



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: CLC/DHrg:1590426

5 November 2018

The Hon. Mark Speakman SC MP  
Attorney General  
GPO Box 5341  
Sydney NSW 2001

Dear Attorney General,

**Amendment to Law Enforcement Powers and Responsibilities Regulation 2016 - support persons for Aboriginal and Torres Strait Islander people**

Issues have been raised with the Law Society in relation to the provision of support persons at police stations for Aboriginal and Torres Strait Islander young people where parents or other relatives may not be available to attend.

Aboriginal Elders have raised concerns with our solicitor members about the cultural competence of some of the non-Indigenous services which are being called and the impact this has on young people exercising their rights and being supported.

The Elders stressed the importance for Aboriginal young people to be supported by someone with whom they have a cultural connection. Detention is a stressful situation for anyone, especially for a young person. A young person in detention must make important decisions in this context, such as whether to exercise their right to silence, or admit an offence for the purpose of receiving a caution. The presence of a support person with whom they trust and have a cultural connection assists the young person to feel more comfortable and better placed to make such important decisions. Having a support person who may not be culturally competent runs the risk of negatively impacting upon the young person's emotional wellbeing while in this vulnerable position. A member of the young person's community (especially if they are rostered to perform the role of support person on a regular basis), is better placed to contact the young person's family or know their background. This not only assists with trust and communication, but also has the practical benefit of better assisting the young person when it comes to discussions with the police about the support the young person may have on bail.

A further issue raised was that a number of Aboriginal people who have youth justice qualifications and training are not on the "police list" of people to call to provide support to local young people.

We suggest that one way to make it more likely that an Aboriginal vulnerable person is supported by an Aboriginal support person would be to amend clause 30 of the *Law Enforcement (Powers and Responsibilities) Regulation 2016* to require police to secure an Aboriginal or Torres Strait Islander person/organisation, or a person who is recognised as

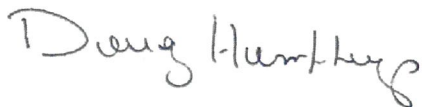
being culturally competent to be the first port of call when sourcing a support person for an Aboriginal or Torres Strait Islander person, including young people.

We note that in the ACT everyone on the police list of Aboriginal support persons has been trained by the Aboriginal Legal Service.<sup>1</sup> While we acknowledge that the ACT has only one watch house, it is an example of best practice.

We would welcome the opportunity to work with the Department of Justice to discuss this matter further and assist with developing options. We also consider it an opportune time to update the support person form – a process that we understand began with the Department and NSW Police some years ago but was never finalised.

The Law Society contact for this matter is Rachel Geare, Senior Policy Lawyer, who can be reached on (02) 9926 0310 or at [rachel.geare@lawsociety.com.au](mailto:rachel.geare@lawsociety.com.au).

Yours sincerely,



Doug Humphreys OAM  
**President**

Cc The Hon. Sarah Mitchell, MLC  
Minister for Aboriginal Affairs

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<sup>1</sup> The Interview Friends Program is funded under the suite of community justice funding provided by the ACT Government.