), family relationships, and their location and house. If the scales tip too far against other interests, foster carers can end a placement.

68. This is a fundamental inequality in the relationship which *is* felt by young people. Because the relationship is not considered permanent, the Parent Representative has less onus to stay when a child is in crisis. This is, however, when a child needs the most support.

CASE STUDY:

██████ has moved between multiple placements since coming into care. Efforts to reunify him with his family have not been successful, and caseworkers and care teams have not been able to work out how to keep him safe, including from his high-risk behaviours. ██████ has sat through multiple meetings where Parent Representatives discuss the difficulty of caring for him, and he can see they are getting tired of him. He wonders when they will give up – it’s happened before

Question 5: The experiences of children in family-based and non-family-based (residential) care who have also been in the youth justice system.

69. Despite ostensibly being cared for by two different systems, dual-involved young people may experience less practical support than their peers. This is in part due to their movement between systems. We have observed that while this results in significantly increased oversight, it does not translate to clear and collaborative care.

In Detention

70. The negative impacts of detention – particularly early detention – on young people have been well established, and over recent years discussion of the experiences of young people in Queensland’s youth detention centres and watch houses have been prevalent. YLA accepts that in its current form youth detention is not safe for Australia’s children and young people and in the vast majority of cases, a child’s involvement in the criminal legal system reflects the failings of society.
71. Noting concerns around the impact of detention on young people, an attentive Corporate Parent should approach periods of remand with a high level of scrutiny. This could include increased monitoring of the wellbeing of the child, in recognition of the environment they are held in, and potentially seeking legal advice in the wake of conflict, incidents, or declining presentations. However, as observed above, professional connection between systems can result in automatic level of trust. This may impact Parent Representative’s responses when incidents occur.
72. For a young person in care who is sentenced to detention (or remanded), detention can compound existing tensions with their Corporate Parent. We note:
- **Increased conflict of interest:** a dual-involved young person brings a raft of additional potential conflicts into play – they may be considered a risk to another young person or require certain care arrangements for the safety of carers (see above). These extra considerations might push a dual-involved child’s best interests further back in the hierarchy. If their alleged offending involved a carer, the Department has an ongoing duty to both the victim (as their employer) and the accused (as their Corporate Parent).
 - **Isolation from community:** while a child is in youth detention, they may not be regularly visited by their care team or caseworkers, whose employment trumps their relationship with the child. Redeployment and ongoing obligations may not leave space for continued contact. Detention can also present an opportunity for the Corporate Parent to prevent the young person from contacting community connections they consider unsafe. This can isolate a young person from supports they relied on, without replacing them.
 - **Increased insecurity:** particularly if a child is in residential care, or their offending was against a member of their household, they may face placement moves, potentially occurring while they are in youth detention without an opportunity for them to emotionally prepare. This means a child could be released to a wholly new care team and placement. Where a young person retains their placement, there is often concern about the security of their belongings.
73. In addition, while a young person is in detention, their day-to-day care no longer sits under the Department’s remit, meaning aspects of parenting may be suspended and resources deployed elsewhere. This is not how parenting operates for young people in family-based care, where the connection and commitment to the child is not reduced by their physical absence.

In Community

74. For young people who have experienced detention, returning to community can be complicated. Residential care is also a controlled environment, where young people are heavily monitored and scrutinised, with records kept reflecting any dysregulated behaviour. For a young person subject

to youth justice obligations this significantly risks further criminalisation. Residential care environments can be volatile and tense, and conflict is not unusual. What changes in this context is the threshold for police involvement, and under the scrutiny of two layers of surveillance and monitoring, missteps are unlikely to go unnoticed.

75. A bad day or poor choice for a young person under youth justice obligations has serious consequences. This places pressure on these young people. We note, for example:
- If a young person is subject to curfew or home detention, regulation strategies like leaving the house are no longer available. They may be confined to spaces where they do not feel welcome or safe. This is emotionally difficult, and can risk breach of obligations, either due to an incident or an unauthorised departure from the placement.
 - Tension with another young person or a carer can become weaponised, as regardless of context the dual-involved young person is more likely to face consequences (particularly where they are subject to bail conditions or restraining orders).
 - Maladaptive coping mechanisms, such as drug use or certain peer support, carry higher risk. This could leave a young person cut off from existing supports, without the gap being filled.
76. In addition, young people can suffer an emotional toll when they are consistently perceived as a risk or threat in their own home. This is not an environment where a young person can see scope to grow or to relax, because the dynamic at play immediately places them in the wrong. Any interaction in this space is heightened, which can damage a young person's sense of self.
77. In this setting, familiar, trusted care teams are essential to support young people to de-escalate and appropriately respond to their distress. Unfortunately, strict WH&S policies or Behaviour Management Plans requiring escalation to police can remove discretion and opportunity to de-escalate. Such plans must also prioritise protection of the Corporate Parent's other interests – their employees and other children in their care.
78. This can heighten the tensions between young people and their care teams and potentially damage relationships at a time when a young person is most in need of support and care to continue to engage with rehabilitative services. Recent data from the Department that 91% of young people under youth justice orders self-placed at least once, compared to 29% of their non-dual involved peers in care.²⁵

In-between

79. It is broadly accepted that experience of the youth justice system – and in particular contact with police or youth detention – can be traumatic for young people. As noted, young people can come to see youth justice, Child Safety and police as collaborating *against* them. For example:
- Child Safety caseworkers may make decisions impacting their time in detention, including refusing to approve phone contacts.
 - Youth justice may assess a placement as unsuitable, impacting a young person's bail.

²⁵ Department of Families, Seniors, Disability Services and Child Safety, *children in Care Census 2024*, 2024, p 13. Accessed at: [2024 Census of children in care | Our Performance](#).

- Carers may call police to notify of a breach of bail, or report an incident.

80. Trauma and distress from a negative interaction with one service will likely impact their willingness to engage with the others, particularly if a young person does not understand the rationale or process for a decision. This can lead to them becoming more isolated from service providers to their own detriment.

Question 6: The experiences of children in family-based and non-family-based (residential) care of contact with other children in care who have also been in the youth justice system and the impact of that contact upon their experiences in care

81. There is no universal presentation of dual-involved young people in care settings, and many young people forge strong bonds with their dual-involved peers. In this case, their primary experience with dual-involved young people may be frustration and concern for a loved one in crisis. However, we acknowledge the primary concerns we hear young people raise about experiences with dual-involved young people relate to their own wellbeing and safety.

82. Residential care is a close environment, where one young person's experience will impact their peers,' even where the young people get along. At its most basic, this could be due simply to the presence of a young person in crisis (or even feeling pressured by the oversight of multiple systems) in the household. However, we have also heard young people express impacts on:

- **Household dynamics:** if a young person is perceived to be a risk, or is under Youth Justice obligations, house routine and set-up may be impacted. This could range from temporary environmental restraints (for example – removal of sharps) to staff ratio requirements lessening the likelihood of solo outings with carers.
- **The physical environment:** if a young person's offending occurs in the home, there may be property damage to common spaces such as kitchens and lounges, or to furniture and electronics. This can impact a child's experience of the house as a whole.
- **Staffing pressures and tensions:** carers may be reluctant to work with young people who are dysregulated in the home environment or have a history of carer assaults. This can impact all residents in a house, as care teams fluctuate and become variable under workplace pressures.

83. Mere proximity to offending in the home environment can render the residential care placements even more uncertain, and un-homelike, for young people. This amounts to a failure by the system to effectively support young people through the practical impacts of living alongside peers in crisis. Regardless of any young person's behaviour, this responsibility rests primarily with the Corporate Parent.

Inter-house violence

84. International law recognises that, to enable full and harmonious development of personality, children should grow up in a family environment, and an atmosphere of happiness, love and understanding.²⁶ As has been discussed this can be difficult to ensure in a residential care environment, but in some cases, the sector renders this beyond reach.

²⁶ *Convention on the Rights of the Child*, 1990, preamble.

85. Poor placement matching can result in young people being placed in environments where they feel unsafe – whether due to proximity to a young person in crisis (dual-involved or not), or harm perpetrated against them. This is avoided wherever possible, but strain on the residential care sector means it is not always possible to proactively move a child at early signs of conflict.
86. Forms of violence including property damage, physical abuse and verbal abuse can have significant impacts on how young people experience the home environment. In some cases, if they do not feel supported by their care team, young people may take protective steps (for example, avoiding common areas and ensuring their rooms are always locked), withdraw from carers, or stop returning to the house. This may place that young person at risk in community.
87. If a dual-involved young person is restricted to the residential care house due to bail conditions, these tensions are likely to worsen, meaning one child cannot safely leave (they would risk youth justice involvement) while another may feel they cannot safely remain.
88. As a community, we are increasingly aware of the impact exposure to violence in the home, or bullying, can have on young people. Young people placed in residential care houses where they feel at risk may experience a combination of these two forms of abuse, but it is rarely named as such.²⁷ This can impact their relationship with their peers, their carers and the Corporate Parent.

Conflicts of interest: responding to offending in residential care

89. The Corporate Parent has a responsibility to all people involved in conflicts occurring in the residential care home – these will be the alleged offender, reported victim, and witnesses (these last two may be other children in the house, or carers). We note the following:
 - If the crime relates to property damage or vehicle theft, the Corporate Parent themselves is involved in the criminal matter as the victim.
 - Where a crime is committed by one child against another, the Corporate Parent could be considered not only *responsible* from a moral perspective, but *liable* legally. This again raises the question of duty of care and whether the Corporate Parent can appropriately support their child to obtain legal advice about potential claims against themselves.
 - As Corporate Parent to both the victim and offender in inter-house violence, the Department must equally provide support to both through the criminal justice process.
90. This is relevant to the young people choosing whether to disclose harm from a peer (or, in fact, a carer). From their perspective, there is no guarantee that their Parent Representatives or Corporate Parent will ‘take their side.’ This is a fear held by young victims generally in the community (as explored in our 2025 submission to the Review into the Charter of Victim’s Rights) but is exacerbated when a young person is conscious that a Parent Representative may adjudicate their claims or disclosures (again, weighing multiple conflicting interests) before deciding how credibly or seriously to treat them.

²⁷ Relevantly, the relationship between two young people in the same residential care placement is not considered family violence per the definition in the *Domestic and Family Violence Protection Act 2012*.

Question 7: The experiences of community members who have been victims of crime at the hands of young people who were in care at the time of the offending and/or negatively affected by the conduct of children and young people housed in non-family based (residential) care facilities in their neighbourhoods

91. YLA clients are more likely to be the children in care than community members negatively impacted by their presence. Broadly speaking, when our clients have disclosed harm perpetrated by a child in care, they have been in care themselves (as explored briefly above). Our answer, therefore, focuses on the question of neighbourhood impact.
92. All the issues which make residential care destabilising for young people can make it destabilising for their neighbours. Residential care houses can be conspicuous – with government cars parked out the front, and a rotation of both young people and carers (especially at shift changeover). When a young person living in that house is in crisis, their neighbours may bear witness to violent incidents, property damage, self-harm and emergency service attendances. Even if those behaviours are not directed at neighbours, they are distressing.
93. It is understandable that this can lead to distrust or frustration with residential care. However, this distrust and frustration is felt by the young people living in those neighbourhoods. In residential care, a young person grows up removed from their community. From their perspective, Department concerns around confidentiality, placement moves, and perceived stigma can result in a lack of connection to local neighbourhoods. Young people notice when neighbours do not wave, or let their children interact with them. They are aware of the stigma which can accompany being under guardianship and keenly feel when their neighbourhoods do not seem to want them. This is not an easy feeling for a child to carry, and it can in fact significantly exacerbate tensions. In turn, this could lead to the closure of houses or changed placements for the young people living there, heightening their experience of instability.
94. This is not to excuse the behaviours which can arise between children in residential care and their neighbours – these conflicts can be significant and intimidating for community members. However, until the fundamental issues with residential care are addressed, these problems will remain. In this case, the Corporate Parent has more power than most to soothe tensions. We need to encourage a culture where children in care and youth detention are seen as the responsibility not just of the Corporate Parent, but the community as a whole.

We are hopeful that these observations and accounts of the experiences of children and young people support the work of the Commission, and we look forward to providing further submissions into the broader Inquiry at a later date.

Please contact us via [REDACTED] if additional comments or information would be of assistance.

Yours faithfully,

Youth Law Australia

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