

Your Ref:
Our Ref: 951

9 April 2024

Secretary
Department of Premier and Cabinet
By email: policy@dpac.tas.gov.au

Dear Secretary

**RE: CHILD SAFETY REFORM IMPLEMENTATION MONITOR BILL 2024 –
CONSULTATION DRAFT**

Thank you for the opportunity to make a submission on the draft Child Safety Reform Implementation Monitor Bill 2024.

In August 2023, the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* (the Commission or COI) submitted its Final Report to the Governor. The Final Report made 191 recommendations. The Report's concluding recommendation (Recommendation 22.1) requires the Tasmanian Government to establish and fund a new role of *Implementation Monitor* in Tasmania to independently oversee the implementation of the entire suite of recommendations made by the Commission. The Commission noted:

Throughout our Inquiry we reviewed many previous Tasmanian reports and inquiries into out of home care, the health system and Ashley Youth Detention Centre, which identified problems that have not been addressed over many years. We are also conscious that some key recommendations of the National Royal Commission, such as the Child and Youth Safe Standards and Reportable Conduct Scheme, are still in the early implementation stages five years after they were made.

*We share the hopes we heard in evidence from victim-survivors, and their families, carers and supporters, that our Inquiry will lead to meaningful change that benefits Tasmania and its children and young people. The Tasmanian Government has said it will implement our recommendations, and we expect this. It would be a tragedy if our report were treated as the product of 'just another inquiry', to file and forget. The cost to taxpayers, the trust of the community and the toll on victim-survivors and whistleblowers that comes from sharing their experiences requires that the Tasmanian Government commits to a powerful and immediate response.*¹

¹ Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, *Volume 1 – Summary, recommendations and findings*, 2023, p 21 (URL: https://www.commissionofinquiry.tas.gov.au/data/assets/file/0011/724439/COI_Full-Report.pdf)



In its formal response to the Final Report, the Government accepted the recommendation for an Implementation Monitor and stated that it would be implemented by 1 July 2024.²

Role of the Commissioner for Children and Young People

My perspective on the draft Bill is informed by a child-rights framework and the United Nations Convention on the Rights of the Child. The *Commissioner for Children and Young People Act 2016* (CCYP Act), which establishes the office of the Commissioner for Children and Young People, provides that my general functions include:

- (a) advocating for all children and young people in the State generally;
- (c) researching, investigating and influencing policy development into matters relating to children and young people generally;
- (d) promoting, monitoring and reviewing the wellbeing of children and young people generally;
- (e) promoting and empowering the participation of children and young people in the making of decisions, or the expressing of opinions, on matters that may affect their lives; and
- (f) assisting in ensuring the State satisfies its national and international obligations in respect of children and young people generally.³

In performing these and other functions under the CCYP Act, the Commissioner is required to:

- do so according to the principle that the wellbeing and best interests of children and young people are paramount, and
- observe any relevant provisions of the United Nations *Convention on the Rights of the Child* (CRC).⁴

As Commissioner, I made extensive contributions to the Tasmanian Commission of Inquiry. This included making a written submission, providing a witness statement, and giving oral evidence on three separate occasions.⁵ I also availed myself of all opportunities to make comment on the content of certain draft chapters of the Final Report. During the COI, I strongly championed and advocated for a range of legislative and policy changes, including greater government investment in oversight and monitoring mechanisms, and the establishment of a new and independent Commission for Children and Young People.

² Tasmanian Government, *Keeping Children Safe and Rebuilding Trust: Government Response to the Report of the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings*, 2023, p 98 (URL: https://www.keepingchildrensafe.tas.gov.au/_data/assets/pdf_file/0020/327134/Keeping-children-safe-and-rebuilding-trust_final-WEB.pdf)

³ Section 8(1) of the *Commissioner for Children and Young People Act 2016* (Tas)

⁴ Section 3(1) of the *Commissioner for Children and Young People Act 2016* (Tas)

⁵ See Statement of Leanne McLean dated 12 April 2022 (URL: https://www.commissionofinquiry.tas.gov.au/_data/assets/pdf_file/0003/659352/Statement-of-Leanne-McLean,-Commissioner-for-Children-and-Young-People,-12-April-2022.pdf), Submission of the Commissioner for Children and Young People Tasmania (CCYP) dated 29 July 2021 (URL: https://www.commissionofinquiry.tas.gov.au/_data/assets/pdf_file/0004/702256/Submission-of-the-Commissioner-for-Children-and-Young-People-Tasmania-CCYP,-29-July-2021.pdf), Transcript of 5 May 2022 (URL: https://www.commissionofinquiry.tas.gov.au/_data/assets/pdf_file/0008/659609/Transcript-of-5-May-2022.pdf), Transcript of 17 June 2022 (URL: https://www.commissionofinquiry.tas.gov.au/_data/assets/pdf_file/0007/666628/Transcript-of-17-June,-2022.pdf), and Transcript of 24 August 2022 (URL: https://www.commissionofinquiry.tas.gov.au/_data/assets/pdf_file/0005/676121/Transcript-of-24-August,-2022.pdf).



Recommendation 22.1 of the Commission of Inquiry

As conceptualised in Recommendation 22.1 of the Commission's Final Report, the purpose of the Implementation Monitor is:

- (a) *to monitor and report* on the implementation of the Commission's recommendations as well as those made by a number of other inquiries and reviews; and
- (b) *to evaluate* the effectiveness of the measures and actions taken in response to the recommendations.

The terms of the recommendation are as follows:

Recommendation 22.1

1. The Tasmanian Government should introduce legislation to establish and fund an independent Child Sexual Abuse Reform Implementation Monitor to:
 - a. monitor and report to Parliament annually on the implementation of:
 - i. the recommendations of this Commission of Inquiry;
 - ii. any recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse that were accepted by the Tasmanian Government and have not been implemented;
 - iii. the recommendations of the Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse.
 - b. undertake independent evaluations of the effectiveness of the measures and actions taken in response to the recommendations identified above, especially the impact on the safety and wellbeing of children in government and government-funded institutions and victim-survivors of child sexual abuse in institutional contexts.
2. Independent evaluations should enable assessment of change over time and involve:
 - a. identifying an evaluation framework and baseline data requirements within the first year of the appointment of the Implementation Monitor;
 - b. commencing collection of data identified in the evaluation framework as soon as possible after the evaluation framework has been developed;
 - c. assessing the change against the evaluation framework at five- and ten-year intervals following the tabling of this report;
 - d. making independent evaluations publicly available.
3. The Tasmanian Government should protect the independence of the Implementation Monitor by:
 - a. appointing the Implementation Monitor for a fixed term that cannot be prematurely terminated, except in extraordinary circumstances;
 - b. maintaining the role of the Implementation Monitor until implementation of the recommendations identified above is substantively complete;
 - c. separately and directly funding the Implementation Monitor, rather than through a line agency.



4. The Tasmanian Government, through the Secretaries Board, should be required to report to:
 - a. the Implementation Monitor as requested and in the form required by the Implementation Monitor;
 - b. the public on its implementation and reform activity through the Department of Premier and Cabinet's annual report.
5. The Implementation Monitor should consult as required with:
 - a. the Premier's Youth Advisory Council;
 - b. the adult victim-survivors of child sexual abuse advisory group (Recommendation 19.5);
 - c. the peak body for the sexual assault service system (Recommendation 21.3);
 - d. the institution-specific advisory groups established within Tasmanian government agencies (Recommendations 9.6, 12.8 and 15.7).

The Tasmanian Government's draft Bill

On 13 February 2024, the Department of Premier and Cabinet shared for consultation the draft Child Safety Reform Implementation Monitor Bill 2024 (the Bill) which is intended to give effect to Recommendation 22.1. In the accompanying discussion paper titled *Child Safety Reform Implementation Monitor Bill 2024: Key Provisions Explained*, the Government stated that the Bill:

(...) provides the necessary legislative architecture and support in respect of the proposed Monitor's:

- Objectives, role, and functions;
- Independence from executive government;
- Appointment and tenure, suspension and removal;
- Staffing and resourcing;
- Legal powers and protections; and
- Formal reporting and consultation requirements.

As also noted in the discussion paper, the Bill establishes the scope and nature of the Implementation Monitor's functions in line with the Commission's advice in Recommendation 22.1(1)(a), but additionally extends the scope to include further matters. The Commission had proposed in Recommendation 22.1(1)(a) that the Implementation Monitor would monitor and report on the implementation of the recommendations of:

- i. The Commission of Inquiry;
- ii. The Royal Commission into Institutional Responses to Child Sexual Abuse that were accepted by the Tasmanian Government and have not been implemented; and
- iii. The Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse.⁶

⁶ Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, *Volume 1 – Summary, recommendations and findings*, 2023, pp 194-5 (URL: https://www.commissionofinquiry.tas.gov.au/_data/assets/file/0011/724439/COI_Full-Report.pdf)



It is proposed in s11 of the draft Bill that the Implementation Monitor be given the additional functions of monitoring and reporting on the recommendations contained in:

- i. The review of child safety and governance in the Launceston General Hospital and Human Resources, in respect of which the Independent Report from the Co-Chairs for the Child Safe Governance Review of the Launceston General Hospital and Human Resources was submitted on 9 December 2022, to the Secretary of the Department of Health;⁷ and
- ii. Such other commission, inquiry or review, or such part of a commission, inquiry or review, that:
 - (A) Relates to child safety and wellbeing in institutions operation by, or on behalf of, the State; and
 - (B) Is referred to the Implementation Monitor in accordance with subsection (2); (...)⁸

Having regard to the complex and extensive recommendations made by the COI, and noting the many features that the draft Bill shares with the Victorian *Family Violence Reform Implementation Monitor Act 2016* (Vic), I am generally supportive of the legislative structure outlined in the Bill for the establishment of the Implementation Monitor.

In saying this, I am curious to understand whether it is intended that a referral may be made by the Minister or Parliament to the Independent Monitor to monitor and report on the implementation of recommendations of the Commissioner for Children and Young People, or indeed any existing or future independent statutory officer or body. See ss11(2) and 11(3). I would appreciate clarification of this matter to inform my further consideration of the Bill.

Leaving aside the above, it appears to me that there may be two deficiencies in the Bill as currently drafted. On the one hand, the Bill names the *current* Commissioner for Children and Young People as the subject of the monitoring activities of the proposed Implementation Monitor, but on the other hand, the Bill fails to name the *proposed* new Commission for Children and Young People as being subject to this oversight. The establishment of a new Commission for Children and Young People is in fact the subject of the COI's Recommendation 18.6.

The current very complex context within which this draft Bill is being finalised is an important consideration. There appears to me to be a level of confusion regarding the role of existing statutory officers, such as the Commissioner for Children and Young People, in the implementation of recommendations that will either require consultation with, or are to be the responsibility of, the new Commission for Children and Young People.

While the situation is by no means clear to me, I am concerned that my legislated function to influence policy and legislation in the best interests of children and young people, may at times be confused with the perception that I may be the "proxy" for the new Commission for Children and Young People for the purposes of consultation, or that I somehow carry some responsibility for delivery of recommendations allocated to the new Commission for Children and Young People. The fact that this draft Bill includes the Commissioner for Children and Young people as an agency to be monitored by the Independent Monitor, which I describe further below, is a direct example of this apparent confusion.

It is my strong view that, given the calls on my office to continue to effectively influence policy and legislation in the current complex context, an additional allocation of resources to my office to undertake the necessary work to do so is required.

⁷ Section 11(1)(a)(iii), Child Safety Reform Implementation Monitor Bill 2024

⁸ Section 11(1)(a)(iv), Child Safety Reform Implementation Monitor Bill 2024



Taking account of this current complex context, I highlight the following two drafting deficiencies in the draft Bill below.

Defining the current Commissioner for Children and Young People as an *agency* and an *agency head* in the draft Bill.

Recommendation 18.6 of the COI's Final Report proposes the establishment of a new expanded Commission for Children and Young People. Recommendation 18.6 proposes that the new statutory Commission would include a leadership structure comprised of (a) a Commissioner for Children and Young People, (b) a Commissioner for Aboriginal Children and Young People and (c) a Child Advocate (Deputy Commissioner). This Recommendation further proposes that the new Commission would combine the existing functions of the current Commissioner *as well as* the suite of nine further functions described in Recommendation 18.6(2)(a)-(i).⁹

In total, the COI's Recommendations refer to the newly proposed Commission for Children and Young People approximately 12 times. Five of those references involve what the draft Bill otherwise describes as *monitored recommendations* (i.e. any recommendation referred to in a relevant reform report described in s11(1)(a) or (b) of the draft Bill), which involve a related *implementation action* (i.e. a measure or action taken by an agency in response to a monitored recommendation). Three of those references require action by the Department for Education, Children and Young People. Nine of the Commission's recommendations in relation to the new Commission require action by the Tasmanian Government (described generally).

Significantly, for the purposes of this Bill, not one of the COI's 191 Recommendations can be characterised as a *monitored recommendation* with an associated *implementation action* to be undertaken by the *current* Commissioner for Children and Young People.

This is noteworthy because while the draft Bill purports to identify the current Commissioner for Children and Young People as an *agency* that is seemingly responsible for taking *implementation actions* in response to *monitored recommendations*, in fact none of the commissions or inquiries

⁹ Recommendation 18.6(2) states as follows:

Recommendation 18.6

1. (...)
2. The Commission for Children and Young People should, in addition to the functions of the current Commissioner for Children and Young People under the Commissioner for Children and Young People Act 2016, have the following functions:
 - a. educating relevant entities on the Child and Youth Safe Standards and overseeing and enforcing compliance with those standards as Independent Regulator under the Child and Youth Safe Organisations Act 2023
 - b. administering the Reportable Conduct Scheme as Independent Regulator under the Child and Youth Safe Organisations Act 2023
 - c. administering the independent community visitor scheme for children in out of home care, youth detention and other residential youth justice facilities (Recommendations 9.34 and 12.36)
 - d. advocating for individual children in out of home care, youth detention and other residential youth justice facilities
 - e. monitoring the operation of the out of home care and youth justice systems and the provision of out of home care and youth justice services to children (Recommendations 9.38 and 12.38)
 - f. conducting inquiries into the out of home care and youth justice systems and the services provided to individual children in those systems, including ownmotion inquiries (Recommendations 9.38 and 12.38)
 - g. making recommendations to government for out of home care and youth justice system improvements
 - h. promoting the participation of children in out of home care and youth justice in decision making that affects their lives
 - i. upholding and promoting the rights of children in the out of home care and youth justice systems.

See Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, *Volume 1 – Summary, recommendations and findings*, 2023, pp 169-170 (URL: https://www.commissionofinquiry.tas.gov.au/_data/assets/file/0011/724439/COI_Full-Report.pdf)



named in s11(1) of the Bill have ever made any recommendations or implementation actions that are referable to the current statutory office of Commissioner for Children and Young People.¹⁰

Tasmanian Commission of Inquiry

If we look at the Final Report of the Commission of Inquiry, it is clear that this does not contain any recommendations or implementation actions referable to the current Commissioner for Children and Young People. There are no recommendations or actions, the implementation of which could be in any sense the subject of monitoring by the proposed Implementation Monitor under s11(1)(a). One of the identified purposes of the Implementation Monitor is to conduct evaluations of “*the effectiveness of the implementation actions including, but not limited to, the impact of those actions on the safety and wellbeing of children and persons directly impacted by child sexual abuse*” under s11(1)(c). However, the current Commissioner for Children and Young People was not allocated any such implementation actions by the Commission of Inquiry.

Other Commissions and Inquiries

The situation is the same for the other commissions and inquiries noted in s11(1) of the Bill. Recommendations 15.7, 15.9 and 15.10 of the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse make recommendations that relate undoubtedly to the work of the current Commissioner for Children and Young People, but the actual implementation actions primarily impact the Government and not the current Commissioner.¹¹

Furthermore, neither the Independent Inquiry into the Tasmanian Department of Education’s Responses to Child Sexual Abuse¹² nor the review of child safety and governance in the Launceston General Hospital and Human Resources¹³ contain any recommendations bearing upon the current Commissioner for Children and Young People.

¹⁰ Section 3 of the draft Bill defines the terms *Agency* and *Agency Head* as follows:

Agency means an organisation, body or entity listed in column 1 of the table in Schedule 1.

Agency Head, in relation to an Agency, means the person or office holder specified in column 2 of the table in Schedule 1 in respect of that Agency.

Item 3 of the table in Schedule 1 identifies as an agency, “the office of the Commissioner for Children and Young People appointed under the *Commissioner for Children and Young People Act 2016*” and it includes as an Agency Head, “the Commissioner for Children and Young People within the meaning of the *Commissioner for Children and Young People Act 2016*.”

¹¹ Relevantly, three of the Royal Commission’s recommendations concern the current Commissioner:

- (a) Recommendation 15.7 encourages governments to improve access to therapeutic treatment for survivors of child sexual abuse who are in youth detention (Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report Recommendations*, 2017, p 47 (URL: <https://www.childabuseroyalcommission.gov.au/recommendations>)).
- (b) Recommendation 15.9 encourages governments to review complaint handling systems in relation to children in youth detention. (Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report Recommendations*, 2017, p 47 (URL: <https://www.childabuseroyalcommission.gov.au/recommendations>)).
- (c) Recommendation 15.10 advises governments to ensure they have an independent oversight body in relation to youth detention (Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report Recommendations*, 2017, p 48 (URL: <https://www.childabuseroyalcommission.gov.au/recommendations>)).

As the Tasmanian Government has noted, the Recommendation in 15.10 is already identified as a function performed by the current Commissioner for Children and Young People (Tasmanian Government, *Tasmanian Response: Royal Commission into Institutional Responses to Child Sexual Abuse*, 2018, p 70 (URL: <https://nla.gov.au/nla.obj-1382488533/view>)).

¹² *Independent Inquiry into the Tasmanian Department of Education’s Responses to Child Sexual Abuse: Final Report*, 2021 (URL: <https://publicdocumentcentre.education.tas.gov.au/library/Shared%20Documents/DoE-Inquiry-Final-Report-Main-Findings-and-Recommendations-2021.PDF>)

¹³ *Independent Report from the Co-Chairs for the Child Safe Governance Review of the Launceston General Hospital and Human Resources*, 2022 (URL: <https://www.health.tas.gov.au/publications/independent-report-co-chairs-child-safe-governance-review-launceston-general-hospital-and-human-resources>)



In short, there are no actions to be taken by the current Commissioner for Children and Young People that could in any meaningful sense be *monitored or reported on* by the Implementation Monitor and there are no actions to be implemented pursuant to the COI's recommendations that could be the subject of an *evaluation* by the Implementation Monitor.

Omitting to include the proposed Commission for Children and Young People as an *agency* and relevant office holders of the proposed Commission as *agency head(s)* in the draft Bill.

The second major deficiency in the draft Bill is that, while the COI made recommendations to be acted on by the proposed Commission for Children and Young People and which would meet the definition of *monitored recommendations* in s3 of the draft Bill, the Bill does not refer to the new Commission. In the table situated in the Appendix, I have listed all the COI recommendations that have a perceptible relationship with the new Commission. Of those, I have highlighted in grey the *monitored recommendations* that would require some form of *implementation action* by the new Commission. Those recommendations comprise Recommendations 9.34, 12.8, 12.17, 12.31, 12.32, 12.33, 18.5, 18.14, 18.15 and 20.2.

As previously explained, the existing Commissioner for Children and Young People does not have responsibility for any actions relating to the recommendations of any commission or inquiry. Further, there is no reference to the Commission for Children and Young People as an *agency* in Schedule 1. I am therefore curious as to how the draft Bill will enable the monitoring of the crucial recommendations that the Commission of Inquiry has made the responsibility of the new Commission for Children and Young People? It may be intended that the new Commission be the subject of monitoring and reporting by the Implementation Monitor, however, the Draft Bill does not, in its current form, explain how this can occur. My understanding of the draft Bill in its current form, is that none of the recommendations relating to the actions to be taken by the new Commission for Children and Young People would be the subject of any monitoring, reporting or evaluation by the proposed Implementation Monitor.

In my respectful opinion, further consideration of the matters I have raised is required to determine if the approach taken is consistent with the intention of the Commission of Inquiry.

Yours sincerely

Leanne McLean

Commissioner for Children and Young People

cc *The Hon Jeremy Rockliff, Premier*
 The Hon Guy Barnett, Attorney-General
 The Hon Roger Jaensch, Minister for Education, Children and Youth



APPENDIX

List of all Commission of Inquiry recommendations impacting the proposed Commission for Children and Young People (the 'new CCYP')

['Monitored recommendation' requiring an 'implementation action' by the new CCYP (as these terms are defined in the draft Bill) have been highlighted in grey]

| No. | Recommendation | Responsible body or agency |
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| 9.14 | <i>Action:</i> to appoint a Commissioner for Aboriginal Children and Young People to sit within the new CCYP with statutory powers and functions to monitor the experiences of Aboriginal children in out-of-home care and youth detention | Tasmanian Government |
| 9.27 | <i>Action:</i> to notify the new CCYP of a child's admission to youth detention | DECYP |
| 9.31 | <i>Action:</i> to report regularly on complaints handling to the Quality and Risk Committee and the new CCYP | Chief Practitioner in DECYP (Rec 9.17) |
| 9.33 | <i>Action:</i> to establish a new Child Advocate within the new CCYP with responsibility for (a) the proposed community visitor scheme (Rec 9.34), (b) the advocacy of children (including making complaints) (Rec 9.35) and (c) the permanent out-of-home care Advisory Group (Rec 9.6) | Tasmanian Government |
| 9.34 | <i>Action:</i> to legislate for the new community visitor scheme to be led by the new Child Advocate and administered by the new CCYP | Tasmanian Government |
| | <i>Action:</i> to fund the community visitor scheme so that visitable sites receive 'regular and frequent visits' | Tasmanian Government |
| | <i>Action:</i> to appoint Community Visitors based on skills, knowledge and expertise | Child Advocate (new CCYP) |
| | <i>Action:</i> to appoint Aboriginal Community Visitors to visit Aboriginal children at visitable sites | Child Advocate (new CCYP) |
| | <i>Action:</i> to take responsibility for: a. developing trusting and supportive relationships with children in out of home care, youth detention or other residential youth justice facilities b. advocating on behalf of children by listening to, giving voice to and helping to resolve their concerns and grievances c. facilitating children's access to support services d. inquiring about and reporting on children's physical and emotional wellbeing e. inquiring about whether children's needs are being met. | Community Visitors (new CCYP) |
| | <i>Action:</i> to appoint a number of legally-trained child advocacy officers to assist children with more complex concerns and to support them to seek review of departmental decisions | Child Advocate (new CCYP) |
| | 9.35 | <i>Action:</i> to legislate the functions of the new Child Advocate to be administered by the new CCYP, including vesting power to make complaints to the Ombudsman on behalf of (and at the request of) children in care or in youth detention |
| 9.36 | <i>Action:</i> to legislate to expand the merits review jurisdiction of TasCAT, including giving the Child Advocate (within the new CCYP) the right to apply for review of administrative decisions | Tasmanian Government |
| 9.37 | <i>Action:</i> to notify the new CCYP of sexual abuse allegations not captured by reportable conduct scheme, including incidents of | DECYP |



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| | child abuse by non-carers, and of the outcomes of investigations into those allegations | |
| | <i>Action:</i> to legislate to give the new CCYP power to compel DECYP to disclose information about DECYP's responses to such allegations | Tasmanian Government |
| 9.38 | <i>Action:</i> to legislate the expanded functions of new CCYP, including monitoring the operation of the out of home care (OOHC) system, conducting own motion inquiries regarding individual children in the OOHC, making recommendations to Government about the OOHC system, advocating for individual children in the OOHC (incl supporting children to make complaints to Ombudsman and to apply to TasCAT for administrative review, administering the community visitor scheme, and upholding and promoting the rights of children in OOHC) | Tasmanian Government |
| | <i>Action:</i> to resource the new CCYP on an ongoing basis to discharge its functions | Tasmanian Government |
| 12.8 | <i>Action:</i> DECYP and the new CCYP to consult to develop an empowerment and participation strategy for children and young people in detention, having regard to best practice principles for children's participation in organisations | DECYP and the new CCYP |
| 12.17 | <i>Action:</i> to annually review the use of electronic surveillance in detention to determine whether it increases children and young people's feelings of safety in detention and should continue to be used | Tasmanian Government (legislation) and the new CCYP (conduct review) |
| 12.25 | <i>Action:</i> to notify the new CCYP (Rec 18.6) of any proposed transfer of young people from youth detention to an adult prison facility | DECYP |
| | <i>Action:</i> Magistrates Court to consider, inter alia, the views of the CCYP on the appropriateness of proposed transfers of young people to an adult prison facility (in determining whether to approve the transfer) | Magistrates Court |
| 12.30 | <i>Action:</i> to report all incidents of harmful sexual behaviours in youth detention or other residential youth justice facilities to the new CCYP | Harmful Sexual Behaviours Support Unit (DECYP) |
| 12.31 | <i>Action:</i> AYDC or any future youth detention facility to provide to the new CCYP with the search register (of searches of children and young people) and all relevant supporting documentation on a monthly basis or more frequently, as agreed with the new CCYP | AYDC or any future youth detention facility (DECYP) and the new CCYP |
| 12.32 | <i>Action:</i> AYDC or any future youth detention facility to provide to the new CCYP with the isolation register (with all relevant supporting documentation) and separate data on lockdowns on a monthly basis or more frequently, as agreed with the new CCYP | AYDC or any future youth detention facility (DECYP) and the new CCYP |
| 12.33 | <i>Action:</i> AYDC or any future youth detention facility to provide to the new CCYP with the use of force register and all relevant supporting documentation and all relevant supporting documentation on a monthly basis or more frequently, as agreed with the new CCYP | AYDC or any future youth detention facility (DECYP) and the new CCYP |



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| 12.36 | <i>Action:</i> to establish and resource the community visitor scheme so that visits to children and young people in detention facilities occur weekly at a minimum | Tasmanian Government |
| | <i>Action:</i> to establish and resource the community visitor scheme so that Aboriginal children and young people in detention or other residential youth justice facilities have access, wherever possible, to visits from an Aboriginal independent community visitor or from the Commissioner for Aboriginal Children and Young People, depending on the child's preference | Tasmanian Government |
| | <i>Action:</i> to legislate to ensure independent community visitors have the necessary statutory powers to perform their functions, including the power to enter the facility, have access to children and young people in the facility and inspect the facility | Tasmanian Government |
| | <i>Action:</i> each facility where children and young people are detained or reside has a safe, dedicated space where independent community visitors can meet with children and young people and discuss concerns without being observed or overheard by staff or other children and young people | Tasmanian Government and AYDC or any future youth detention facility (DECYP) |
| 12.38 | <p><i>Action:</i> to ensure the new CCYP:</p> <ul style="list-style-type: none"> a. has functions and powers to monitor the operation of youth detention centres and other residential youth justice facilities, and the safety and wellbeing of, and the provision of services to, children and young people in detention, and in the youth justice system more broadly, by: <ul style="list-style-type: none"> i. regularly monitoring and reviewing custodial population data and information on serious or adverse incidents (such as child sexual abuse, assaults, attempted suicide, self-harm, riots, escapes and property damage) and the use of isolation, force, restraints and searches ii. conducting regular onsite inspections of youth detention and other residential youth justice facilities iii. conducting own-motion systemic inquiries into issues that are identified through monitoring iv. conducting own-motion inquiries into the youth justice services received by an individual child or group of children b. has the power to enter adult prison facilities to visit children and young people in those facilities to monitor their safety and wellbeing c. is adequately resourced on an ongoing basis to fulfil its systemic monitoring functions. | Tasmanian Government |
| 12.39 | <i>Action:</i> to appoint the new CCYP as an additional NPM under the OPCAT and resource the Tasmanian NPMs to fulfil their functions under OPCAT | Tasmanian Government |
| 15.21 | <i>Action:</i> to complete a review of the <i>Health Complaints Act 1995</i> and to consider the role of the Health Complaints Commissioner in relation to, inter alia, coordinating with the role of the new CCYP and the Independent Regulator under the <i>Child and Youth Safe Organisations Act 2023</i> | Tasmanian Government |
| 18.4 | <i>Action:</i> to embed the functions of the Independent Regulator and Deputy Independent Regulator within the new CCYP | Tasmanian Government |



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| | <i>Action:</i> to resource the new CCYP to enable it to effectively perform these regulatory functions | Tasmanian Government |
| | <i>Action:</i> to ensure the new CCYP has access to government data systems such as those held by Tasmania Police, Child Safety Services and the Registrar of the Registration to Work with Vulnerable People Scheme to enable systematic and proactive monitoring and that those agencies have access to the new CCYP's data, where appropriate | Tasmanian Government |
| 18.5 | <p><i>Action:</i> to ensure the Tasmanian Government's independent three-year review of the <i>Child and Youth Safe Organisations Act 2023</i> has a particular focus on:</p> <ol style="list-style-type: none"> whether the Independent Regulator (within the new CCYP) is sufficiently resourced and empowered to perform its functions effectively, and new or additional resourcing, functions and powers are necessary to support compliance how effectively the Independent Regulator is working with other agencies, including the Ombudsman or other oversight bodies, Registrar of the Registration to Work with Vulnerable People Scheme, Tasmania Police, professional regulatory bodies and other peak bodies, to support compliance, share information and manage active risks to children and young people how organisations captured by the Child and Youth Safe Standards and the Reportable Conduct Scheme have experienced the new regulatory requirements, and in particular whether they have felt sufficiently supported to comply analysing data emerging from the operation of the schemes, particularly as they relate to complaints and notifications and trends within and across sectors whether the Universal Principle requiring organisations to uphold cultural safety is achieving its intended objective, and whether it should become an additional Child and Youth Safe Standard, mirroring the approach in Victoria whether any further legislative changes are required to ensure appropriate information sharing between the Independent Regulator and other agencies. | Tasmanian Government and by implication the Independent Regulator (in the new CCYP) |
| 18.6 | <i>Action:</i> to establish a new statutory CCYP | Tasmanian Government |
| | <p><i>Action:</i> to appoint within the new CCYP:</p> <ol style="list-style-type: none"> a Commissioner for Children and Young People a Commissioner for Aboriginal Children and Young People a Child Advocate (Deputy Commissioner) | Tasmanian Government |
| | <p><i>Action:</i> to legislate the following functions of the new CCYP:</p> <ol style="list-style-type: none"> educating relevant entities on the Child and Youth Safe Standards and overseeing and enforcing compliance with those standards as Independent Regulator under the <i>Child and Youth Safe Organisations Act 2023</i> administering the Reportable Conduct Scheme as Independent Regulator under the <i>Child and Youth Safe Organisations Act 2023</i> | Tasmanian Government |



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| | <ul style="list-style-type: none"> c. administering the independent community visitor scheme for children in out of home care, youth detention and other residential youth justice facilities (Recs 9.34 and 12.36) d. advocating for individual children in out of home care, youth detention and other residential youth justice facilities e. monitoring the operation of the out of home care and youth justice systems and the provision of out of home care and youth justice services to children (Recommendations 9.38 and 12.38) f. conducting inquiries into the out of home care and youth justice systems and the services provided to individual children in those systems, including own motion inquiries (Recommendations 9.38 and 12.38) g. making recommendations to government for out of home care and youth justice system improvements h. promoting the participation of children in out of home care and youth justice in decision making that affects their lives i. upholding and promoting the rights of children in the out of home care and youth justice systems | |
| | <i>Action:</i> to legislate to ensure the new CCYP has all necessary powers to perform the above functions | Tasmanian Government |
| 18.7 | <i>Action:</i> to establish a process for appointing future Commissioners and Deputy Commissioners of the new CCYP | Tasmanian Government |
| 18.8 | <i>Action:</i> to ensure the new CCYP is separately and directly funded and that it controls its budget and staffing | Tasmanian Government |
| 18.9 | <i>Action:</i> to establish a joint standing committee of the Tasmanian Parliament to oversee the performance and proper execution of functions of the new CCYP | Tasmanian Government |
| 18.14 | <p><i>Action:</i> the new CCYP, Registrar of RWWVP, Integrity Commission and Ombudsman should work jointly to develop a user-friendly guide for the general public, which describes:</p> <ul style="list-style-type: none"> a. how each of these agencies can assist with complaints and concerns about how organisations respond to child sexual abuse b. the process these agencies will adopt in responding to reports, complaints and concerns, including what outcomes these agencies are empowered to achieve c. how information provided by a person lodging a report, complaint or concern will be shared and managed d. that agencies are committed to a 'no wrong door' approach to complaints, so people are reassured that all reports, complaints and concerns will receive a response from an agency e. pathways for raising concerns about the way any of these agencies respond to reports, complaints or concerns. | The new CCYP Registrar of RWWVP Integrity Commission Ombudsman |
| | <i>Action:</i> to develop and publicise a child and youth-friendly version of the guide and distribute it widely in schools, out-of-home care, youth justice and health settings and publish it on each agencies' websites and make it part of the agencies' community education and engagement activities | The new CCYP Registrar of RWWVP Integrity Commission Ombudsman |
| | <i>Action:</i> the new CCYP, Registrar of RWWVP, Integrity Commission and Ombudsman to ensure that the a 'no wrong | The new CCYP |



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| | door' approach is adopted even though the new CCYP should be promoted as the key agency for receiving reports, complaints or concerns relating to conduct towards children | Registrar of RWWVP Integrity Commission Ombudsman |
| 18.15 | <i>Action:</i> the new CCYP, the Integrity Commission, the Ombudsman and the Registrar of the Registration to Work with Vulnerable People Scheme to develop a formal memorandum of understanding relating to the management and oversight of reports, complaints and concerns relating to child sexual abuse and information sharing. | The new CCYP Registrar of RWWVP Integrity Commission Ombudsman |
| 20.2 | <i>Action:</i> to develop a professional conduct policy for the agency's employees: <ul style="list-style-type: none"> a. explains what behaviours are unacceptable, including concerning conduct, misconduct or criminal conduct b. defines and prohibits child sexual abuse, grooming and boundary violations, in language consistent with the <i>Child and Youth Safe Organisations Act 2023</i> | The new CCYP |