

31 March 2026

The Hon Michelle Rowland
Attorney-General of Australia
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The Hon Guy Barnett
Attorney-General of Tasmania
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Dear Attorneys-General,


I am writing to outline concerns arising from reports of a significant reduction in grants of legal aid to Independent Children's Lawyers (ICL) in family law cases in Tasmania.

I am advised this reduction has occurred because of structural funding gaps under the *National Access to Justice Partnership*. This apparent gap is adversely affecting fundamental children's rights, including their right to participate in proceedings concerning parenting arrangements.


Following the merger of the Federal Circuit and Family Court of Australia, Tasmania Legal Aid (TLA) has reported funding challenges resulting in a 40 per cent reduction in grants for ICLs, alongside increasing demand and rising case costs. As a consequence, the TLA has advised that it will fund ICLs only for the narrowest category of cases, primarily those involving allegations of abuse or significant mental health issues. On this basis, it appears that implications for children are serious and immediate. Given the TLA estimates that approximately 80 per cent of parenting matters in Tasmania involve allegations of family violence, the likely exclusion of many children with adverse childhood experiences from best interests representation is deeply concerning.

Australia has clear obligations as a signatory to the *United Nations Convention on the Rights of Child* (UNCRC), including those obligations reflected in domestic law through section 60B(b) of the *Family Law Act 1975* (Cth). The appointment of ICLs is one of the key mechanisms through which Australia meets its obligations under Articles 9 and 12 of the UNCRC, which recognise the right of children to participate in proceedings relevant to their care, and to have their best interests represented and promoted in judicial and administrative proceedings affecting them.

The unique role of ICLs is to ensure that the best interests of the child are properly considered, and that a child's views are conveyed to the Court and the parties in family law proceedings. In 2024, TLA published practice standards and guidelines (PSGs) reflecting best practice representation for children in Tasmania. According to the PSGs, the ICL's role is to 'place the child and the child's best interests at the centre of their practice and deliver

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best-practice, trauma-informed and child-centric services'.¹ The appointment of ICLs, unencumbered by inadequate funding arrangements, is critical to ensuring any views expressed by a child are seriously considered in decisions that affect them, and that best evidence concerning their rights, safety and wellbeing is made available to decision makers.

Research by the Australian Institute of Family Studies (AIFS) reinforces the critical value of ICLs in complex and high-risk disputes. A report released by the AIFS in 2014² showed that appointing ICLs improve outcomes for children by ensuring children's views are heard, that evidence relevant to their safety is gathered, and that their best interests are prioritised. At the same time, the report highlighted longstanding concerns about inadequate and inconsistent funding arrangements, which continue to compromise the effectiveness and availability of ICL services. These findings underscore the need for best interests representation and support for children in family law matters, ensuring that their voices are before the court in an admissible form, and their best interests are prioritised.

Reducing ICL appointments removes one of the Family Court's most important safeguards for the rights, safety and wellbeing of vulnerable children, as well as an important dispute resolution mechanism. The ICL is often referred to as an independent and impartial 'honest broker' whose role includes promoting non-adversarial and timely resolution of issues in dispute.³

I urge you to assess the current and future demand for ICLs and ensure this can be met through sustainable and adequate ICL funding in the interests of children in Tasmania.

Yours sincerely,

Isabelle Crompton

Interim Commissioner for Children and Young People

cc: *Chief Justice William Alstergren AO, Federal Circuit and Family Court of Australia*
The Hon Jo Palmer MLC, Minister for Children and Youth
Kristen Wylie, Director, Tasmania Legal Aid

¹ Tasmania Legal Aid, 'Independent Children's Lawyers Practice Standards and Guidelines', <<https://assets.legalaid.tas.gov.au/uploads/2025/02/TLA-ICL-Standards-Guidelines.pdf>>.

² Australian Institute of Family Studies, *Independent Children's Lawyers Study: Final Report* (report, June 2014).

³ Federal Circuit and Family Court of Australia, 'Guidelines for Independent Children's Lawyers', <<https://www.fcfcia.gov.au/fl/pubs/icl-guidelines>>.