



Yfoundations Comment Crimes Amendment (Special Care Offences) Bill 2020

Friday 6th March 2020

To whom it may concern,

This letter is to acknowledge that Yfoundations has reviewed the draft Crimes Amendment (Special Care Offences) Bill 2020.

Since 1979 Yfoundations has been the NSW peak body representing young people at risk of and experiencing homelessness, as well as the services that provide direct support to children and young people.

As we understand, the object of this Bill is to amend the Crimes Act 1900 to implement certain recommendations contained in the report entitled "Adequacy and scope of special care offences" published in November 2018, in relation to offences in which a person (the offender) has sexual intercourse with a young person between 16 and 18 years (the victim) who is under the offender's special care.

According to Section 73 a "special care" relationship includes "if the offender works for an organisation that provides refuge or crisis accommodation and has an established personal relationship with the victims in connection with the provision of that accommodation, in which the victim is under the authority of the offender".

Yfoundations recommends that Section 73 (3) (g) be broadened to include anyone who works for an organisation that provides homelessness support, including accommodation, housing, or outreach support. We believe the current draft definition may unintentionally create a loophole for support workers (e.g. youth workers, caseworkers) who work outside of a refuge or crisis accommodation setting. Expanding the definition under Section 73 (3) (g) will encompass all individuals who work with 16 to 18 year olds in all homelessness settings, including rough sleeping, couch surfing, boarding houses, refuges, semi-independent accommodation, transitional accommodation, community housing, social housing, public housing, or other forms of housing. If the current draft definition is not broadened the Crimes Act will continue to leave some 16 to 18 year olds vulnerable to exploitation by those funded to provide care.

Having reviewed many of the submissions to the Inquiry into Adequacy and Scope of Special Care Offences, Yfoundations observe that the Amendment to the Special Care Offences does not consider similar age, or age appropriate consensual relationships. For instance, if a 17 year old resides at a Specialist Homelessness Service and has a 19 year old partner who volunteers at that service. In the current draft, the 19 year old may be considered an offender under section 73 of the Crimes Act. Yfoundations recommends that the Director of Public Prosecutions consider the nature and circumstances of the relationship before prosecution commences where the 'special care' relationship involves young people of similar ages.

Yfoundations also supports the requirement of the Director of Public Prosecutions consider offences where a Special Care relationship existed but is no longer in effect. Again, the nature and circumstances of the relationship should be considered before prosecution commences.

Finally, Yfoundations would like to acknowledge existing Codes of Ethics and Professional Conduct Standards that are already in existence to establish professional boundaries and promote client safety, including preventing workers from engaging in sexual conduct with a client. Furthermore, all agencies and services that work with vulnerable 16 to 18 year olds should have established guidelines, and internal policies and procedures to protect the safety and wellbeing of children and young people in their care. Yfoundations want to highlight that Specialist Homelessness Services are already overstretched and under resourced, and any changes to their monitoring or reporting requirements would require additional funding and resources.

All services should be held accountable to safe practices in line with accreditation and legal requirements. However, education plays a key role in improving child safety standards. Yfoundations recommends an educational campaign and resources be designed to promote ethical and safe practices for those working with all children and young people.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pam Barker', written in a cursive style.

Pam Barker
CEO Yfoundations

About Yfoundations

Yfoundations is the peak body for youth homelessness in NSW. It represents young people at risk of and experiencing homelessness in NSW, and also represents the services that provide direct support to children and young people. <http://yfoundations.org.au/>

Since it was founded as the “Youth Refuge Action Group” in 1979, Yfoundations has been supporting young people who are at risk of and experiencing homelessness and works collaboratively with members, NGOs, government departments and community members, to provide policy and structural advocacy, services for young people, health projects, and research and sector development.

Yfoundations believes that with access to mechanisms that support the development and attainment of each foundation, a young person is more likely to enter adulthood with the skills, interests, competencies and healthy behaviours necessary build a productive and bright future.