



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: CLC/IIC/JJC/GUak:1198330

6 October 2016

The Hon Gabrielle Upton MP
Attorney General
GPO Box 5341
SYDNEY NSW 2001

By email: shannon.thompson@minister.nsw.gov.au

Dear Attorney General,

Koori Courts in NSW

The Law Society of NSW writes regarding the current Youth Koori Court trial at the Parramatta Children's Court, and to encourage consideration of the expansion of the current model.

The Youth Koori Court pilot, which commenced in 2015, seeks to improve the way in which the Children's Court connects with a young person, to try to find out what is really happening in their life that is related to their offending. Where the young person has been found guilty of committing a criminal offence, prior to sentencing, the Youth Koori Court model allows the court to develop a plan that links young Indigenous offenders to services that address these underlying issues.

The aim of the plan, which is developed with input from the young person, their family, Elders and staff from both government and non-government agencies, is to help reduce the likelihood of re-offending by including strategies to improve cultural connections, encourage the offender to stay at school or get work, secure stable accommodation and address any health, drug or alcohol issues. Importantly, after the young person is given six months to comply with the plan, the judicial officer will determine the sentence after considering the work that has been undertaken by the young person to address their criminogenic risk factors.

At the time of the commencement of the Youth Koori Court pilot, it was acknowledged that establishing positive connections with culture and community is important in a young person's development and the involvement of Indigenous Elders plays a vital part in the process.

In announcing the trial, the NSW Government stated that the Youth Koori Court will be trialled over a 12 month period and could be introduced in other locations if the program is successful. The Law Society is not aware of any published reports on a review of the current Youth Koori Court trial.

The Law Society strongly supports options for diversion for young offenders and, in particular, measures to reduce the increasing rates of Indigenous youth incarceration and contact with the criminal justice system. In NSW, over half the children in detention are Indigenous. The Youth Koori Court model seeks to address these issues by focusing on the needs of the young person with a view to addressing the underlying causes of criminal behaviour as early as possible, before it becomes entrenched. The Law Society supports the expansion of the current Youth Koori Court model to other locations and in particular, in areas with high rates of Indigenous youth incarceration.

The Law Society also understands that a trial of an adult Koori Court in the NSW District Court is currently being considered. We understand that the objectives of the adult Koori Court would be similar to the youth model and include, among other things: to enhance the level of court support provided to Indigenous offenders and victims; to reduce the amount of time spent by Indigenous offenders in custody; and to enhance the confidence of Indigenous communities in the court and the administration of justice.

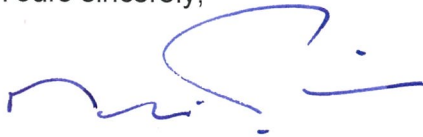
We take this opportunity to also provide our strong support for the establishment of an adult Koori Court model, which could be introduced on a trial basis and subject to robust evaluation.

Indigenous people are significantly over-represented in our criminal justice system and the Law Society has previously acknowledged that significant drivers of Indigenous incarceration in NSW include laws that incarcerate people for default on driving related fines; the lack of non-custodial sentencing options in rural, regional and remote regions; and the impact of breaches of justice related procedures such as bail and AVOs.

The Law Society supports the introduction of measures to divert people and, in particular, Indigenous offenders away from the criminal justice system and we seek the introduction of further initiatives that aim to address the underlying causes of offending and to reduce overall recidivism. The introduction of an adult Koori Court would go some way to achieving these aims.

Thank you for considering this submission. If you have any questions regarding this submission, please contact Anastasia Krivenkova, Principal Policy Lawyer, on (02) 9926 0354 or anastasia.krivenkova@lawsociety.com.au.

Yours sincerely,



Michael Tidball
Chief Executive Officer