

INDEPENDENCE



**OFFICE OF THE  
COMMISSIONER FOR CHILDREN**

VALUE CHILDREN NOW

**ANNUAL REPORT  
2001-2002**

**Patmalar Ambikapathy  
Commissioner for Children  
Tasmania**

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## FOREWORD

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This is the second Annual Report that I present to Parliament as the Commissioner for Children, through the Honourable Minister for Health and Human Services. Up to June 30<sup>th</sup> 2002, the Honourable Minister was Judy Jackson whose enthusiasm for this Office from its inception, allowed it to be laid on firm foundations. I have been able to build on these foundations since my appointment in October 2000 by the Governor of Tasmania. This year my theme has been that investment to promote the best interests of children in Tasmania is also in the best interests of the State. We must have a vision for children that looks beyond the usual time frames for budgets and factor in how much it would cost us in future years if we fail to make present budget allocations that prioritise children and support families. A limited vision will result in a limited future for children and Tasmania.

Early in the year we developed a policy and a motto for children and young people and widely distributed them. Our motto now on our letterhead reads as follows:

“Value Children Now”

In all our correspondence with service providers and those who seek our advocacy and assistance, the motto helps to focus their attention on what is needed to assist children now. The position of every child in Tasmania will improve if we are able to apply this motto to their present situation. This is the first step that needs to be taken to improve service delivery to children and families as a matter of urgency, to improve the difficulties that some are now in.

The Department of Education and Tasmania Police produced policies and projects in 2001, that recognized that early investment in children yields returns in the future in cost savings to the community. In June this year the Division of Children and Families produced a Strategic Policy statement titled “Our Kids”. This provides the necessary base and policy framework that the *Children, Young Persons and their Families Act 1997* lacked before, and the next challenge is for all Agencies that have a role with children and young people, to work together to assist them and their families to achieve the object of the new Act .

This year, I have travelled around the State to Local Councils, to deliver my Monthly Reports to the people of Tasmania. I have advocated on how they can assist with promotion of the health, welfare, care, protection and development of children, young people and families in their municipalities. I was pleased to note that many have embarked on developing youth policies as part of their community development process and that this has resulted in services for children and youth. No Council has as yet produced policies for children, so I have advocated for such policies, as current research indicates that service delivery to children in the early years is the most effective way of building a solid foundation for their future. The investment we make in our children now, will result in returns for us and for them in the future, to advance the position of Tasmania.

I present this Report to Parliament with the message that we need to value children and make a significant investment in them now, if we are to make an appreciable difference not only to their future, but also to their present situation, which is still of great concern.

**Patmalar Ambikapathy**  
**Commissioner for Children**  
**Tasmania**

# 1. INTRODUCTION

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## 1.1 Introduction

This Office commenced in July 2000, after the proclamation of the *Children, Young Persons and their Families Act 1997* (the new Act). The new Act has an entirely different ideology to the old welfare legislation and to assess how the system has responded to these changes, I have completed Reports for the Minister on the Implementation of the new Act. This was a task that Parliament required me to undertake within two years of the proclamation of the Act and this has been accomplished in accordance with our budget constraints. Where I lacked the physical resources, I had to draw from the personal expertise and training I had developed and acquired in my past practice as a lawyer. This was necessary to accomplish this task, but it is not the ideal situation, as I could only deal with pressing concerns that I prioritised with the help of my Advisory Council.

## 1.2 *Our Kids Strategic Policy*

A facet of the new beginning that the Act heralded, was the need to develop new practices within the system to provide for the necessary care and protection of children, that was envisaged by the new Act. Such delivery was to be based on a consideration of the best interests of the child in the context of the principles of the *United Nations Convention on the Rights of the Child*. This primary focus on the child with support to the family, appears to have been a difficult and problematic task to implement, and will be discussed in the section on my Reports submitted to the Minister on the Implementation of the Act. These problems need to be addressed first, or at the very least, addressed concurrently with another new way of working within the care and protection system that has been proposed by the Division of Children and Families. The “Our Kids” Strategic Policy Framework (the Policy) was proposed by them in June 2002, which promotes an ‘Early Intervention’ approach that I am supportive of, as it is in keeping with the latest research on brain development of children. Such research indicates that if we assist children and families early, there is a likelihood that children will be able to receive better care and protection from their parents, before problems become entrenched. It will also assist with the future health of our children.

Although the Act is not specifically mentioned in the Policy, there is a statutory base in the Act for this early intervention approach proposed in section 8, which sets out the principles of the legislation. This Policy needs to be administered by those involved in the “Our Kids Bureau” in accordance with these principles. I have been promoting such early intervention principles from the time I took Office and it is encouraging to now see the Policy Framework for such an approach being actively promoted by the Division of Children and Families as well. However, this Policy does not provide for an increase in support services to children and families, and this is of concern. Organisational change and a change in paradigm and culture must happen in tandem with other changes. The needs of children, their families and the community have to be fully factored in, and a Policy that addresses how the Division needs to work is just the first step.

### **1.3 A Case for an Increase in Support Services to Children, Youth and Families.**

It appears that a “case” needs to be made out for an increase in child and family support services in the community. My Reports to the Minister that assessed the Implementation of the Act, and my Monthly Reports all indicate that the case for such an increase in support services does exist and is in fact necessary. This is a separate need from the need to find a new way of working within the Division, with existing resources, that the *Our Kids* Policy has set out. The Policy is a case for organisational change from the professionals, for professionals. However, it also requires them to have a full understanding and acceptance of the ideology of the new Act. Section 8 principles seek to empower families by working to support them and promote their strengths. It also needs a proper recognition that this support needs to come early and be based on the best interests of the child to be in a safe and stable home environment. The fundamental issue of the system not working in this way needs to be addressed. Present systems with recourse to the old, superseded “child rescue model” that leave interventions until it is urgently and immediately necessary needs to be abandoned. Data that provides proof of disadvantage is only one aspect of what needs to be achieved to improve outcomes. There is ample data in the Policy that indicates that we have a higher than national rate for neonatal, peri-natal and foetal deaths in Tasmania (see below) in comparison with the rest of Australia, but this is not the whole story. These figures must cause grave concern on their own, but there are other entrenched structural local disadvantages, like levels of relative child poverty, unemployment, unstable housing, family breakdowns apart from poor child health, that are also relevant. The Division needs to deliver services to children and families, in response to and in the context of these issues.

Other national comparisons should cause us to be even more concerned, and these are contained in national Reports that indicate that we have above the national average figures for physical and sexual assault as well as children taken into care in the State. This provides ample evidence for a case to change the way services are delivered by the Division, *as well as* for increased support services to children and families in the community, before the family is in crisis. If families are not identified, supported and helped early, then it is inevitable that the old “child rescue” model will need to be activated, and we will continue to have the statistics we now have.

### **1.4 National Reports on Tasmania’s Record in Child Protection**

A number of national reports have been released during the past 12 months that raises concerns for this Office. The *Productivity Commission’s Report on Government Services 2002* indicated that Tasmania’s spending on child protection and out of care home services was disproportionately low compared to amounts spent in other State and Territories. This is particularly significant given the *Australian Health & Welfare Institute’s Child Protection Australia 2000-01* findings that the number of children in out of home care in Tasmania has been increasing steadily since 1998.

Similar statistics were also cited in the Report released by the Child and Welfare Association of Australia (CAFWAA), *A Time to Invest in Australia's Most Disadvantaged Children, Young People and their Families*. The Report found that the child protection and family support services of the States and Territories are failing to prevent up to one in four abused children from being abused again. In Tasmania, this figure was at 16.5%, the third highest in Australia. The *Report Card 2001 on Children and Young People in State Care* by CREATE also stated that further work is required to reduce the number of children suffering further harm.

Figures released by *Kids Help Line for 2000-2001* also indicated rates of children and young people reporting physical and sexual abuse that are above national averages, which prima facie corroborate other Reports that Tasmania's children are unacceptably more vulnerable to physical and sexual assault compared to those in other areas of Australia.

In Tasmania, the *Our Kids* Strategic Policy document also listed a number of statistics of serious concern:

- Tasmanians had a higher rate of foetal deaths than Australians – 6.5 per 1,000 live births compared to 5.3 per 1,000 live births. Tasmania had 3.3 neonatal deaths per 1,000 compared to the Australia rate of 3.0, and 9.8 perinatal deaths per 1,000 live births compared to 8.3 in Australia
- the death rate for children aged 1-17 was 30.2 per 100,000 in Tasmania, compared to 24.9 Australia-wide (1997)
- Tasmania had 10.4 per 1,000 children in at least one out of home care placement during the year compared to 3.7 in Australia overall (2001)
- 50.3% of children in Tasmania have a long term medical condition compared to the 46.1% of Australian children.

*(Source: Our Kids Our Present and Our Future Strategic Policy Framework for Consultation, Department of Health & Human Services 2002)*

## **1.5 Protecting Children and Youth in Tasmania**

These Reports indicate that there is still much to be done in Tasmania in terms of protecting our children and youth, particularly those in care. While these problems are not specific to Tasmania and exist all around the country, it is significant that Tasmania does not perform well in these figures whilst having one of the most advanced and progressive models of child protection legislation in the country. I have noted that some of the problems raised may be addressed in new policy frameworks of the various government departments, but I note also that these must also be backed up by increased services in order to succeed. Within these new policy frameworks it is often recognised that children of today are tomorrow's future. This Office has extended this rationale, and has advocated that all economic planning must therefore factor in children of today as they are tomorrow's human resource and our future workforce and tax base.

## **1.6 A High Priority in Supporting and Assisting the Family in Tasmania**

This is not a matter of policy, but a principle of law that needs to be observed in dealing with children in the administration of the new Act under section 8. This is also a principle of the Convention and my advocacy for assistance to families this year has been based on this principle. All policies have to have regard to this requirement of law.

In addition, it is also a requirement under the new Act, for the Minister to seek to further the object of the Act by endeavouring to provide or assist with the provision of preventative and support services directed towards strengthening and supporting families and reducing the incidence of child abuse and neglect ( section 7 (2) (d)).

In the Act services to support and assist families are expressed to be a priority, and these are necessary if we are to enhance the capacity of families to fulfill their primary responsibility to care and protect their children. Strategies are also needed to deal with a risk factor mentioned in the Policy framework that:-

“Approximately a quarter of parents did not rate their relationship with their children as highly important, and a third did not rate it as highly satisfactory (1998)”

If this situation exists today, then it has to be redressed, as parents are those that have the primary responsibility for children. We must value them so that they can recognise the vital role they play in achieving the object of the new Act for the children of Tasmania.

If the new policy seeks to find new ways of working to assist children at risk between the ages of 0 to 11 years, then we must provide services and support that value and affirm parents as senior partners in this endeavour. The value of good parenting is now known, and encouraging and promoting good parental practices is a role for government as well as the community. Given the high levels of stress in families in Tasmania that the Policy suggests, support and assistance to them and their children, must be a priority.

In my travels around Tasmania, I found established groups for young people in the various regions, who had a valuable role to focus on and lobby for issues of concern to support youth. Their existence may well be because the Office of Youth Affairs under the Department of Education assisted with the formation of such groups. I did not see many partnerships for children and families in the community, that could lobby for children’s needs or assist with improving parents’ perceptions about the value of children, apart from NIFTEY and GAIN. This needs to be the first step in reducing child abuse and neglect. This year, the Department of Education has encouraged the Child Care sector to look at linking with others who provide services to children. This has commenced but some are also exploring linking up with other Agencies as well, such as the Child, Family and Youth Health Services using a “Cluster” process. Council Day Care staff, and the private and community sector are also expected to be involved, and it is most encouraging that those who work with children, are exploring ways of working together, by linking up with other Agencies, and with other levels of government. The “Early Years Investment” initiatives of the Commonwealth Department of Family and Community Services, fit into this process.

Perhaps the Our Kids Action Plan can look at working with other Agencies in this way too, as the new Act calls for the Minister to seek to further the object of the Act by promoting and assisting in the development of a partnership approach between the Government, local government, non government agencies and families in taking responsibility for and dealing with the problem of child abuse and neglect under section 7(2)(a). There is no reason why they cannot promote, assist and develop this partnership approach as envisaged by the new Act, to deal with the problem of child abuse and neglect.



## **2. Key Activities & Outcomes in accordance with Statutory Functions**

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### **2.1 General**

One of our key activities is responding to the concerns of the community with respect to the health, welfare, care, protection and development of children. To do this we continuously refine our processes to make it as clear and as user friendly as possible to all those who seek our assistance. We hear from adults in the community as well as young people directly, or more usually through parents, caregivers, professionals and other workers in the State.

### **2.2 Concerns and Inquiries Processes**

We have a two-tier approach to the Concerns and Inquiries that are submitted to this Office, that we have established since October 2000. We have changed the terminology of this process and now respond to “Concerns and Inquiries” that the community approach us with. This is a better reflection of our powers and functions under the Act, and also gives the community a clearer message of what we can and cannot do. This change has made it easier to explain to the community how initially, the internal processes of the Division, or another Agency can also assist them with the issues of concern they have with regard to children and young people. Once this has been exhausted, they can seek our assistance and we can assess their Inquiry or Concern with our two-tier approach. The first would allow an examination of their individual concern to assess how the Division or other Agency has responded to the health, welfare, care protection or development issues of the children about whom the Concern or Inquiry was raised. The second level would be an assessment of how satisfactorily the practices policies and services of the Agency operate.

### **2.3 Internal Process of the Division of Children and Families**

This year the Review Panel within the Division of Children and Families was established to examine the policies and practices in critical and complex cases. This Office expects that the Panel will reduce some of the workload of this Office in such cases. This new development will need negotiation and examination of processes of collaboration with the Division to resolve issues of concern that arise with respect to practice and policy in such cases.

This year also saw the drawing up of a flow chart by this Office, of exactly how the internal processes of the Division, can assist a concerned person in the community. This information was not available to the public in this form before, from the Division and we have had good feedback as to it’s usefulness from many. Annexed to this report and Marked “A” is a copy of the flow Chart.

### **2.4 Data Collection and Recording: Initial Contacts for Concerns and Inquiries**

When members of the public contact this Office with concerns or inquiries through mail, email or the telephone, their personal details are recorded in our database. Occasionally they seek to make the contact with us anonymously and in

such situations we have all other details except their personal identification details, like name, addresses and telephone numbers. These are usually simply seeking to know what their options are for referrals and advice, and we assist them with this. The data we have produced, in this Report is the result of a system of data collection and a record keeping that this Office has developed.

The number of telephone inquiries this Office received increased by 230% between the two periods of July 2000 to June 2001, and July 2001 to June 2002. It is possible that the increase can be attributed to a higher profile in the community that this Office has been able to achieve over the last 12 months. This facilitated access to us by members of the community, those working directly with children as well as children and young people themselves, as they would have been more aware of the existence of this Office and our ability to assist with their concerns.

Concerns and Inquiries received in 2000-2001 and 2001-2002 have been charted by periods of one month (figure A & B below) and these show that by 2000-2001 the monthly distribution of concerns and inquiries expressed to this Office has a far more even distribution than that of the previous year. This more even spread and the overall increase in the number of concerns and inquiries received, may reflect the increased awareness by the public of the existence of this Office, and what we can do for them.

Figure A

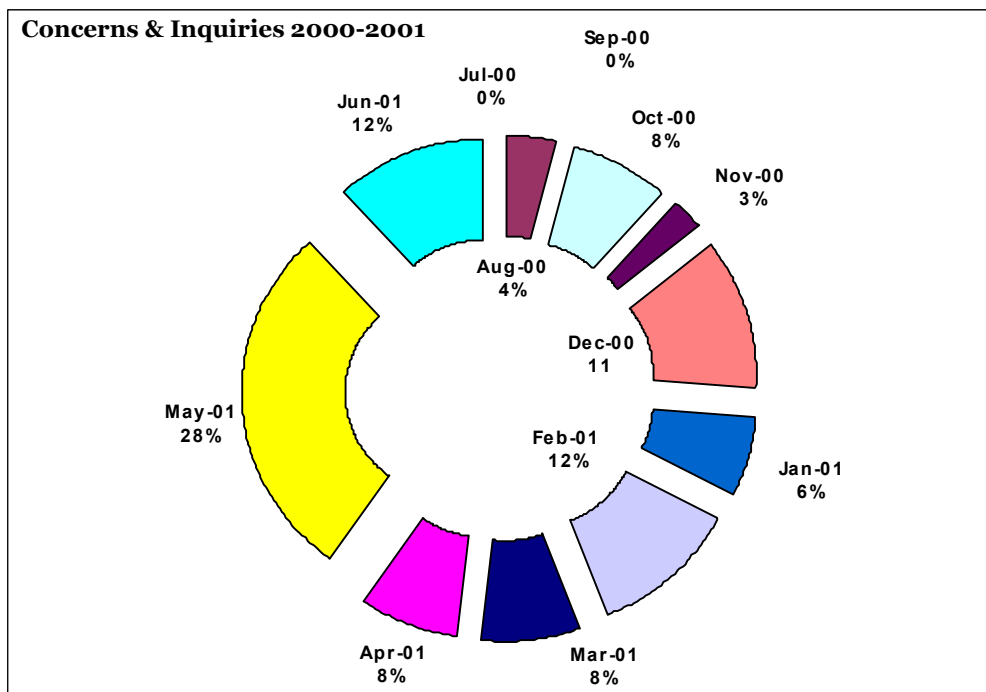
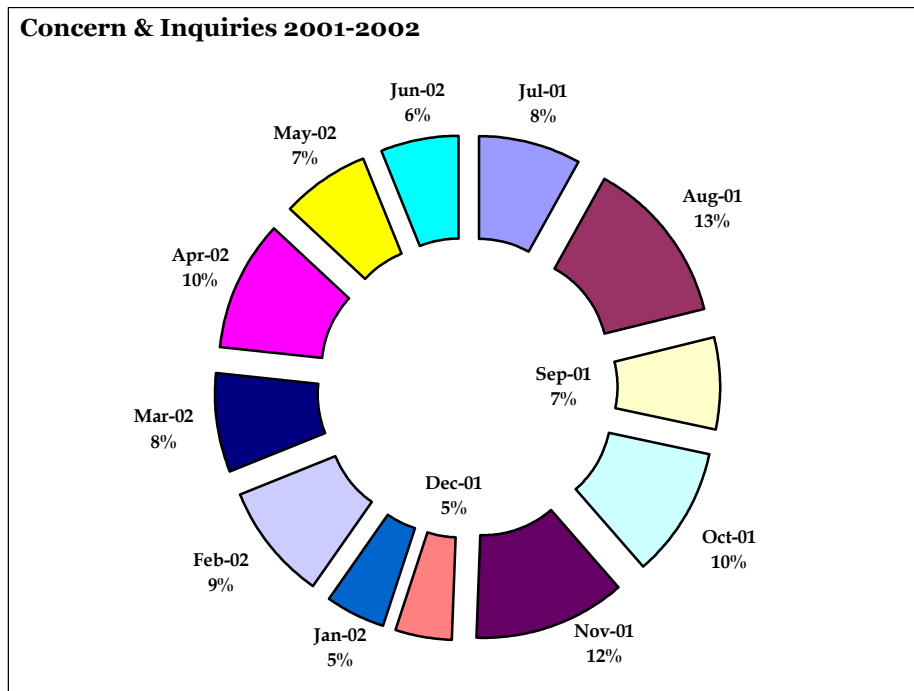


Figure B



#### 2.4.1 Outcome of initial contacts

The outcomes to these Inquiries include:

- Referral to seek legal advice through the caller/inquirer's solicitor, the Legal Aid Commission of Tasmania, Hobart/Launceston Community Legal Service or the Women's & Aboriginal Legal Service, etc
- Referral to other Government agencies such as the Ombudsman, the Anti-Discrimination Commissioner, Intake & Assessment, Clare House, Tasmania Police, the Department of Education, Child & Adolescent Mental Health Service, Aboriginal Health Service etc
- Referral to community sector such as Parenting Centres, Family Support Services, child care services, and other community agencies.

Where appropriate, an Information Package would be sent out to the caller/inquirer, containing:

- an Office Information Booklet that sets out the functions and powers of this Office and details of the Concerns/Inquiry process
- A Concern/Inquiry Form for the Assessment of Practices and Policies
- A Brochure for Inquiries, an Authority to Release of Information Form as well as Flow Chart showing the Division's internal processes.

#### 2.5 **Formal Inquiries and Concerns**

Figures C & D shows the spread of formal concerns & inquiries received by this Office in the 2000-2001 and 2001-2002 periods by month.

Figure C

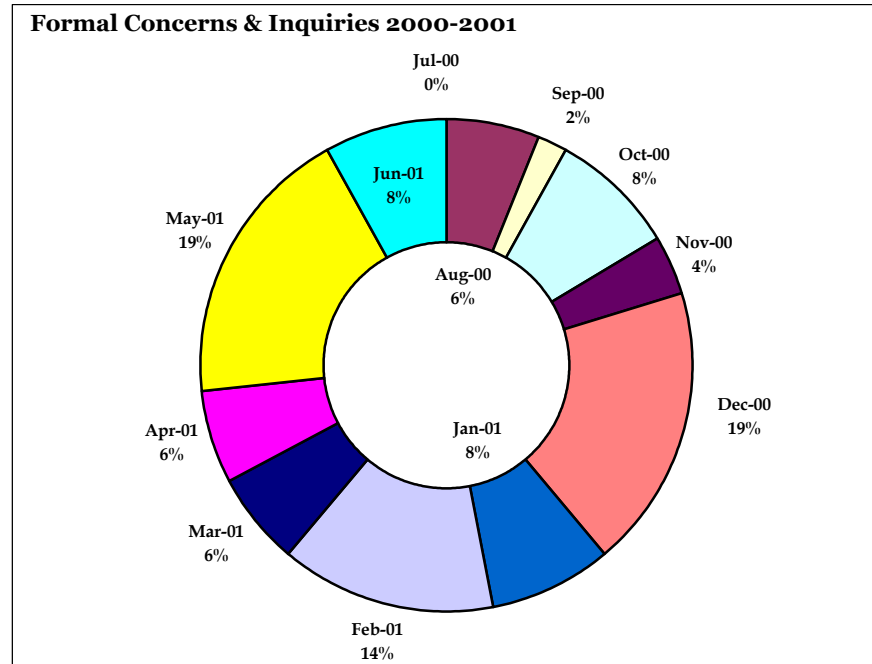
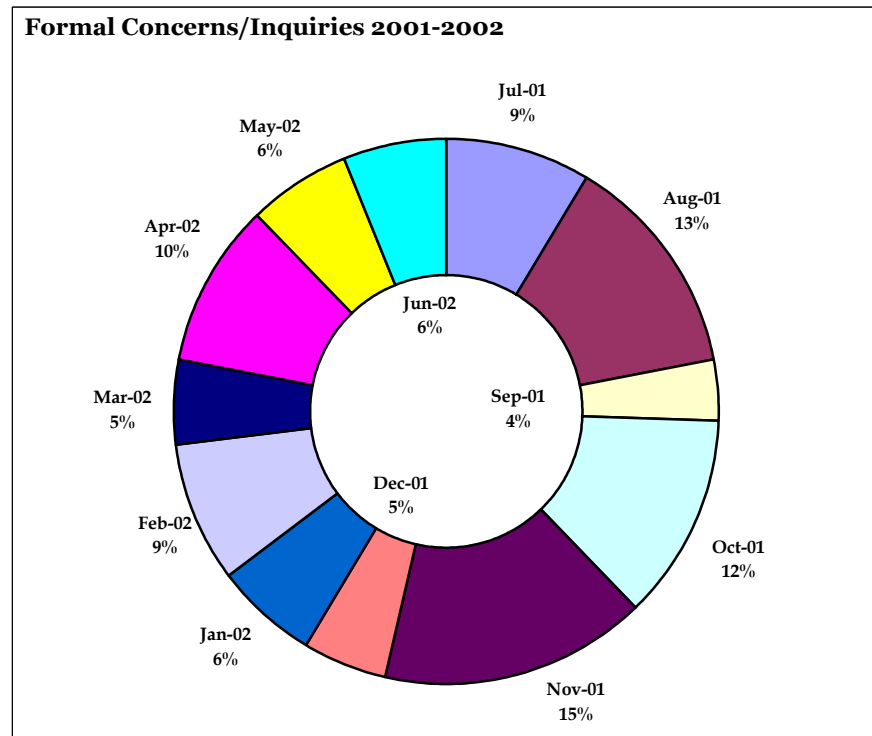


Figure D



Formal Concerns and Inquiries also increased by 60% between the 2000-2001 and the 2001-2002 financial year. Although this may seem disproportionately low compared to the percentage increase in initial telephone inquiries received

this year (of 230%, see above), this is largely due to the continued evolution of the processes and procedures internal to this Office in that:

- Our efforts in refining documentation and information provided to inquirers and concerned persons who contact this Office have clarified the role and functions of this Office, thereby ‘filtering’ those matters that are not relevant to the role and functions of this Office;
- This Office has also been in communication with both the Ombudsman’s Office as well as the Children & Families Division regarding our processes for dealing with concerns & inquiries. As a result there is now a better understanding between the two agencies and ourselves with regard to how we deal with concerns and inquiries, with respect to the role of this Office.

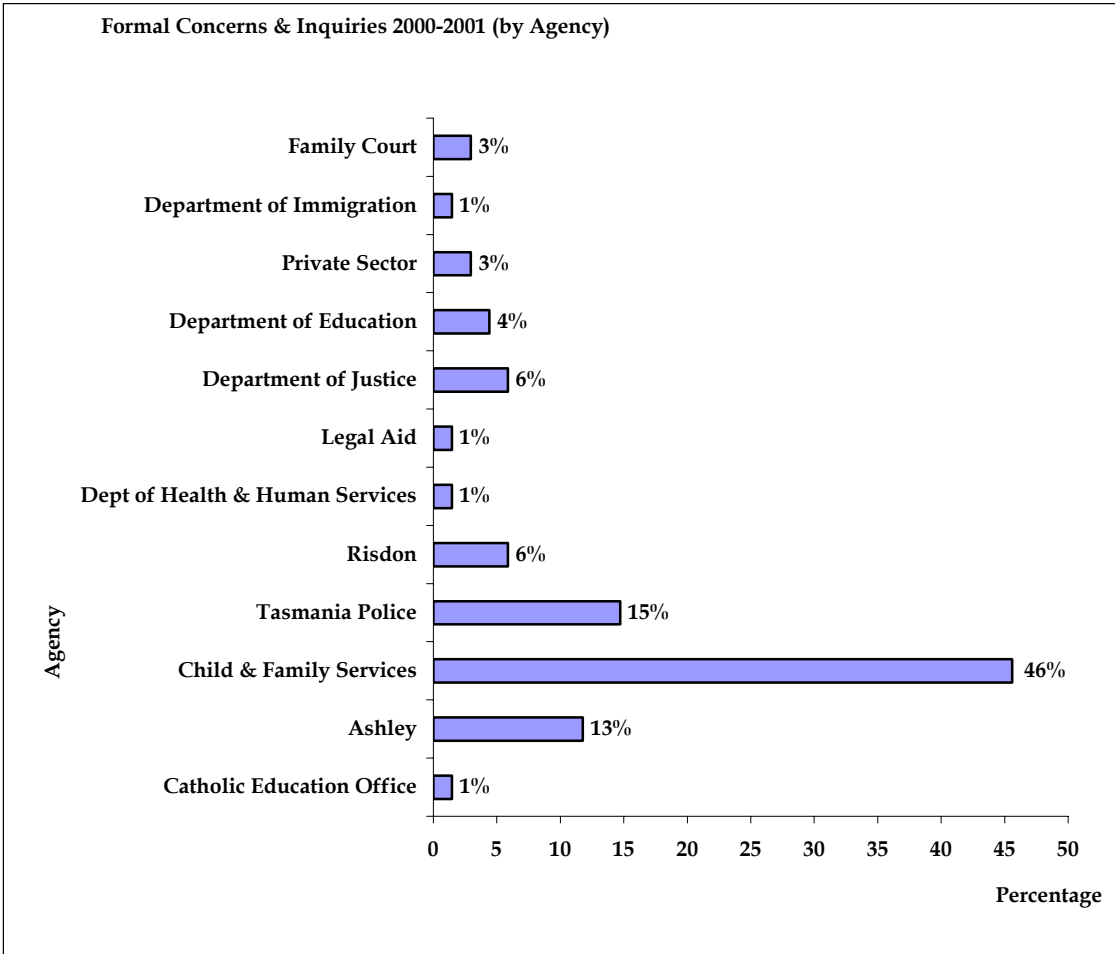
#### 2.5.1 Analysis of Agencies Involved

The formal concerns and inquiries received by this Office involves a wide range of issues. Figure E & F shows the distribution of these concerns and inquiries by the agencies involved. It should be noted that a particular concern of inquiry may involve multiple agencies.

It should also be noted that these charts do not necessarily reflect ‘complaints’ against these agencies, but rather, concerns on how their practices and policies are impacting on the health, welfare, care, protection, development or education of children, or are inquiries as to such practices and policies. These formal concerns and inquiries allows this Office to examine how these practices and policies are impacting on the children of Tasmania, to enable us to advise the Minister in accordance with our statutory functions. It is hoped that issues for the individual child will be resolved as well as addressing systems issues on a broader level, so that all ultimately all children will benefit in the future.

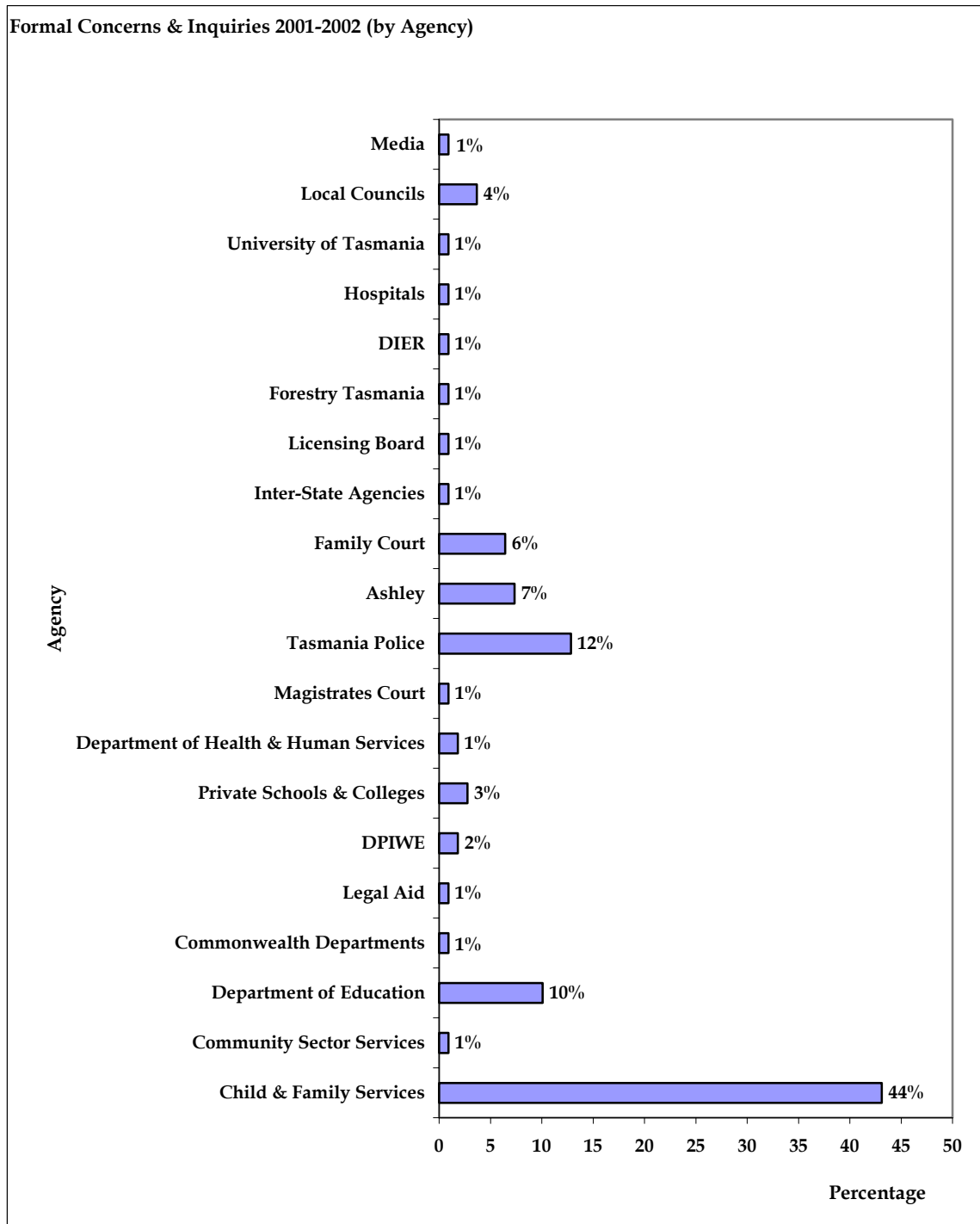
A majority of concerns and inquiries this Office received in both 2000-2001 and 2001-2002 involved the Division of Children & Families, as they are the statutory child protection agency in Tasmania. Tasmania Police and the Department of Education are also involved in a significant number of concerns and inquiries to this Office, and once again this is inevitable as they have contact with children. This Office continues to advocate for collaboration between these three agencies to ensure that the health, welfare, care, protection and development of children in Tasmania are protected and promoted.

Figure E



The increased number of formal concerns and inquiries this Office received in 2001-2002 is also reflected in the broader range of agencies involved in the concerns & inquiries. This indicates the wide range of areas that impact on the health, welfare, care, protection, development and education of children in Tasmania. It also highlights the unique position that this Office is placed in as we are able to have a broad overview of various Government Departments as well as other agencies whose practices and policies impact directly and indirectly on children and youth of Tasmania.

Figure F



### 2.5.2 Outcome of the Concerns/Inquiries process

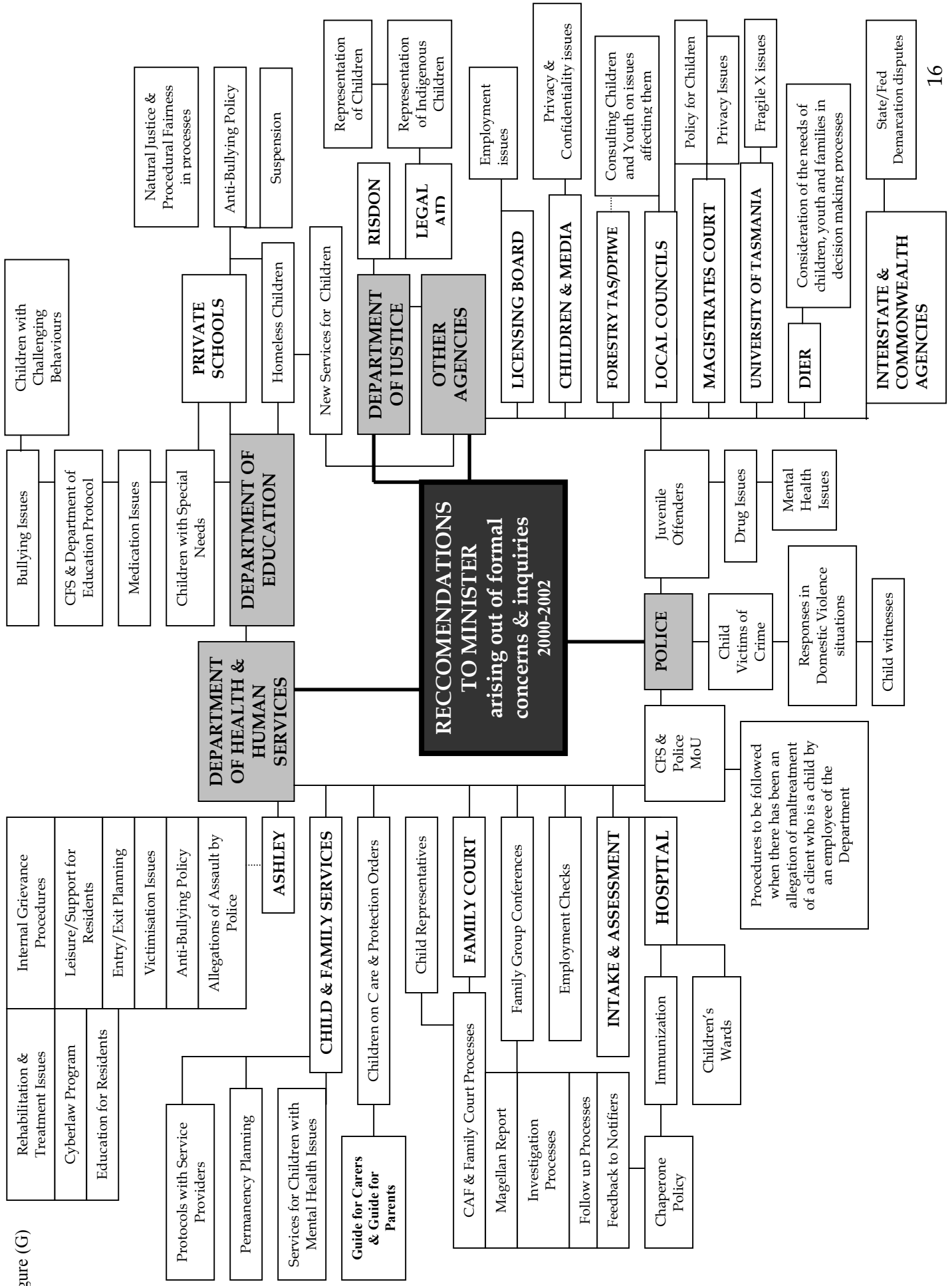
Once the formal concerns and inquiries have been received, and jurisdiction into the matter has been established, we begin a process of corresponding with the Agency involved to assess the practice and policies of concern raised in the matter. By looking at how specific cases are conducted, this Office is able to gain a practical insight into how particular practices and policies are affecting the health, welfare, care, protection and development of children in Tasmania. At the same time, it is also hoped that the individual concerns are resolved. Often there will be referrals to the Ombudsman's Office, as they have jurisdiction to investigate administrative actions. In other cases, the individual concerns may or may not be resolved through the internal processes of the Agency, but this Office is always able to examine the systems issues.

The next step would be the preparation of Reports to the Minister on particular policies and practices of concern. Most issues of practice and policy, by their nature, require time during which specific concerns can be identified and their impact on children and young people assessed. The on-going nature of these issues means that it would not be possible to set a 'deadline' by which this Office must provide advice or recommendations to the Minister on. What this Office has done, however, is to negotiate through correspondence with the Agency on these concerns, and continue to monitor the situation and its effect on the child/children concerned.

The ten Assessment Reports on the Implementation of the Act we have submitted to the Minister also drew from these concerns and inquiries we have received. To an extent, they deal with the more urgent and pressing practice and policy issues that have arisen. These concerns and inquiries also inform this Office in our advocacy work. The issues that my Reports to the Minister did not cover, will be the subject of further Reports to the Minister that this Office is in the process of compiling. (Figure (G) shows the issues that the formal concerns and inquiries involved).



Figure (G)



## 2.6 Other Outcomes (1) – Raising public awareness of issues of law reform necessary for the health, welfare, care, protection and development of children

Section 79(1)(d) requires the Commissioner to raise public awareness on issues relating to the health, welfare, care, protection and development of children. The following law reform activities represent part of this advocacy for the benefit of children in Tasmania.

### 2.6.1 Advocacy on Undesirability of Physical Discipline at Home

From April 2001, we had looked at what NSW was doing with law reform on banning physical punishment at home, and in May 2001, we commenced advocacy to Ban Physical discipline at home and informing the public on latest research on the consequences of the use of physical punishment on children, as well as alternatives to physical punishment.

This advocacy was also set out in my first Annual Report to the Minister, to inform Parliament of my activities. Pursuant to this my Office has also been in correspondence with the Law Reform Institute of Tasmania regarding amendment to section 50 of the Criminal Code, that allows parents, or those in their place, to use reasonable force to discipline children. This year, the Attorney General agreed that it was a matter that was suitable to be reviewed by the Law Reform Institute. I have been informed that the Discussion Paper for the community will be published later this year by the Law Reform Institute.

### 2.6.2 Competition on Banning of Physical Punishment at Home

As well as the above advocacy for law reform, we also ran a competition on physical punishment. We obtained input from the Advisory Council as well as my Consultative Council for the questions and prizes. The Consultative Council Members have also assisted with short listing of winning entrants.

### 2.6.3 Abortion Law Reform

In December 2001, this Office made submissions to the Minister regarding the proposed *Criminal Code Amendment Bill 2001* in relation to abortion. After the Bill was passed, we wrote to the Minister, this time regarding some further concerns that we believed needed to be addressed in the area of abortion, particularly relating to young pregnant women. This Office advocated for consideration of mandatory counselling in the case of young people under 18 seeking abortions, as they may have other related issues such as depression, trauma, birth control and mixed feelings coping with the abortion, that may need addressing in detail.

### 2.6.4 Youth Justice Act/Sentencing

This Office made a proposal to the Law Reform Institute of Tasmania in May 2002, regarding amendments to the *Youth Justice Act 1997* to specifically allow the Court to take into account an early plea of guilty by

a young offender as a mitigating factor in their sentence. The legislation in Victoria and Queensland were referred to, as they give statutory effect to the common law position in this area. We advocated that as the *Youth Justice Act 1997* is currently silent on the issue, the amendments proposed for the sentencing of a young offender should be considered as they are consistent with the objectives and principles of the Act as set out in sections 4 and 5. This would also assist with reducing the numbers at Ashley.

2.6.5 Indecent Assaults

On 17 December 2001 the crime of indecent assault under the Criminal Code was expanded to rectify an unsatisfactory situation whereby adults could not be prosecuted when they invited a child to indecently touch them or if an adult touched him or herself while the child was present. Section 125B was inserted with respect to indecent acts with, or directed at a young person under the age of 17. As a result we are now advocating for the public as well as service providers to be fully informed of the new position under the legislation, in the interests of protecting children.

2.6.6 Raising of the Age of Consent in the Similarity in Age Defences

In our January 2002 Monthly Report this Office advocated for an amendment to the Criminal Code so that the age of consent for the 'similarity of age' defence be raised to 14, instead of 12 as is the case at present. We advocated that instead of accepting earlier sexual activity as a *fait accompli*, given the high percentage of teenage pregnancies in Tasmania (being the second highest in the country), we educate and inform our vulnerable young on the sometimes unexpected and undesirable consequences of early sexual activity. We are also looking at making a proposal to the Law Reform Institute on this matter.

2.6.7 Reducing the Age Gap in the Similarity of Age Defence

Also at present, there is a five year age gap in the defence to alleged consensual sexual activity for those under age 18. This means a defence can be raised by someone aged 20 that a 15 year old consented. This age gap is two years in most States and we strongly advocate that this gap be narrowed in Tasmania, for the reasons given above. We need to address this problem from all quarters, and this may be a useful arena to explore.

2.6.8 Forensic Procedures Act 2000

A Report was submitted to the Minister in April 2002 regarding the *Forensic Procedures Act 2000* (see Summary of Reports to the Minister). The recent State elections have impeded the progress of the proposed amendments to the Act, but we continue to advocate for the recommendations made in that Report, as our concerns about the Act have not been satisfactorily addressed.

#### 2.6.9 Disclosure of Names of Offenders

This Office was consulted on certain parts of the amendments to the *Evidence Act*, namely, the *Evidence (Children and Special Witnesses) Bill 2001*. However, we were not consulted on section 194K with respect to the suppression of certain identifying particulars in sexual offence cases, despite the clear impact this would have on child victims. This was apparently an unintended consequence of redrafting and as a result, all offenders in sexual offence cases cannot be named without an order of the Court. We have contacted the Department of Justice and Industrial Relations about this, and have been informed that the situation will be remedied.

#### 2.6.10 *Youth Justice Act 1997* Amendments

In March 2002 this Office made submissions regarding the amendments proposed to the *Youth Justice Act 1997*. Copies of the Memorandum containing our concerns were sent to the Minister, the Department and the Director of the Division. Our concerns mainly relate to the protection of residents at Ashley under the proposed amendments. In particular, we have concerns on the proposals regarding transfers, and advocated that it would be appropriate that the administrative decision to transfer detainees from one facility to another be subject to review by the Ombudsman. We also advocated that there should in any event be a recourse to the Courts for the Magistrate to make any decision to transfer so that this decision could include what is in the best interests of the resident, with respect to any punishment, rehabilitation or treatment. We also referred to the proposals on confidentiality, and sought protection for residents of Ashley to prevent too wide a dissemination of information on them.

### 2.7 **Other Outcomes (2) – Reflection on Interpretation of Laws**

In our dealings with Agencies, there is an initial tendency to maintain old positions with an interpretation of the law that does not accord with international best practice. This cannot be sustained as Australia is a signatory to the International Convention on the Rights of the Child. In addition, the object of the *Children, Young Persons and their Families Act 1997* seeks to provide for the care and protection of all children in Tasmania in a safe and stable environment to enable them to reach their maximum potential. Any actions that put this outcome at risk must be reviewed as any interpretation of the law that ignores this cannot be what Parliament intended.

### 2.8 **Other Outcomes (3) – Advocacy to Community for No Law Reform to Disadvantage Children and Young People**

#### 2.8.1 Naming Young Offenders

Launceston Council sought to obtain a resolution at the Local Government Association of Tasmania Conference for law reform to name young offenders. I made a submission to all Local Councils against this, and

distributed material at the Conference through a Youth Delegate, who was also a member of my Consultative Council advocating against this. The Motion was defeated on the speeches made by Councillors.

#### 2.8.2 Reducing the Age of Criminal responsibility

This was an initiative of Derwent Valley Council who passed a Motion to reduce the age of criminal responsibility. I was informed about this after it was passed by Derwent Valley Council and again strongly opposed it. Further action will be taken to address this with all Local Councils, as Derwent Valley Council has written to all Councils seeking support for their Motion, which we cannot support, for the reasons we have given.

### 2.9 **Other Outcomes (4) – Summary of International Reports**

#### 2.9.1 Report for the United Nations Committee for the Convention on the Rights of the Child

This Report commences with a brief introduction to the concept of human rights of children at an universal level, and contains an examination of how Tasmania's legislation complies with each of the relevant Articles under the United Nations Convention on the Rights of the Child. The Report advocated that the groundwork has been done for implementing the principles set out in the Convention, and advocated for cooperation between community groups, government, non-government agencies as well as members of the public to ensure that the Convention is fully implemented in Tasmania.

#### 2.9.2 Tasmania: Commitment to and Compliance with the Paris Principles for the Protection and Promotion of Human Rights

This Report was prepared for and submitted to the Asia Pacific Forum of National Human Rights Institutions. The Report examined how the Office of the Commissioner for Children complies with the Paris Principles, in the context of protecting and promoting the human rights of children in Tasmania. This Office has developed a 'rights-based' model in the carrying out of our statutory functions, so that we can advocate for and promote the rights of children in all areas of their lives, including health, welfare, care, protection and development.

### 2.10 **Other Outcomes (5) – Reports to Minister**

In June 2000, Hansard reported that Members of Parliament indicated that they required the Commissioner to review the implementation of the Act within two years and I summarise below the main features of the ten Reports that have been presented to the Minister to be presented to Parliament.

With my Reports and the new “Our Kids” policy framework and the setting up of the “Our Kids” Bureau, it is hoped much of these concerns will be addressed. These problems have to be resolved first, or at the very least concurrently with the new Policy, if we are to begin to deliver, yet another change to the way the system has operated, but this time from the essential perspective of “Early Intervention”.

2.10.1 Information on Mandatory Reporting: Lack of Conformity with Specific Provisions of the Children, Young Persons and their Families Act 1997

This Report raised concerns regarding the Mandatory Reporting Training Information Booklet provided by the Division to the community on their responsibilities under the Act. This Office advocated for a more proactive approach and better conformity with the terms, object, principles as well as the spirit of the new legislation in the information provided by the Division to the community. In particular responses to notifications made by mandated notifiers needed to be based on the best interests of the child.

2.10.2 Intake and Assessment Processes Concerning Children Who Witness Criminal Assaults At Home

The main focus of this Report was the response of the child protection system to children who witness criminal assaults at home. In particular, the Report included an examination of the administrative instructions provided to workers by the Division, and advocated that in order to properly achieve the object of the new Act there needs to be a wider focus to acknowledge the harm to children who witness domestic violence.

The Report also reviewed experiences of other jurisdictions, and advocated for the removal of the danger to the child in the family, rather than of the child from the family as Parliament intended. To do this, proactive, coordinated action between the child protection agencies, the Police and the Courts is essential. Accommodation issues and services for children were also discussed.

2.10.3 Children Who are Homeless and Children Who are At Risk of Homelessness

This Report advocated for proactive responses to children who are ‘at risk’ due to homelessness, through the seeking of orders under the Act where appropriate, and the provision of services by the Division to assist in situations where children are ‘at risk’ by living on the street and allegedly refusing assistance.

Issues this Report considered include the lack of appropriate facilities for safe custody of homeless children in Tasmania, State/Federal demarcation issues with respect to financial assistance to such children and best practice in providing assistance to children at risk. The Report advocated for proactive inclusion of homeless children in the care and protection system, processes to factor in homelessness as an issue of risk as well as

increased services, accommodation options and financial assistance for such children.

2.10.4 Legal Representation of Children

Under section 59 of the Act, a child can have a legal representative appointed before an attendance at the Court. This Office advocated that for a proper implementation of this section, the Division needs to supply information and to provide a referral service to the child as part of its practices, in order to discharge its obligations to assist children, in all cases where Court proceedings are to be issued.

2.10.5 Right of Children to Address Court

This Report examined the implementation of section 56 of the Act, which allows the child to give his or her own views personally to the Court as to his or her ongoing care and protection, regardless of whether the child is represented or not. As with section 59, this Office advocated that in order to fully implement this section, the Division needs to have adequate administrative directions to staff to supply information to the child with regard to this right.

The Report on section 59 and section 56 also considered the issue of the role of the Court and the legal representative in the determination of the best interests of the child under section 55 of the Act.

2.10.6 Forensic Procedures Act 2000: Review of One Year in Operation

This Report reviewed the impact of the *Forensic Procedures Act 2000* on the position of children, and raised a number of concerns relating to its operation, particularly in relation to the position of children between 15 and 17. The Report supported the proposed amendments to the Act that were tabled before Parliament prior to the elections, and raised some further ongoing issues that need to be addressed to ensure that the best interests of children and youth are not marginalised in the attempt to solve crime.

2.10.7 Section 104 of Youth Justice Act: Adjournment of Criminal Proceedings to Determine Care and Protection Matters

Research has shown that children and youth who have had contact with the welfare system are more likely to come into contact with the juvenile justice system. This Report focused on the use of section 104 of the *Youth Justice Act 1997* to address the care and protection issues of children and youth who have been charged with offences and are brought before a Court on such charges. This section allows the Court to adjourn the criminal charges so that issues in the welfare jurisdiction can be addressed first.

The Report advocated that the Division of Children & Families and Tasmania Police collaborate and be proactive in looking into care and

protection issues and to alert the Court of these at an early stage of the criminal proceedings, in order to prevent children and youth being drawn into the juvenile justice jurisdiction and Ashley.

2.10.8 Section 105 of the *Youth Justice Act*: Adjournment of Criminal Proceedings to Determine Mental or Nervous Health Issues

Current literature on juvenile offenders often raises the issue of their mental health. As with section 104, this Report concluded that section 105 of the *Youth Justice Act 1997* is not being properly implemented to assist children and youth with mental health problems. The Report advocated that there is a need for the Division of Children & Family and Tasmania Police to review the current Memorandum of Understanding to clarify their respective responsibilities in dealing with young offenders with mental health issues. The Report also advocated for a Multi-Disciplinary Assessment Panel to be formed, along with other assessment services, so that mental health issues are not overlooked, and can be dealt with, to once again prevent the youth from being drawn into the juvenile justice system and Ashley.

2.10.9 Family Group Conferences: Bottom Lines

This Report focused specifically on the Division's use of 'bottom lines' in Family Group Conferences. This Office advocated that their current use is inappropriate as they do not represent a proper implementation of the Act, but rather, a move away from the intent of the Act to give families a chance to resolve matters themselves, and for the child to express views and wishes that must be taken into account in the Family Group Conference. The Report recommended that the Division's practices and policies regarding the use of bottom lines be reviewed.

2.10.10 Responses to Disclosures and Reports of Physical and Sexual Assaults on Children.

This focus of this Report is on the processes within the Division dealing with disclosures, reports and allegations of child sexual and physical assaults. The Report also examines the Division's interaction with Tasmania Police, as well as the how the notification process currently in place is responding to protecting children subject to sexual and physical assaults, and preventing their further victimisation.

The Report concluded that various factors are currently acting as a barrier for a thorough assessment to reports of violence against children, particularly where there are Family Court proceedings on foot. A number of recommendations were made, including the consideration of the developments of the Magellan Project, processes within Intake & Assessment to record all consultations made, as well as the keeping of 'child-at-risk' registers to improve communication between agencies to provide better responses in the interests of child victims.



## **2.11 Other Outcomes (6) – Assessment of level of training undertaken, and advocacy for further training and services, under new Act**

In general, I found that the new system proclaimed in July 2000 seems to have been imposed on a superseded system, with apparently little current training for workers or increased services for children and youth. To ensure a smooth transition and the successful implementation of the *Children, Young Persons and their Families Act 1997*, there must be adequate and ongoing training sessions, as well as an increase in services to respond to higher standards that the community were entitled to expect. An understanding and acceptance that a focus on the best interests of children is vital, and insufficient training results in superseded policies and practices prevailing. Minimal guidance appeared to have been compounded by insufficient increases in services to children and families to cope with what the new system expected of the Division.

This would have presented a very difficult situation for all those working in the system, although there was a real attempt to work in accordance with the new Act. However, as my Reports have indicated, the Act appears to have been not fully accepted, understood, or adequately resourced causing frustrations that commence from the initial notification process to the lack of adequate service delivery to children and youth at risk, to protect them from abuse and neglect or further abuse and neglect.

## **2.12 Other Outcomes (7) – Further Reports to Minister**

### **2.12.1 Report on Ashley Detention Centre Reported Assaults by Police on 4 April 2001**

In April 2001, this Office received a number of concerns from residents at Ashley in relation to reported assaults on them by Police. These allegations were investigated by Tasmania Police, who found that there was insufficient evidence to sustain prosecutions against the police officers involved with respect to two complaints made by two of the residents, but that the physical restraint of the third resident by the two police officers involved may constitute a common assault. The matter was considered by the Director of Public Prosecutions, who stated that the police officers should be charged unless the third complainant was satisfied with conciliatory measures short of prosecution – including:

1. personal apologies from the officers and those in charge of them;  
and
2. the implementation of policies to prevent a repetition.

The resident and his mother subsequently received written apologies from the police officers involved.

Our assessment into practice and policy issues was submitted to the Minister in December 2001. Recommendations made in the Report with respect to issues within Ashley included:

- inappropriate request from Ashley staff on duty, for Tasmania Police involvement with residents concerned;
- overstepping of reasons for Tasmania Police presence at Ashley;
- inappropriate access given by staff on duty to Tasmania Police to enter rooms of residents;
- unwarranted and unauthorised access to resident's rooms by Tasmania Police;
- background of considerable unrest, escapes, assaults by one resident of staff after which the resident was charged, conflict between staff and residents, and inappropriate restraint of residents by Ashley staff, before incidents reported to Commissioner ;
- acrimonious relationships between staff members and residents;
- use of force by Ashley staff for restraint;
- unnecessary use of force and assaults by Police;
- unnecessary exclusion of statements of Teachers at Ashley School by Tasmania Police, as they were independent witnesses, and not part of the two Agencies involved.
- the need for appropriate internal complaints procedures to be established at Ashley on treatment of residents by staff members;
- internal review of what occurred to Ashley residents needs to be undertaken;
- Internal review of the conduct of staff on duty needs to be undertaken;

The Report also considered wider issues such as:

- the Protocol between Ashley and Tasmania Police;
- consultation of children and youth under the United Nations Convention on the Rights of the Child;
- the duty of care owed by the Secretary of the Department of Health & Human Services to residents.

#### 2.12.2 Report on Strip Searches of Children At Risdon Prison – An Assessment into the Practices of Risdon Prison that Place Visitors At Risk to their Health and Welfare

In May 2001, this Office received a number of concerns in relation to the strip searching procedures at Risdon Prison. In one particular case, it was confirmed by the custodial officers involved, that children (aged 14 and 4) were requested to remove all clothing . There was dispute on whether the four year old child was directed to squat, but it was accepted that the older child was directed to do so and complied. In another case, two male children (aged 3 and 14) were also strip searched on a visit. One was reportedly done in cold weather conditions which caused additional stress.

This Report was the result of our assessment into the matter, and the practice and policy issues impacting on children subject to such procedures. The Report examined powers under the *Corrections Act 1997* and the Director of Prison's Standing Orders, and advocated that there is a lack of express powers to conduct strip searches on child visitors. The Report also examined the situation in other States, where strip searches by Prison staff are not permitted in New South Wales, South Australia, Australian Capital Territory, Northern Territory and Queensland.

It is of concern to this Office that under the current procedures in place, those who refused to be strip searched were not given any other options, but were instead asked to leave the prison and are banned for a period from visiting. The Report advocated for an end to the practice of strip searching of children by prison staff, but that instead, Tasmania Police be called where there is a properly formed suspicion that an offence (trafficking contraband into the Prison) is being committed.

The Report also recommended that:

- adequate child friendly information to be provided to visitors explaining the conditions of their visit;
- the practice of ending visits when child visitors use the toilet during a contact visit be suspended;
- baby packs to be made available if clean nappies are not to be permitted to be taken into prisons during visits;
- that there are sufficient procedures in place now, to ensure that visitors are not trafficking drugs into the prison during contact visits and that strip searching is not necessary;
- it should be mandatory that a Doctor be called in all body search situations;
- that the child or children being strip searched should never have been asked to squat, as this was entirely outside the powers of search;
- in all situations it is inappropriate for Prison Officers to conduct strip searches of children, without Police and medical involvement;
- obtaining the consent of a visitor to being strip searched is not acceptable if it is done by coercion through terminating their right to visit if they refuse to consent;
- all children under 18 should be treated equally in relation to search procedures;
- that alternative methods of searching such as electronic drug detective devices, and 'sniffer dogs' be considered;
- that the strip searches concerned were abusive and repugnant
- **that all strip searching of child visitors be banned immediately**

#### 2.12.3 Report on Visit to Launceston Remand Centre

On 11 March 2002, I visited the Launceston Remand Centre, after receiving information that they were holding under 18s from Ashley. Being concerned about the suitability of these placements, I inspected the site, and reported back to the Minister on the conditions in which these youths were placed. This Office advocated that the Launceston Remand Centre is inappropriate for under 18s, and also does not provide them with sufficient rehabilitative services and programs, and is in breach of international best practice as well. Our Report also looked at various provisions within the *Children, Young Persons & their Families Act 1997*, as well as the *Beijing Rules*, *Riyadh Guidelines* and the *Protection of Juveniles Deprived of their Liberty Rules*, and advocated that best practice be followed with respect to the detention of juvenile offenders.

#### 2.12.4 Advocacy for Best Interests of Residents at Ashley: Reports on Visits

The past 12 months has represented a volatile period for Ashley, but I am pleased to report that the situation appears to have settled a little at the time of writing, although there is still a great deal to be done in terms of practices, policies and services for the residents.

Over the last eighteen months there have been concerns expressed to this Office relating to alleged assaults and victimization of residents both by other residents, and the use of inappropriate methods of restraint by staff. This Office has advocated for a review of the procedures in place for dealing with these allegations and concerns, and also for anti-bullying and anti-violence programs to be implemented within the Centre. During the year this Office has also visited the site on a number of occasions, and reported to the Minister on issues of concern following such visits, such as those relating to the newly constructed perimeter fence, the admission process, separation of residents from the community, separation of male and female residents, treatment and rehabilitation programs, staff training, medical services, case plans and appropriate recreational facilities etc.

Some of these concerns have, or are being resolved, and this Office will continue to monitor the progress on others. Regular meetings with Centre Managers to discuss issues of concern, have been proposed and it is hoped that in our Annual Report in 2002-2003 we will be able to report positive developments. The new Director of the Division has agreed to ask the workers at Ashley to formulate a Vision and Mission statement as well as a Charter of Rights of the residents. I have suggested that this is necessary to change the past culture to one that more accurately reflects the *Youth Justice Act 1997* as well as international best practice guidelines.

It is hoped that in the year 2002-2003 we will be able to free up resources to make monthly visits to Ashley to assist with changes that will produce a safer and more appropriate custodial environment for residents, in keeping with the new Act and the *Youth Justice Act 1997*. Visits to Ashley take up

one whole day from this Office which is an imposition on our functions as it appears that it was not envisaged by those who funded this Office that the Commissioner would be as ‘hands on’ with Ashley as I have been.

#### 2.12.5 Establishment of Cyberlaw at Ashley

In February 2002, I attended the National Children and Youth Law Centre in Sydney and made arrangements to link Ashley with the Centre so that residents would have access to free on line legal advice on their rights. On my return, my proposals were accepted and encouraged by both the Minister for Health and Human Services and the Minister for Education. Gary Yan from this Office attended Ashley and spoke to the head teacher at Ashley School and demonstrated how the on line process can be accessed. This programme was subsequently introduced and represents the first on line link between a juvenile justice facility and the National Children and Youth Law Centre in Australia.

### 2.13 **Other Outcomes (8) – Advocacy for Early Intervention Strategies**

The above Reports to the Minister has looked at the reality of the service delivery of child protection, and compared it to the object and principles of the new Act. With a focus on early intervention opportunities that can be processed within the system now, we advocated for changes in practice and culture to better implement the provisions in the new legislation. In particular, with respect to early intervention strategies, we have advocated for:

- strict compliance with the Act in relation to administrative instructions and guidelines provided to the community by the Division of Children and Families on mandatory reporting, so that effective early intervention can occur;
- identification, support and assistance including treatment with ultimate statutory intervention in cases where children are at risk in early childhood, to prevent emotional or other injury to the child
- recognition and services for children who witness domestic violence on the basis that they are children at risk, both physically, emotionally and psychologically, and sometimes sexually, although this abuse may emerge later;
- closer collaboration between the Police and Child Protection Services when it is suspected that children are victims of crime;
- collaboration between the Department of Education and the Department of Health & Human Services for programs for early childhood intervention services for children who exhibit learning and behavioral difficulties, symptoms of mental or nervous health issues or disorders, particularly in the 0-5 age group.

This advocacy for services and support in early intervention have ranged across the spectrum with different Agencies, including preventative health services to those that provide opportunities for early identification services at various transition stages of a family, a child or a young person’s life. The purpose of

such services would be to provide for safety, stability, care and protection early in the child's life, so that the child's maximum potential can be achieved.

## 2.14 Other Outcomes (9) - Specific Projects Undertaken

### 2.14.1 Concerns received about the Our Kids Strategic Policy document

In the Addendum to our last Report to the Minister on the Implementation of the *Children, Young Persons and their Families Act 1997* (on the Division's Responses to Disclosures and reports of Physical and Sexual Assaults on Children), this Office proposed that the *Our Kids* Initiative represented an opportunity for us to work together with the Division and the *Our Kids* Bureau to fulfil the object of the Act. I have noted on numerous occasions, that the object of the Act, is to "provide for the care and protection of children in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach his or her full potential". This is the only object of the Act and must be taken as the fundamental objective of any Policy that seeks to improve the safety, stability, care and protection of children in Tasmania. As I have stated earlier, this requires a full acceptance of the section 8 principles in the new Act, of support to families, based on the best interests of the child. The child has to be central in the ecological framework of the Policy. The term "outcomes for children" reflects an economic rationalist organisational approach, and the implication is that children are *objects*, of service delivery, rather than, the *subjects* of the Policy, who are to be assisted to achieve their goals. A specific child centred policy would not objectify the child, but make the child's best interests central in all decisions, as the new Act requires.

To further the object of the new Act, I have advocated that the Action Plan to be developed must factor in all recommendations from my Reports to the Minister on the Implementation of the Act. These Reports identify the current deficiencies that exist in the system, which need to be remedied. In addition, for the Plan to succeed, input from families must be sought.

I have also received concerns from the community and other agencies that they were not sufficiently represented in the community reference group, although I asked that this membership be extended. It is also of concern that professional perspectives (although well based on research), were not able to take account of input from families who are after all, the clients of the Division. There are also no consultations envisaged with children and youth. This may mean that there is a danger that the existing perceptions and lack of confidence in the system will continue in that professionals are seen as the only ones who are "experts". This may result in families and the community not empowered to work with the Division to resolve family concerns early, before they become "child harm and maltreatment" issues that set in train old ideological "child rescue" responses.

## 2.15 Other Outcomes (10) – Policies established for Children & Youth

### 2.15.1 Policy on Children

This Policy is intended to promote the rights of children in all areas of their life, encompassing their health, welfare, care, protection and development, so that all children are shown humanity and treated with respect, dignity and without discrimination, regardless of race, ethnicity, gender, religion or disability. It is intended that this Policy will serve to provide clear guidelines on the rights of children to achieve the object of the *Children, Young Persons & their Families Act 1997*.

### 2.15.2 Policy on Youth

We advocated that young people in the community should be consulted by business, community, government and non-government agencies, when decisions are made that affect them. A Youth Policy is important to ensure that they are given a voice and receive fair and equitable treatment in services as well as a fair and equitable distribution of community resources. The Policy also advocated that for a recognition of the rights of young people, as well as the provision of encouragement and supports for them to develop physically, intellectually, emotionally and spiritually.

### 2.15.3 Media Policy

This document sets out the understanding and expectations between the Office of the Commissioner for Children and the media, by setting out best practice standards to protect the privacy and confidentiality of information relating to children and young people. Whilst the law in relation to the reporting of court proceedings is clear, with respect to other areas involving children, much is left to the voluntary code of journalists in their reporting for the media. This Policy advocated that children have an equal right to privacy as adults, and also for a child centred approach in the interpretation of the various voluntary codes of ethics. A copy of this Policy can be found on our website at <http://www.childcomm.tas.gov.au>

### 2.15.4 Policy on Physical Punishment in Homes

In accordance with the object and principles under the *Children, Young Persons and their Families Act 1997*, this Policy advocated that it is not best practice for children to be subjected to physical punishment at home as a means of discipline. The *Children, Young Persons & their Families Act 1997* has allowed the children of Tasmania to expect an increased degree of safety in the home, and this Policy advocated that law reform on section 50 of the Criminal Code, as well as a public and community education campaign is required to fully achieve this. A copy of this Policy can also be found on our website at <http://www.childcomm.tas.gov.au>

**2.16 Other Outcomes (11) – State-wide Advocacy: Visits to Local Councils to present Monthly Reports**

The Office of the Commissioner for Children operates Statewide and aims to be inclusive of local/regional communities and organizations. As such, Councils have been contacted to assist with the Launch of the Monthly Report and we acknowledge their kind assistance with providing rooms for the Launch, assisting with catering arrangements, and with attendances by Mayors and Councillors and members of the community.

Material from this Office has been provided to Councils Statewide which includes:

- Information about the Convention on the Rights of the Child;
- Information about the new Act and the role of the Office
- Children’s Policy and Youth Policy
- Questionnaire to assess Council’s Child Friendly Policies

<b>DATE</b>	<b>LOCATION</b>
July 19, 2001	Kentish Council Chambers, Sheffield
August 20, 2001	Tasman Council Chambers, Nubeena
September 21, 2001	Salvation Army Hall, Scottsdale
October 18, 2001	Queenstown Council Chambers
November 16, 2001	Huon Valley Council Chambers
December 14, 2001	Georgetown Council Chambers
January 17, 2002	Circular Heads Council Chambers Smithton
February 15, 2002	Sorell Council Chambers
March 15, 2002	Riverlands Centre, North Midlands Council at Longford
April 12, 2002	Wynyard Council Chambers
May 24, 2002	New Norfolk High School, Derwent Valley
June 21, 2002	West Tamar Council Chambers, Beaconsfield

**2.16.1 Involvement with Local Youth Organisations**

The Office of the Commissioner for Children operates Statewide and we are involved with local youth organisations from all regions. As this Office operates in a non political, impartial and independent manner, we can collaborate without demarcation disputes. The wider overview perspective of this Office allows us to advocate for the best possible results for children and youth who are at risk in all these regions.

Over the last 12 months this Office has continued to be involved with and developed further connections with the following local youth



organisations to keep in touch with them and to support their work and advocate where necessary for youth issues in the regions Statewide:

1. NWAY, (North West Action for Youth Committee)
2. NYCC, (Northern Youth Consultative Committee)
3. YAP, (Youth Action Priorities) & YIG, (Youth Interagency Group), Hobart
4. GAIN, (Glenorchy Action Interagency Network)
5. Youthlink Westcoast

Activities in the above groups show how results can be achieved by working together within Agencies, between agencies, the community sector, community members and all three levels of government.

## **2.17 Other Outcomes (12) – Activities with Government and Local Government Agencies**

Over the last twelve months this Office has continued with the development of links with the following government Agencies to promote a human rights approach to children and youth in the context of the new Act:

- Police: Community Mental Health Working Party
- Legal Aid Commission of Tasmania: Legal representation of children and the right of children to address court, role of the child's legal representative
- Education Department: Bullying Brochures, Challenging Behaviours Management and Anti -Stress Brochure
- Office of Youth Affairs: Youth Policies and website links
- Tasmanian Law Reform Institute: Law reform proposals including amendment of the Domestic Discipline defence under the Criminal Code
- YNOT (Youth Network of Tas): Collaboration for information sharing
- CAHMS (Child and Adolescent Mental Health Services, Burnie) :Advocacy for extension of Mental Health Services in the West and North West.
- Clare House: Child and Adolescent Mental Health issues
- The Link: Contacts with respect to homeless youth, mental health issues etc
- Pulse in Glenorchy: State and local government links
- Youth Arc at Hobart City Council: Contact on Services for homeless youth
- Alt. Ed in Hobart: Contact on educational facilities for children not within school environment
- DIMA (Department of Immigration and Multicultural and Indigenous Affairs): Detention of children and possible implications for Tasmania
- Glenorchy Library: Celebrations for International Children's Day
- Circular Heads Community Centre: Consultation about family services

The Minister had requested that we look at a project to assess all Child Friendly Policies within Government Departments, Agencies and non Government Departments. Local Councils have also been contacted to promote the Convention on the Rights of the Child. This exercise was conducted to raise

community awareness of the human rights of children and to encourage Councils to consider the impact of their decisions on children and youth and to consider the provisions of the Convention in any decision making process they have. We have had interesting responses from Agencies as varied as Treasury and the Police. The analysis of various Agencies responses to the provisions of the Conventions on the Right of the Child will continue with an ongoing commitment of this Office to raising community awareness about the human rights of children.

## **2.18 Other Outcomes (13) - International Connections**

### **2.18.1 Asia Pacific Commissioners Conference**

At this Conference in February 2002, I consulted with other Children's Commissioners from interstate, where issues of mutual concern on Children were discussed. We received a Briefing from Kieren Fitzpatrick of the Asia Pacific Forum on National Human Rights Institutions. We resolved to seek associate membership of the Forum, as we were not National institutions. This would allow us to be involved with most Forum meetings and activities. At a National level we met the new Minister for Children and Families and discussed how the Commonwealth could assist children in the States and Territories.

### **2.18.2 Commissioner's attendance at the United Nations General Assembly's Special Session on Children**

I was invited by the UNICEF (United Nations International Children's Emergency Fund) to attend the United Nations during the General Assembly's Special Session on Children, in New York in May 2002. They accredited me as an independent Human Rights Commissioner based on our compliance with the Paris Principles that I submitted to them. This accreditation was made so I could be involved with the Inaugural Global Meeting of the Independent Human Rights Institutions for Children. I helped draft the resolution that was submitted to the General Assembly by the Independent Human Rights Commissioners. This was received by the U.N G.A and of significance is the fact that the role of the Independent Human Rights Institutions in the Implementation of the next 10 year Plan for children, has been recognized by the United Nations. I am also on the United Nations Working Party on the UN Study of Violence against Children that was commissioned by the General Assembly and given to the Secretary General Kofi Annan.

## **2.19 Other Outcomes (14) – Other Specific Departmental Contacts**

This Office operates with independence, impartiality and integrity and this allows us to have continued links with a variety of Agencies without bias to promote the rights of children to health, welfare, care, protection and development:

- SARISC (Sexual Assault Report Implementation – Statewide Coordination Group): input to promote position of children
- SARI (Sexual Assault Report Implementation): Children’s Rights
- Office of Sport and Recreation: pre employment checks
- Commissioner for Licensing: Employment of young people in licensed premises
- Drug and Education Network: Northern Launch by Commissioner and ongoing contact
- Migrant Resource Centre: Contact on employment of young people from disadvantaged refugee backgrounds
- Department of Justice and Industrial Relations: Legislation review
- Workplace Standards Authority, Tasmanian Trades and Labour Council, Tasmanian Industrial Relations Commission: Employment rights and conditions as well as employer obligations to young people under 18 years
- Department of Premier and Cabinet: Joint employment of young person from refugee background
- Division of Children and Families: Initial contact for Policy expert group
- Police Department: 2001 Youth Intervention Policy, underage offending etc.
- Women Tasmania: Advocacy against violence in the community
- Centrelink: Financial benefits from Commonwealth for children

We value our links with these agencies and organisations as we aim to promote best practice methods that focus on the principles of always acting in the best interests of children and youth that they are in contact with. These links can represent prototypes of how agencies can work together, to promote the position of children in Tasmania.

## **2.20 Other Outcomes (15) – Links with Community organisations**

Over the last 12 months this Office has been developing further links with community organisations to promote the rights of children and youth and to promote the participation of youth in decisions made that affect them. Some of these organisations are listed below:

- Aboriginal Health Centre: for children’s issues
- Tasmanian Aboriginal Centre: for rights of Aboriginal Children
- Office of Aboriginal Affairs: employment of dedicated Aboriginal worker at Ashley
- Circular Heads Aboriginal Council: consultation on issues in Aboriginal community
- Catholic Parents and Friends Associations: contact on issues of concern
- Poverty Coalition: advocacy to reduce poverty in children
- City Heart Business Association in Hobart: perceptions of youth in City
- TASCARE: contact for concerns of children with disabilities
- Sexual Assault Support Services: promotion of a renewed service for children in the south of the State and their services for boys over 13 in the south.

- FUSION: support of children, youth and families
- NAPCAN (National Association for the prevention of Child Abuse and Neglect): collaboration and consultations
- Wyndarra Community Centre, North West: consultations and contacts
- PaKT (Parents and Kids Together): promotion of links in family
- Colony 47: contact on issues relating homeless youth and children
- Anglicare: contact on issues relating to homeless youth and children
- Salvation Army: contact on issues relating to homeless youth and children
- NIFTEY (National Investment for the Early Years): ongoing contacts
- Tasmanian Guides Association: ongoing contacts in the interest of children
- Holyoake (Adolescent support services): advocacy and contacts
- Association of Children with Disabilities: ongoing contacts
- United Nations Association of Tasmania: ongoing collaboration
- Family Day Carers Association: advocacy and collaboration
- Foster Carers Association: advocacy and collaboration
- Tasdec: ongoing links and collaboration for children.
- SHE: advocacy for services to children who are witnesses of crime
- Shelters (Caroline House, Annie Kenny, Hobart Women's Shelter ): ongoing concerns after SAAP review about accommodation for accompanied and unaccompanied children as well as financial support for under age 16 and 15.

These are all informal links, but this Office continues to encourage Government and Non Government Agencies to sign Protocols with this Office, and to this end, there are updated Protocols now being considered by such Agencies.

### **2.21 Other Outcomes (16) – Seminars and Conferences attended as part of raising Community Awareness**

During the past year this Office was pleased to have been invited to attend, both as presenters and participants, in a number of seminars and conferences. This has allowed us to increase our public profile, as well as carry out one of our statutory functions – that is, to increase public awareness of matters relating to the health, welfare, care, protection and development of children. Attendance at these seminars and conferences within and outside of Tasmania also acts as an information gathering exercise into best practices for children, and allows this Office to gain an insight into community perspectives on issues of concern. The seminars and conferences attended covered a wide range of areas – from the Genetics Forum in August 2001, Hate Crime and Human Rights Forum in December 2001, an Ethics Seminar in June 2002. Further details can be found in our Monthly Reports.

### **2.22 Other Outcomes (17) – Brochures Produced**

- This Office has produced a number of Brochures which include
- the Anti-Stress Brochure for Children and Young People,

- a Guide for Children About Bullying at School,
- a Guide for Young People about Bullying at School,
- the Rights of Children at a Family Group Conference – Draft guidelines for facilitators,
- Your Rights in a Family Group Conference – Information Booklet for Children,
- Your Rights in a Family Group Conference – Information Booklet for Youth,
- Dos and Don't of Dating – Information for Youth,
- Section 56 Right of Children to Address Court Brochure for Pre Primary, Primary and Secondary aged children,
- Section 59 Legal Representation of Children Brochure for Pre Primary, Primary and Secondary aged children.

These Brochures (except for S56 & s 59 Brochures) are available on our website:  
<http://www.childcomm.tas.gov.au>

### **2.23 Projects Commenced**

In addition to the various policies developed and brochures prepared as outlined above, this Office has commenced on number of projects which are at various stages of development as at 30 June 2002. These include:

1. a Charter for Children in Tasmania (a Preamble has been drawn up).
2. a Charter for Children in Foster Care
3. a Charter for Children and Youth at Ashley
4. a Review of the Information Booklet for Ashley Residents
5. Guidelines for non-therapeutic Genetic testing of Children
6. Truancy Project
7. Child Friendly Practices and Policies in Agencies and Community

These projects are part of our function under the Act to increase public awareness of matters relating to the health, welfare, care, protection and development of children. The above Charters and Guidelines would allow this Office to advocate for best practices ensure that the best interest of children and youth are protected and promoted in all areas in Tasmania.

### **2.24 Commissioner for Children's Consultative Council (CCCC) Activities**

- Electronic Workshop, Commonwealth People's Festival in Queensland, Power point presentation on young peoples views on Public Transport, electronically sent to the Queensland Commission for Children to assist in developing a blueprint for a Child and Youth Friendly Commonwealth
- Environmental Questionnaire on young people's views on global warming, pollution, water shortage, deforestation and desertification
- Unaccompanied Refugee Children in Custody discussion
- CCCC Website development
- Discussion on the Media Policy for youth and Rights of Children and Youth in Custody

- Unaccompanied Minors Submission to the Human Rights and Equal Opportunity Commission
- Presentation by Council Member to Professor Margaret Reynolds of Tasmania's Report for the United Nations Committee on the Conventions on the Rights of the Child to be presented in Geneva
- Council discussions on amendments to the *Forensic Procedures Act 2000*
- whether under 18's should be allowed to work in licensed premises
- First Youth Leadership Camp at Poatina, with Council Members Statewide attending a two day camp
- First Annual General Meeting, Launceston with Council Members Statewide attending
- Commissioner's Children's Consultative Council first Annual Report, being created and written by the Council
- Guest Speakers have included the Hon Minister Judy Jackson, the Honourable Fran Bladel, the Honourable Mayor of Devonport Mary Binks, Dr Sev Ozdowski (Human Rights and Equal Opportunity Commissioner), Kirsten Hagen (Youth Representative to the United Nations), Karen Buczinzki (Media Consultant) and Garry Bailey (Editor, Mercury Newspaper)
- Office Website Working Party

#### 2.24.1 Working Parties for Brochures

The CCCC have had Working Parties on the development of the Logo for the Consultative Council and the Brochure on the Dos and Don'ts of Dating, as well as consultation on the Section 56 and 59 Brochures for Legal Representation and the Right of children to address Court for pre-primary, primary and secondary school children.

My Consultative Council has provided outstanding advice, collaboration and assistance on all matters we have consulted them on and this is greatly appreciated .

#### 2.25 **Advisory Council Activities**

Meetings have been conducted with myself or Staff with members of the Northern, North West and Southern Advisory Councils at regular intervals State-wide throughout this past year. Members of the Advisory Council contribute their expertise and time voluntarily and continue to exhibit their commitment to this Office and to our clients, the children, youth and their families of Tasmania. I would like to thank them all for their outstanding commitment throughout this past year. We have a full representation of all professions and people in the community including members of the Aboriginal community, in medicine, law, teaching, psychology, social work and foster care as required by Act. We acknowledge and thank them for their contribution to the work of this Office.

Council have been involved in various activities such as:

- Initial Visitor to Ashley Program

- Presentation by Professor Margaret Reynolds of Tasmania's Report for the United Nations Committee on the Conventions on the Rights of the Child on Tasmania's legislative compliance with the Convention in Geneva
- Submission to the Federal Government on the "Anti Terror Laws"
- Select panel of Judges to decide winning Banning Physical Punishment Competition entries
- Submission to the Australian Law Reform Commission on Genetic Testing of Children.

I have sought comments from my Advisory Council on a number of documents including:

- "Child and Family Services Refocus 2001- 2004" Discussion paper, 5<sup>th</sup> July 2001
- comments on my Reports to the Minister
- comments on the Division of Children and Families "Our Kids" document

#### 2.25.1 Adult's Advisory Council Concerns

- Concerns about Intake and Assessment
- Early Childhood Development
- Training for Child Protection and Youth Workers
- Legal representation of children
- How Family Group Conferences are operating in the North of the State
- Concerns with Ashley
- Challenging Behaviours of Children in Education
- Mental Health Issues
- The need for increased services to support families

#### 2.25.2 Working Parties

##### **INTERNAL WORKING PARTIES**

- Implementation of Children, Young Persons and their Families Act Working Party
- Homeless Children Working Party
- Children's Policy Working Party
- Paediatrician's Working Party
- Challenging Behaviours Working Party
- Education Working Party
- Lawyers Working Party
- Mental Health Working Party

##### **EXTERNAL WORKING PARTIES**

- Youth Justice Task Force
- Poverty Coalition
- Mental Health Working Party, reporting back to the Mental Health Forum

### **3. Evaluation of Office**

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#### **3.1 External Evaluation: Feedback from Stakeholders**

These Evaluation Forms were distributed Statewide, sent either electronically or by land mail. The Forms are also available in the front lobby area of the Commissioner for Children's Office and are presented as an attachment to the Monthly Report. People are then able to provide feedback to the Commissioner for Children in terms of the content, presentation and expectations of the work of the Commissioner for Children. This process follows best practice in terms of Office transparency and accountability.

“How do you rate the Monthly Report overall?” is one question that was assessed according to a rating scale of 1 to 10. They indicate 1 –2 as “Poor”, 3- 4 as “Average”, 5-6 as “Good”, 7-8 as “very good” and 9-10 as “Excellent”. This year none of the responses to this question have rated below 8 and the average rating is a score is 9 which represents a rate of “excellent” from the returns of the Evaluation Forms.

#### **3.2 Internal Evaluation: Paris Principles**

We assessed our Office against external and international benchmarks that are established by the United Nations, and it was encouraging to see that we measured up very satisfactorily against those benchmarks. This document indicating our compliance with the United Nations Paris Principles, was an innovative and historic document for Tasmania as it appears that none of the other Children's Commissioners interstate had assessed their Office against external and international benchmarks. We believe that this emphasises how this, Office, which as I stated last year belongs to the children, youth and families of Tasmania, is run in accordance with a Human Rights model, which promotes the best interests and the human rights of children and youth in the context of their families.



## **4. Financial**

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### **4.1 Independence of financial processes.**

Issues with respect to the financial administration of this Office by Corporate Services of the Department of Health have to be clarified to my satisfaction. Negotiations to achieve this are ongoing with the new Director of the Division and the Secretary who both fully understand my concerns.

## 4.1 Financial Report<sup>1</sup>

Budget allocated by Parliament 2001/02 <sup>2</sup>	\$288,000.00
Deduction from Treasury allocation by Strategic Support	\$ 47,000.00
Reduced Budget available for 2001-02	\$241,000.00

### BUDGET OUTLAYS

#### Salaries & Related Expenditure

Salaries & Wages	\$147,000.00	
Other Employee Related Expenses	<u>\$ 35,000.00</u>	\$ 182,000.00

#### Operating Expenditure

Communications	\$ 5,000.00	
Staff Travel	\$ 7,000.00	
Motor Vehicle Expenses	\$ 5,000.00	
Advertising & Promotion	\$ 5,000.00	
Consultants <sup>3</sup>	\$ 1,000.00	
IT Leases & Licenses <sup>4</sup>	\$ 5,000.00	
Client Leisure & Recreation <sup>5</sup>	\$ 1,000.00	
Other Client Expenses	\$ 2,000.00	
Office Requisites	\$ 6,000.00	
Rental of Equipment <sup>6</sup>	\$ 4,000.00	
Other Expenses <sup>7</sup>	\$ 11,000.00	
Security Door	<u>\$ 3,000.00</u>	<u>\$ 55,000.00</u> <u>\$237,000.00</u>

TOTAL SURPLUS		\$ 4,000.00
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<sup>1</sup> All figures obtained from Finance One Business Unit Expenditure Report and are rounded to nearest whole \$1000

<sup>2</sup> See Budget Papers 2001-2002 by Treasury

<sup>3</sup> Salaries and Related Expenditure for the Commissioner and two full time support staff and one Office Trainee (one day per week since January 2001) represent 63% our total budget, and 80% of the total amount available to this Office.

<sup>4</sup> This is an allocated expense that this Office has not had direct control over to manage in our favour.

<sup>5</sup> This expenditure includes our Consultative Council's Leadership Camp in February 2002.

<sup>6</sup> This is also an allocated expense that this Office has not had direct control over.

<sup>7</sup> This includes accommodation for staff, conference registrations, Advisory and Consultative Council expenses etc

## 5. **Where we do we go to from here**

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### 5.1 **Future Focus**

The main concerns that we need to address in Tasmania that I assessed last year and raised in the two documents we filed with United Nations Agencies, refer to the following:

1. The over-representation of Aboriginal and Indigenous children and young people in juvenile justice facilities;
2. Tasmania had the highest rate of children and young people in welfare care in Australia as at 30<sup>th</sup> June 2000. In 1996, Tasmania had the highest rate of children in care in Australia. These numbers have been falling since the passing of the *Children Young Persons and their Families Act*. However, this Office needs to assess –
  - (a) if children are indeed better off as a result of the practice of leaving them in families; and
  - (b) if families are receiving sufficient support to provide adequate care and protection for children so that they live in a safe and stable environment to enable them to develop their full potential.
3. Genetic testing of children without guarantees that the rights of children (eg – with respect to confidentiality, and freedom from discrimination) will not be in jeopardy. We need to ensure that there will not be discrimination of children with genetic problems after such research and that the best interests of the children tested or who are used in research, will be the paramount consideration at all times;
4. In the area of genetic testing of children, we are concerned that Article 12 of the Convention may not be fully expressed in the research process, as the views of children were not sought, but tests on children were undertaken using consent of parents or guardians alone;
5. That children under 18 will not be treated as adults in any forensic tests to be done on them by the Police under the *Forensic Procedures Act 2000*;
6. That reported/alleged assaults on youths at the Ashley Detention Centre by Police Officers in April 2001 will not occur again. New procedures have been established by the Department of Health and Human Services with respect to any physical contact with residents at the Centre, and it is hoped that this will eliminate such risks. In December 2001 we submitted a Report to the Minister for Health and Human Services on the reports of assaults (see above), and we are advocating for further changes to secure the rights of the children and youth in the Detention Centre;

7. That children under 18 will not be subjected to strip searching as prison visitors or subjected to any other cruel and inhuman treatment in breach of the Convention;
8. That additional services and facilities be provided to Aboriginal and Indigenous children and young people to reduce the rate of their incarceration in juvenile justice facilities;
9. That section 50 of the *Criminal Code Act 1924* that still allows for parents to 'smack' their children in the name of discipline will be repealed;
10. That the position of Homeless children under age 16 will improve as it appears that they have less access to age appropriate accommodation options than those older than them and less care and protection services compared to children younger than them. There have been recent public announcements of an increase in funding for this age group. This is encouraging and will be monitored. This is an ongoing situation that this Office seeks to improve. With respect to the issue of poverty in this age group, this Office has a concern regarding their difficulties in obtaining social security payments and this Office is reviewing the situation.
11. Increased in-patient and out-patient services for children with mental health issues;
12. Increased support and services for parents, so that children can remain in a safe and stable environment at home and receive adequate care and protection.

These concerns will continue to be the basis of our advocacy next year.

## **5.2 Mainstreaming Children's Issues**

The Save the Children Fund of the United Kingdom, a United Nations Agency, stated in 1996 that it would be necessary to "mainstream" children's issues to gain public and government acknowledgement and acceptance of the need to resolve them. As can be seen in the body of this Report, much of my role as Commissioner for Children in Tasmania involves advocacy and raising public awareness of matters relating to the health, welfare, care, protection and development of children. This involves mainstreaming these issues in the public domain, and ensuring that all programs, strategies and services are widely understood and accepted as the right of children to develop and reach their full potential. In this context, the Save the Children Fund in the UK have said that to "mainstream" is to be:

- bringing something from the margins into the mainstream, thereby making it acceptable to the majority;
- turning child rights from a fringe issue to one that is at the centre of public attention and debate;

- getting institutions which have so far ignored children's rights to incorporate child rights into their agendas

My advocacy next year will seek to mainstream children's rights and promote it in every Plan and Policy that is proposed by any government agency.

### **5.3 Tasmania Together.**

This year I have written to the Tasmania Together Board to endeavour to advocate that children and young people should be nominated as a separate chapter or priority, in the 20 year Tasmania Together Plan. I am concerned to advocate for this, as at present their Benchmarks for children are embedded in other priorities or part of other goals. Although we now understand that the present wellbeing of children is vital to their future there is an insufficient emphasis on how they are also vital to the future of all Tasmanians. This is a 20 year Plan and is well placed to take a long term view of what would be in the best interests of the children of this State, beyond the limited Benchmarks that are now set out.

I commenced my position in October 2000, when the process of consultation was winding down, and was not able to make representations at that early date. I was also not made aware of the process, as my Advisory Council was not established till early 2001, and were not able to advise me of this till early 2001. I am now advised that there is an ongoing process, and that is the reason why I have sought to establish a link with the Board. I hope to explore what can be done now, so that the needs of children are more significantly expressed in this Statewide Plan.

I have asked that we address the inadequate specific references in the Plan to those between 0 to 12 years, so that we can look at their issues and some issues for youth in more detail. This is one strategy that I have embarked on mainstream the rights of children so that they are valued as equal citizens in Tasmania now, and not just in the future.

## **6. Epilogue**

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We have had an even busier year than the past one. I have had my permanent team of two support staff on board from August 2001, and they have been able to give me the excellent assistance I needed to achieve the outputs and outcomes envisaged by the Act, and as detailed in this Report. We have commenced on our assessment of the Implementation of the Act and produced in effect ten Reports to the Minister on this, four additional Reports on particular issues of concern to the community and two International Reports filed with UNICEF and the United Nations High Commission for Human Rights, with one of the International Reports being prepared for the Asia Pacific Forum on Human Rights. We have thereby lifted the profile of this Office and Tasmania to a national and an international level that demands a response in this State, that requires us to live up to the expectations expressed in the Reports. This can only be done with the wholehearted support of Government, a whole of government approach and the prioritisation of children's issues, for budget allocations.

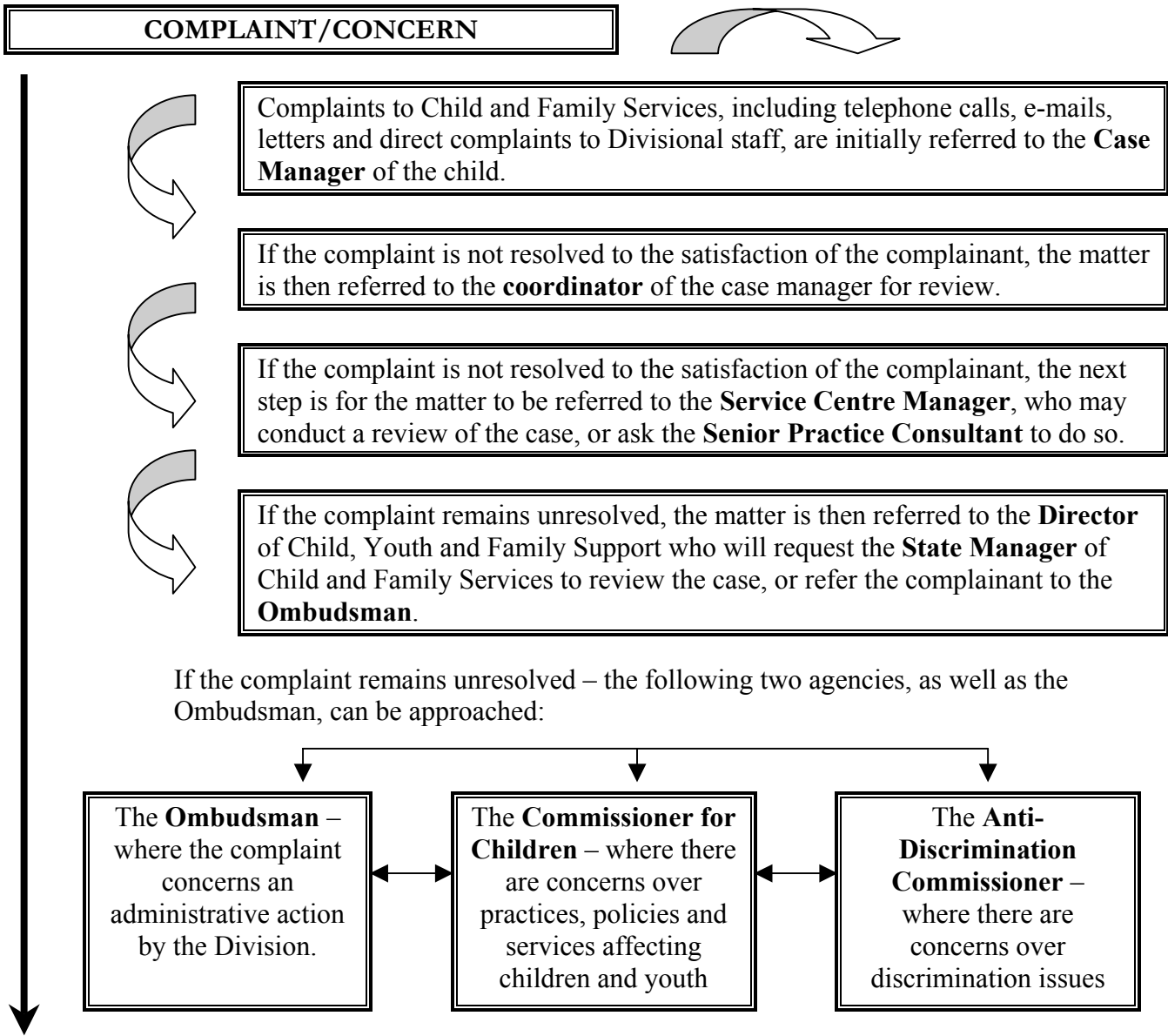
### **Acknowledgements**

I would like to take this opportunity to thank my hardworking staff, Gary Yan, Rhonda Anthony and Lisa Evans who worked with us for five months before she left to have her baby and who is our relief staff member. I also thank the Advisory and Consultative Council members, colleagues from Education, Police, Health, Welfare, Justice, the Division of Children and Families, Department of Premier and Cabinet, Local Councils from all around Tasmania, the Community sector and groups that work with children and youth, all those members of the community and of course my clients, children, youth and families of Tasmania. Thank you for your support of this Office and continued enthusiasm for the work that this Office does for the children and youth of Tasmania. Very little would be possible without your input and we look forward to working with you next year.

Appendix (A.1) – Child & Family Services Internal Complaint/Review Process

**Department of Health & Human Services - Child and Family Services**  
INTERNAL COMPLAINT/REVIEW PROCESS

The following information on the review/complaints process within Child and Family Services was provided by the Department to the Office of the Commissioner for Children.



At any point, the complainant can approach or refer the matter to the Coordinator, Service Centre Manager, or Director if they choose to do so.

The complainant can also approach the **Ombudsman**, the **Anti Discrimination Commissioner** and the **Commissioner for Children** at any time. The Ombudsman will, however, not investigate a complaint unless she is satisfied that the Division has been given an opportunity to resolve the matter.

## **Appendix A.2 – Children’s Forum Message**

### **A WORLD FIT FOR US**

We are the world's children.

We are the victims of exploitation and abuse.

We are street children.

We are the children of war.

We are the victims and orphans of HIV/AIDS.

We are denied good-quality education and health care.

We are victims of political, economic, cultural, religious and environmental discrimination.

We are children whose voices are not being heard: it is time we are taken into account.

We want a world fit for children, because a world fit for us is a world fit for everyone.

In this world,

We see respect for the rights of the child:

- governments and adults having a real and effective commitment to the principle of children's rights and applying the Convention on the Rights of the Child to all children,
- safe, secure and healthy environments for children in families, communities, and nations.

We see an end to exploitation, abuse and violence:

- laws that protect children from exploitation and abuse being implemented and respected by all,
- centres and programmes that help to rebuild the lives of victimised children.

We see an end to war:

- world leaders resolving conflict through peaceful dialogue instead of by using force,
- child refugees and child victims of war protected in every way and having the same opportunities as all other children,
- disarmament, elimination of the arms trade and an end to the use of child soldiers.

We see the provision of health care:

- affordable and accessible life-saving drugs and treatment for all children,
- strong and accountable partnerships established among all to promote better health for children.

We see the eradication of HIV/AIDS:

- educational systems that include HIV prevention programmes,
- free testing and counselling centres,
- information about HIV/AIDS freely available to the public,
- orphans of AIDS and children living with HIV/AIDS cared for and enjoying the same opportunities as all other children.

We see the protection of the environment:

- conservation and rescue of natural resources,
- awareness of the need to live in environments that are healthy and favourable to our development,
- accessible surroundings for children with special needs.



We see an end to the vicious cycle of poverty:

- anti-poverty committees that bring about transparency in expenditure and give attention to the needs of all children,
- cancellation of the debt that impedes progress for children.

We see the provision of education:

- equal opportunities and access to quality education that is free and compulsory,
- school environments in which children feel happy about learning,
- education for life that goes beyond the academic and includes lessons in understanding, human rights, peace, acceptance and active citizenship.

We see the active participation of children:

- raised awareness and respect among people of all ages about every child's right to full and meaningful participation, in the spirit of the Convention on the Rights of the Child,
- children actively involved in decision-making at all levels and in planning, implementing, monitoring and evaluating all matters affecting the rights of the child.

We pledge an equal partnership in this fight for children's rights. And while we promise to support the actions you take on behalf of children, we also ask for your commitment and support in the actions we are taking - because the children of the world are misunderstood.

We are not the sources of problems: we are the resources that are needed to solve them.

We are not expenses: we are investments.

We are not just young people: we are people and citizens of this world.

Until others accept their responsibility to us, we will fight for our rights.

We have the will, the knowledge, the sensitivity and the dedication.

We promise that as adults we will defend children's rights with the same passion that we have now as children.

We promise to treat each other with dignity and respect. We promise to be open and sensitive to our differences.

We are the children of the world, and despite our different backgrounds, we share a common reality.

We are united by our struggle to make the world a better place for all.

You call us the future, but we are also the present.

Meeting of Under-18 Delegates to the United Nations Special Session on Children.

*New York 5-7 May 2002*

### **Appendix A.3 Reports to the Minister on the Assessment of the Implementation of the Act**

(See Attached)

- Information on Mandatory Reporting: Lack of Conformity with Specific Provisions of the *Children, Young Persons and their Families Act 1997*
- Intake & Assessment Processes Concerning Children Who Witness Criminal Assaults at Home
- Children who are Homeless and Children who are At Risk of Homelessness
- Legal Representation of Children
- Right of Children to Address Court
- Forensic Procedures Act 2000: Review of One Year in Operation
- Section 104 of Youth Justice Act: Adjournment of Criminal Proceedings to Determine Care and Protection Matters
- Section 105 of Youth Justice Act: Adjournment of Criminal Proceedings to Determine Mental or Nervous health Issues
- Family Group Conferences: Bottom Lines
- Responses to Disclosures and Reports of Sexual Assaults on Children

**Appendix A.4 Annual Report of the Commissioner for Children Consultative Council**

(See Attached)