

Your Ref:  
Our Ref: 910

12 September 2022

Office of the Secretary  
Department of Justice  
By email: [ginna.webster@justice.tas.gov.au](mailto:ginna.webster@justice.tas.gov.au)

Dear Secretary

### **Integrity Commission discussion paper**

Thank you for the opportunity to provide feedback in response to the *Integrity Commission Act 2009 Legislative Reform Discussion Paper*.

Unfortunately, my capacity to provide comprehensive feedback on the paper within the time permitted is limited because of other priorities. I would be grateful for the opportunity to consider the draft Bill once it becomes available.

However, I do take this opportunity to draw to your attention the following issues and observations relevant to the rights and wellbeing of children and young people that I believe warrant consideration, but which are not covered by the discussion paper.

#### **1. The “complex ecosystem of integrity” in Tasmania**

As I said in my [submission](#) to the Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings (the Commission), the features of the Tasmanian system for preventing and responding to child sexual abuse in institutional settings represent a disconnected patchwork of systems and processes. Despite good intent, these systems and processes fail to provide an *integrated and systematic approach* to keeping children safe from abuse in institutional settings. The evidence given by numerous courageous victim-survivors during the Commission hearings has, sadly, only served to reinforce my views on this issue.

As you are aware, the Commission explored Tasmania’s system of independent oversight during its first full week of hearings. Evidence was led from witnesses including the CEO of the Integrity Commission, the Ombudsman and Custodial Inspector, the Auditor-General, and myself as Commissioner for Children and Young People (Commissioner). In closing submissions for that week, Counsel Assisting made the following submission:

*“...at a high level we can make some preliminary observations and those are that there is a degree of complexity in the way that the oversight bodies operate in Tasmania.”*

Without wishing to pre-empt the findings or recommendations of the Commission, it is important that the Tasmanian Government considers the role of the Integrity Commission in the context of the ‘complex ecosystem of integrity’ (as Counsel Assisting has described it) relevant to preventing and responding to child abuse in institutional settings. Reforms to the *Integrity Commission Act 2009* should take account of and, where relevant, complement the development of the forthcoming



Tasmanian Child and Youth Safe Organisations Framework (TCYSOF). For example, complementary information sharing provisions will be an integral element of the proposed reportable conduct scheme.

## **2. Interrelationship between the Commissioner for Children and Young People Act 2016 (CCYP Act) and the Integrity Commission Act 2009**

Irrespective of the development of the TCYSOF, the reform of the Integrity Commission legislation provides an opportunity to clarify the ability of the Commissioner to share information with the Integrity Commission. Under s.17 of the CCYP Act, the Commissioner may refer any matter to the Ombudsman and the Custodial Inspector if the Commissioner thinks it appropriate to do so. However, the CCYP Act has no explicit provision regarding referral to the Integrity Commission. In my view, consideration should be given to including in the CCYP Act the Integrity Commission as a body to which the Commissioner may refer a matter if the Commissioner thinks it appropriate to do so. I would welcome further discussion on this point. For ease of reference, s.17 is set out below.

### **17. Commissioner may, but is not required to, divulge information**

- (1) Unless otherwise specified, the Commissioner may divulge to a relevant authority all, or any part of, information provided to him or her –
  - (a) if the Commissioner considers it appropriate in the circumstances; and
  - (b) if to do so would be lawful in the circumstances.
- (2) The Commissioner may refer any matter to the Ombudsman or the Custodial Inspector appointed under section 5 of the [Custodial Inspector Act 2016](#) if the Commissioner thinks it appropriate to do so.
- (3) A person who is, or has been, the Commissioner may not, in proceedings before a court, or a person authorised by law to hear, receive or examine evidence, be compelled to disclose information acquired in his or her capacity as Commissioner, being information that was disclosed or obtained under this Act.
- (4) For the purposes of this section, a relevant authority may include –
  - (a) the Police Service; and
  - (b) a Community-Based Intake Service within the meaning of the [Children, Young Persons and Their Families Act 1997](#); and
  - (c) a Minister or a Secretary of a department; and
  - (d) any other prescribed person or prescribed organisation.

Thank you for the opportunity to draw these matters to your attention. I am of course available to discuss my views in more detail should that be of assistance.

Yours sincerely

**Leanne McLean**  
Commissioner for Children and Young People

cc: The Hon Elise Archer, Attorney-General  
The Hon Roger Jaensch, Minister for Education, Children and Youth  
Mr Richard Bingham, Integrity Commissioner  
Mr Bruce Patterson, Assistant Director, Strategic Legislation and Policy