PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Tuesday 26 October 2021

REVISED EDITION

Contents

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The President, **Mr Farrell**, took the Chair at 11 a.m., acknowledged the Traditional People and read Prayers.

RECOGNITION OF VISITORS

[11.02 a.m.]

Mr PRESIDENT - I welcome all our visitors to the Chamber this morning. We have our special guests from the Indie School at Glenorchy, years 10 to 12. We also have some guests from the Retired Unionist Network, who are joining and us and are the subject of a special interest matter. We also have, in the Leader's Reserve, the Glenorchy Knights Football Club board members. We will be hearing about them as well. It is a packed crowd today, so I remind all members to have their best manners on. I am sure all members will join me in welcoming our guests to the Chamber.

PETITION

Property-Related Taxes

[11.04 a.m.]

Mr Valentine presented an e-petition signed by 1744 citizens of Tasmania drawing attention to the urgent need for a comprehensive review of Tasmania's property-related taxes, including conveyance duty, land tax and duty on property insurance, and requesting the House support a comprehensive review, by the Government, of Tasmania's property-related taxes.

Petition received.

QUESTIONS ON NOTICE

[11.07 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) (by leave) - Mr President, I table and incorporate the answer to question No. 4 on the Notice Paper.

4. WORKSAFE TASMANIA

Ms RATTRAY asked the Leader of the Government in the Legislative Council, Ms Hiscutt -

With regard to WorkSafe Tasmania:

(1) Which section of the *Work Health and Safety Act 2012* (Tas) prohibits a third party from lodging complaints and submitting a report of a Reportable Incident?

(2)(a) Does WorkSafe Tasmania have a new policy in that they do not accept complaints raised by third persons (i.e. public citizens) in relation to workplace issues that involve protesters; and

(2)(b) if so, what is the reasoning behind this policy to not accept evidence or information from a third party about dangerous conduct during protests, when such evidence has legitimately caused the regulator to act in recent years?

(3) What is the Regulator's policy on accepting information and dealing with concerns raised by a third party in relation to safety issues of a Person Conducting a Business or Undertaking that arise during a protest activity in a workplace?

The incorporated answer read as follows -

(1) There is no provision within the act prohibiting a third party from 'lodging complaints and submitting a report of a Reportable Incident'.

I note that Part 3 of the *Work Health and Safety Act 2012* deals with incident notification – where a notifiable incident means the death of a person; or a serious injury or illness of a person; or a dangerous incident. Serious injury or illness and dangerous incidents are defined in the legislation.

Section 38 creates a duty on a person who conducts a business or undertaking to ensure that the Work Health and Safety Regulator is notified immediately after becoming aware that a notifiable incident has occurred.

(2)(a) There is no new policy in place. Incident notifications and complaints are assessed on a case by case basis using WorkSafe Tasmania's triage policy and the criteria set out in Safe Work Australia's National Compliance and Enforcement Policy to determine whether a workplace will be inspected in response to notification of a 'notifiable incident' or a complaint, and what action is taken.

Highest priority is given to notifiable incidents where there is a fatality, serious injury or illness, with the next priority being dangerous incidents where there is imminent or immediate risk to persons in the workplace. The act and regulations set out specific types of dangerous incidents that are notifiable. Complaints where the alleged unsafe practice would not meet the definition of a notifiable incident are the third priority.

(2)(b) There has been no change to WorkSafe Tasmania's policy.

(3) WorkSafe Tasmania undertakes a compliance monitoring, incident response and investigation role in relation to unsafe work practices within workplaces throughout Tasmania, and accepts complaints made by third parties in relation to safety issues. As incident notifications are those matters that are notified to the regulator in accordance with Section 38 of the act, these are made by a person conducting a business.

TABLED PAPER

Government Administration Committee A Inquiry - Horizontal Fiscal Equalisation Report Government Response

[11.07 a.m]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) (by leave) - Mr President I table the Government's response to the Legislative Council Government Administration A Report on the inquiry into the impact of the Commonwealth Horizontal Fiscal Equalisation System as assessed by the Commonwealth Grants Commission as it applies to Tasmania's expenses and delivery of services.

LEAVE OF ABSENCE

Member for Huon - Dr Seidel

[11.08 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) (by leave) - Mr President, I move the Honourable Member for Huon, Dr Seidel, be granted leave of absence from the service of the Council for this day's sitting.

Motion agreed.

SPECIAL INTEREST MATTERS

Retired Unionist Network

[11.09 a.m.]

Ms LOVELL (Rumney) - Mr President, I rise today to speak about a group of passionate Tasmanians who have found a way to continue a lifelong commitment to advancing the interests of workers and communities, beyond the time frame most would expect of them, and well into their retirement.

Mr President, as most in this Chamber would be well aware by now, before I was elected to parliament I worked in the union movement for over a decade. During that time the single most inspiring part of my job were the members I would work with all over the state. Members not only of the union I worked for but members of the broader union movement. Workers from all over Tasmania who are committed each and every day to advancing the rights of workers.

Unions sometimes get a bad rap, which is a great shame, because without unions all of our lives and the lives of our loved ones would look very, very different. The 40-hour working week, public holidays, the right to annual leave and sick leave, and the right to be safe at work, just a few of the rights that are now standard in Australia because of union members.

But from my experience there is another aspect to being part of the union movement that is just as important. This is not unique to unions. Being part of any movement gives you a sense of belonging or purpose and a family. People I have met through the union movement

are some of my closest friends and mentors. There is nothing quite like standing together on a picket line, marching through the street or supporting a colleague through a difficult time to bring you closer together.

I spoke about the ways I witnessed or indeed experienced that sense of family in my time working for my union in my inaugural speech when first elected to this place - when members and staff alike would wrap around and support each other. Members like Wendy, who found me at the laundromat near her house early one morning after a night of toddler gastro. Knowing I had a busy day ahead she took my sheets - she insisted I have to say. I did try to resist but she insisted on taking my sheets, washing and drying them and delivering them to me later that day at work, despite the fact that she had worked both the night before and was due to work that same night as a cleaner. Then when Wendy herself was undergoing some pretty intense medical treatment, the staff in our office arranged to take turns cooking and delivering regular meals for her and her husband. I have seen a United Voice organiser rally some members on a Saturday to help a co-worker move house when she was left without support to do so herself. I have attended funerals and grieved with my fellow union members and their families after loss. I have celebrated engagements, weddings, birthdays and births. The union movement is a community, a community that cares about and looks after one another.

When a member of that community retires, a milestone that is often looked forward to with great anticipation, it can feel like a retirement not only from work but from that community that has been such an important part of a life. I remember having this conversation with members of the union I worked for as they approached retirement. Something that always came up was the feeling that they would miss their workmates, their fellow union members, the activities they participated in and being able to fight for something they believed in alongside like-minded people.

So, in 2017 the peak body for unions, Unions Tasmania, recognised this and contacted every retired unionist they had details for, inviting them to come together to talk about it. On 15 August 2017 about 15 retired unionists got together. They talked about how retiring from work did not mean they had retired from caring about the cause, or that they had retired from wanting to be active and how they did not want to lose that sense of being part of a collective. They came from diverse backgrounds, with a broad range of experiences, both across various industries and various periods of time - experiences that would have been a great loss to the movement had they stepped away. They did not want to give all that up and so the Retired Unionist Network was born.

The Retired Unionist Network provides a way for retired workers to stay involved in the union movement. The network now has about 30 members, some of whom are here in the Chamber today. They meet monthly and they can be found supporting campaigns across many workplaces and social issues. You will see their beautiful handmade RUN banner at actions including the climate marches, the march for women's rights, the Tassie Needs a Pay Rise actions, the march for justice, Council on the Ageing (COTA's) Walk Against Elder Abuse, actions in support of refugees, supporting Healthscope nurses outside Hobart Private Hospital at 8 a.m. in the middle of winter, having conversations at the Hobart Show just last week about the importance of secure jobs.

This seemingly tireless group have thrown their support behind a number of causes that they believe in. They can be counted on, time and time again, to share their experience and their knowledge in any way they can to continue to advance the rights of workers in Tasmania.

They have embraced the principle that retiring from work does not mean you retire from caring and from wanting to be active. It is my great pleasure to welcome them here today and to recognise their commitment to something that makes a difference to us all.

Members - Hear, hear.

Glenorchy Knights

[11.15 a.m.]

Mr WILLIE (Elwick) - Today we are joined in the Chamber by representatives of the Glenorchy Knights Football Club. We have committee members, Ivica Bolonja, Anita Furjanic and also the NPL coach James Sherman. I have stood here before to recognise the importance and influence of the Glenorchy Knights within the Glenorchy municipality. It is an honour to be the patron of a club with the truly unique and proud history in the northern suburbs of Hobart, a club that upholds its traditions and strives for a healthy, thriving and inclusive club culture.

With that being said, all of us sitting here in this Chamber know well how good it is to win and be part of a winning team. It is very exciting for the Glenorchy Knights community to be crowned 2021 premiers of the Tasmanian National Premier Leagues. The Knights won their last two games to secure the premiership over the reigning champions, the Devonport Strikers. The premiership came down to the wire with the Knights and Strikers on level points in the final round. The Devonport Strikers are a highly regarded team, a bit like their patron in the Chamber, the member for Mersey.

Mr PRESIDENT - I will just remind the member of standing order 99(8), promoting a quarrel, before it happens.

Mr WILLIE - It is fair to say Devonport were the favourites all season to win the cup but sadly for the Striker's supporters, including the member for Mersey, they went down 2-1 to the Kingborough Lions. Meanwhile, the Knights defeated Launceston City 1-0 at home to get the job done. The Knights finished second in 2020 and having only been back in the top competition for three years it was the first time since 2006 that the club has won the premiership. In the final game Lucas Hill was the only player to score in the second half. Lucas has had a solid season but success has been a real team effort.

I make particular mention of Lachlan Hart who again secured the NPL Tasmania Golden Glove award. At only 21 years of age, Lachlan's skills have drawn interstate attention. Lachlan has signed a contract with the Oakleigh Cannons Football Club for the next two seasons and we wish him every success.

Another key person to the team and the Knights club is the NPL coach James Sherman. James has a wealth of experience and knowledge which he shares with all players of all ages across the club. James has done an excellent job in developing the team despite many challenges this season having to manage key player departures and season-ending injuries. I congratulate James and I am pleased that he will be staying on at the club as the NPL coach and technical director for 2022.

Winning the NPL premiership is certainly well deserved but the talent at the Glenorchy Knights Football Club extends across the leagues. It has been another great season for the Knights juniors. There are 167 junior players and 18 coaches across 15 junior Knights teams.

Along with the season roster, the juniors participated in the Hobart and Launceston cup tournaments and had great results. I congratulate them all. I also acknowledge the women's and girls' Knights teams. I know the club has made a very strong commitment to develop and create pathways for success for all female players. This year has highlighted that you are on the road to success.

To finish, I will reflect on the words of the President of the Knights, Robi Baric. Upon winning the NPL premiership, Robi remarked:

> The win is a credit to our players, coaching staff and committee along with our valued sponsors and best supporters in the league.

As patron of the club I echo Robi and extend my congratulations to the players, coaching staff and committee and I thank the volunteers and sponsors of the club. I am sure I speak for all sporting clubs when I say it would not be possible without their support. Let us see if we can do it again next year.

Launceston Ionian Club Anniversary

[11.19 a.m.]

Ms ARMITAGE (Launceston) - Earlier this month the Launceston Ionian Club celebrated its 75th anniversary, a benchmark that very few organisations reach let alone continue to thrive at. For anyone unaware the Ionian Club is an Australia-wide women's social network which provides an opportunity to make new friends. They welcome women who are newcomers to an area and assist them to meet new people, as well as welcoming women who have new life circumstances, wanting to join a women's group.

The first Ionian Club was founded by Phyllis McDonald in Launceston on 3 October 1946. New to Launceston, Phyllis experienced the loneliness and isolation many women feel when moving somewhere new. Sharing each other's company and interests in a safe and relaxed environment became the ethos of the club and before too long, Ionian Clubs began to pop up elsewhere. The Sydney club started in 1948, the Hobart club started in 1949, Melbourne in 1950, Perth in 1957, with Christchurch in New Zealand being the first international club in 1994 and a club in Great Britain starting in 1999.

The Ionian name was chosen because the original Ionians were Hellenic exiles who settled on a group of Mediterranean islands that became known as Ionia. These exiles brought with them their Hellenic art, culture and philosophies, in addition to understanding and incorporating the culture of the area in which they had settled. In the context of Phyllis McDonald's experience arriving in Launceston, the Ionian moniker seemed appropriate for her new club.

All Ionian clubs have monthly meetings and these may take the form of a lunch, morning tea or evening meeting and usually include a guest speaker. The meetings are all about keeping a convivial atmosphere and making everyone feel welcome. In addition to the regular

meetings, a social calendar of cultural activities, book clubs, cinema, sport and walking groups are extra activities Ionian Club members enjoy. Members of Ionian Clubs vary from 40 to 130 women. As of 2019, there were 1050 members across 18 clubs in total. Ionian conventions are held across Australia from time to time to give members a chance to see how other clubs work and meet others in a new environment.

The Launceston club meets on the first Thursday of every month, followed by a lunch. In addition to the regular meetings, coffee mornings are held twice a month and comprise women of all ages. A walking club and a roster of special events like Christmas lunch and fundraisers are also important aspects of the Launceston chapter. The people who are part of the Launceston Ionian Club are generous, warm and welcoming and embody the spirit with which Phyllis McDonald established the first club 75 years ago.

Going strong after all this time, the Launceston Ionian Club and Ionian Clubs everywhere give women a chance to find their feet in a new place or under new circumstances. It helps women to meet and connect with others and perhaps discover a new interest or two. Above all, it is about friendship and for all those at the club who work so hard to make it special. Congratulations for the 75-year anniversary and we look forward to another 75 years to come.

Kirsten Slemint - Tribute

[11.23 a.m.]

Ms FORREST (Murchison) - Mr President, I expect all members know of the incredible work of Sir David Attenborough, his work filming and showing us so much of the lives of our incredible, diverse and often well-hidden wildlife on land, in the sea and in the air. Why am I speaking about Sir David Attenborough in our parliament? It is because we have in Tasmania the very first Australian-offered entry into the prestigious National Film and Television School, in the United Kingdom where Sir David Attenborough has taught.

Members may already be aware of the amazing achievements of a wonderful north west-coaster, Kirsten Slemint. If not, I will enlighten you. Kirsten is one of only 12 candidates worldwide and the first Australian ever offered a place in the National Film and Television School.

Kirsten has degrees in science and journalism from the University of Queensland and describes herself as a social impact strategist and documentary filmmaker, who believes a good story well told connects with its audience, generates empathy and illuminates new perspectives. Kirsten wants to take that a step further by combining great storytelling with novel strategy. Whilst film is only one element, it acts as a catalyst to enrich education, policy and behavioural change, all of which lead to important social change.

Kirsten has already made some videos with the support of the University of Queensland's School of Journalism Media and Production Support team. She also won a New Columbo Plan Scholarship to travel to India, where she produced a short documentary on urbanisation. She believes it was this documentary that helped her gain a place in the NFTS course and also led to other opportunities, such as the 2018 World Congress of Science and Factual Producers' Science Film Sprint competition.

Kirsten has volunteered as an animal care assistant at RSPCA. She was a volunteer research assistant at the University of Queensland's Franklin Eco-laboratory, Queensland Brain Institute and Heron Island Research Station. Kirsten became a science mentor. She participated in the University of Queensland's Students as Partners scholarship program which contributed to a course in that university and led to production of 13 videos for a different course. She wrote a live blog at the World Science Festival for the *Brisbane Times*. She interned at ABC News, where she helped produce a three-part documentary on the Great Barrier Reef. And, in Israel, where she was interning for the ABC, she worked for the Association for Urban Farming.

She also wrote and presented a weekly science podcast and worked for the Centre for Marine Science as a social media manager/science communicator.

As you can see Kirsten is a go-getter, out to make a real difference in our world and take Tasmania to the world and ensure there is an Australian presence and influence in this highly prestigious program.

Kirsten plans to return to Tasmania once her studies are complete and give back to our state, the community and to ensure Australian and Tasmanian content is front and centre and created by a Tasmanian.

I know we all get many requests for financial support and we tend to support those in our local electorates. But this is truly a remarkable achievement for a Tasmanian, especially when you consider no other Australian has ever been accepted.

Kristen has been informed she is unable to work during the two-year course, such is the intensity of the program. Therefore, she has been raising funds to support her education and living costs in the UK and all the uncertainty around the COVID-19 situation has made that even more challenging, including fundraising through the Pozible platform, which means if she does not get to the target she has set, none of the money is provided.

In this regard, Kirsten is not resting on her laurels and she is doing all she can to cover her costs and has applied for every scholarship grant and award she can find both in Australia and abroad. Kirsten is even putting herself forward for those reality TV programs, which is well outside her comfort zone, just to make the money to go.

The Pozible campaign closes at the end of this week. And at the end of weekend fundraising effort in Circular Head - which was a fantastic community support for her, in a community she has only been part of for two years as she has lived in other parts of the north-west prior to that. When I spoke to her on Sunday, she was $2500 short of her $78000 target. I spoke to her yesterday, she is only $1500 short of her target. And this has been due to the efforts of her family, her supporters and obviously the work she has done herself.

Mr President, I ask our members to consider supporting her, not just for the amazing leader she is in the making, but for a sincere, compassionate, intelligent women who is dedicated to making a difference in Australia, for Australia, and around the world. A young Tasmanian who wants to take our voice to the world and to bring the important science communication skills back to Australia and Tasmania and to give back to the communities who have supported her so strongly.

Mr President, I will circulate the link to the Pozible campaign to all members as I have done previously, for those who wish to support her in any way. It closes at the end of this week and on behalf of Kirsten, I thank any members who have already donated to her as it is greatly appreciated.

I know she is watching from Circular Head today. All the best, Kirsten, and I wish you every success. We look forward to seeing her work on our television screens and on other devices in coming times and may she be the new Sir David Attenborough in the female form.

Members - Hear, hear.

TNT9 Northern TV Limited 60th Anniversary

[11.29 a.m.]

Ms PALMER (Rosevears) - Mr President, I rise today to speak about a Tasmanian media icon.

Next year there will be a huge celebration of TNT9 Northern TV Limited, which began broadcasting in Launceston on the 26 May 1962.

Affectionately known across our state as Southern Cross TV and now 7 Tasmania, next year they will turn 60 and there will be a huge celebration. Indeed, the preparations are already underway. But, as with any company the spreadsheets and budgets are nothing without the people who are the life and breath of any place.

And today I would like to acknowledge two of this company's long-serving employees who come from my electorate of Rosevears.

A young lad by the name of Grant Wilson lived over the back fence of the TNT9 station. His mum Sybil was the station's tea lady and she is legendary for being perhaps the best-dressed tea lady in the world, some say. She always wore the most beautiful clothes pushing the trolley around the corridors. For those who are familiar with the building there are a number of staircases but that did not cause Sybil any angst. She would just park her trolley, beautifully dressed, at the bottom of the staircase and yell out that she was there and people came running.

It is no wonder that as a teenager, Grant and his two brothers, Spencer and Campbell, all started work at TNT9, Grant commencing his appointment in 1981. His first job was in the traffic department where he scheduled commercials. From there he went into operations and this is where he became known as a jack of all trades - a videotape operator, a cable puller. He did audio and studio camera work. Grant worked on the Saturday Fun Show and it was widely known that he would sometimes go straight from the pub in the early hours of the morning to work on a Saturday morning. He worked on the live opening of the Village Cinema, the Country Club Casino, not to mention live broadcasts of the Miss Tasmania quest and different race meets.

After working in operations, Grant moved to Hobart and into the role of production manager and sales rep where he helped get what was by now known as Southern Cross up and running during aggregation of the Tasmanian television market in 1994. In 1999 Grant moved back to Launceston as the newly appointed director of news, a position that he holds to this

day. His approach to news took the program to the number one rating spot across Tasmania and while that in itself is certainly an extraordinary achievement, perhaps his greatest coup was catching the eye of the program manager, Gilli, who went on to become his wife.

We then meet another character of this great place, the life of the place perhaps. Steven Lionel Walker, as he is affectionately known, commenced work on 18 July in 1977, just prior to Grant's arrival. Steven has always been a larger-than-life character, the life of the party and with a laugh that is very, very loud and incredibly infectious. He is renowned for his signature moves, which were not only seen on the dance floor but also in board rooms, in particular the Cossack dance. Steven is either a very rare talent or perhaps the epitome of regional TV in the 1970s, 1980s and 1990s. In his day he was capable of doing any shift on the roster. He was talent for weekly children's programs, the voice of talent for promos and commercials alike and he worked in almost every department at one time or another. It seemed he could do it all, not to mention the odd radio shift on air for 7EX. His knowledge of every system was and remains exceptional to this day.

After decades of service Steve was actually retrenched and this was a devasting day, not only for him, but also for those who worked with him but, unfortunately, it was a sign of the times. Perhaps this is where the true mark of the man shone so brightly, as despite being middle-aged, he was forced to pivot from the only work environment he had ever known to try to find new employment. However, it was not long before he was back in the fold - his talent and knowledge the company simply could not do without. Today he works as part of the news team behind the scenes. In fact, if you ever hear a strange sound coming from the news desk during a live broadcast, it will be Steve's fabulous laugh which is the only noise that can truly penetrate through a soundproof booth.

As the big birthday celebration draws closer, I am sure there will be many other wonderful stories that we will be able to share but today I feel quite honoured to share just a little of these two men's contribution to the history of TNT9. They have given their entire working lives to ensuring the success of a place that they love. Thank you.

MOTION

Consideration and Noting - Parliamentary Standing Committee of Public Accounts Report No. 14 - Office of the Ombudsman and Health Complaints Commissioner

[11.34 a.m.]

Ms FORREST (Murchison) - Mr President, I move -

> That the Parliamentary Standing Committee of Public Accounts report No. 14: Office of the Ombudsman and Health Complaints Commissioner, be considered and noted.

In moving the noting of this report, I note some time has passed since the report was first referred to the Public Accounts Committee and when it was reported. The calling of the election prevented it being considered prior to the former chair, the honourable Ivan Dean, bringing forward the motion when he was chair. I acknowledge his contribution and work. I think he had intended to bring it on but circumstances overtook that.

I note also that a number of matters raised in this may well have been addressed in terms of the recommendations and other findings since this inquiry was undertaken. I am not going to make a lot of comments at the outset because this was a matter referred to the Public Accounts Committee by the member for McIntyre, who wrote to the committee raising concerns and, as Chair of Committee B, has been scrutinising justice areas for some years. That is where this sits in terms of the ongoing funding through the budget process. I will make some follow-up comments in the reply but I will not say a lot. I will leave that more to the member for McIntyre.

To give some context and speak briefly about some of the findings and the purpose behind the recommendations, I note that as everyone knows, the Ombudsman is an independent statutory officer appointed by the government under the Ombudsman Act 1978. I will read from page 3 of the report that explains the breadth of the Ombudsman's role:

> The Office of the Ombudsman is responsible for six separate jurisdictions; the Parliamentary Ombudsman, the Health Complaints Commissioner, the Energy Ombudsman, the external review of decisions under the Right to Information Act 2009, the Official Visitors Programs and the Custodial Inspectorate.
>
> The functions of each jurisdiction require slightly different skill sets with officers in RTI completing technical, legal decision-making, Ombudsman officers conducting research and investigations, Custodial Inspectorate staff undertaking inspections against a set of established standards and Health Complaints officers working to resolve complaints made by customers against health service providers.
>
> The Ombudsman performs a vital role in ensuring public confidence in government and providing an oversight function to ensure good administrative decision-making, investigating public interest disclosures and personal information breaches as well as having an advisory and educative role.

So, not much to do there, really.

> The Ombudsman has responsibilities and functions under a range of statutes, the number of which continues to grow. The broad range of functions requires the diversion of considerable resources away from the more traditional complaint-handling and investigative functions under the Ombudsman Act.

Members can read the report, which contains further detail about the scope and breadth of the Ombudsman's office and his responsibilities. I note this was looked at in a previous Health inquiry under one of our government administration committees when this parliament passed the referral of unregulated health practitioner complaints to the Ombudsman through that process. I do not believe that has been enacted, but that would have put an enormous additional strain onto his office, to the point that the comment he made at that time was that he was horrified because there had been no consultation with his office and, certainly, it was not part of the arrangement. I think that is one of the reasons why it has still not been fully progressed.

The purpose of the inquiry was to look at the funding and the processes under which the Ombudsman had sought funding and/or been provided with funding, particularly to fund personnel, which is mainly what the work is, personnel doing the work as I just described. I note in our finding 20 that the Office of the Ombudsman had a significant reduction in budget following the global financial crisis in 2008, which led to the closure of the Launceston office.

It always concerns me when these oversight bodies have funding reductions, regardless of the reason for it. Basically, it then limits their capacity to undertake their role. It limits that right of proper public scrutiny of health services under the health complaints officer and in the right to information space we know. The former member for Windermere, Mr Dean, if he did not say it once in this place, he said it 100 times, how long he was waiting for reviews of the requests he had made for information. I know other members have had similar issues.

Under-funding or under-resourcing these oversight bodies does have a very detrimental impact on the work they can do and thus on democracy. The Ombudsman has a broad range of powers under different statutes and that has grown at the time when we did this review to include the Custodial Inspectorate and the adoption of the Official Visitors Program. The staffing of the Office of the Ombudsman had been consistent regardless of the additional responsibilities imposed by this legislation on that office and that includes those two positions I just mentioned, plus the unregulated health practitioner complaints.

The Office of the Ombudsman is not adequately resourced to enable best practice in public administration decision-making in promoting good governance, and more generally to ensure public confidence. That was the point I was making that when you under-resource these scrutiny and oversight bodies, this is the outcome. The Ombudsman told us the number of complaints received by the Health Complaints Commissioner over the last 10 years had doubled. You are still have the same number of people doing double the amount of work and naturally, that does not work.

The Ombudsman also stated the resourcing of the Custodial Inspectorate does not allow him to meet his legislative mandate under this area, and that simply is not okay. If we are going to bring legislation into this place that creates a statutory role and responsibility for one of our public offices we need to ensure the funding and resourcing is there. We also noted in the findings that the budget of the Office of the Ombudsman is insufficient to enable the Ombudsman to engage the consultants needed within the Custodian Inspectorate area of his responsibilities. That is a really important area and really was significantly under-resourced and was unable - and very frustrated at the time - to fulfil those roles. I know the member for McIntyre will probably have further comment around subsequent follow up through the budget process as to where that is at. I hope she is able to enlighten us that things are not as bad.

The Ombudsman informed us the budget allocation for this section of the Custodial Inspectorate remained unchanged in the 2019-20 financial year. This is despite requests for additional funding from the Ombudsman's office. That is all the comments I will make at this time. If I need to make any further comment after other members have spoken I will do that in the reply.

There were three recommendations made by the committee that are outlined and I will go through those briefly. It is recommended:

(1) The Ombudsman be consulted in relation to the impact on the office of any proposed legislative change that could impact on the office to undertake its functions and responsibilities.

That is incumbent on us as members in this place, to make sure where there is legislative change and it does impose additional task, responsibility or burden on that office that we make sure that is part of the deal.

(2) The Office of the Ombudsman be appropriately resourced to enable it to meet all its statutory obligations and responsibilities

I hope the Leader might be able to enlighten us a bit about that or the member for McIntyre in her scrutiny and her committee's scrutiny through budget Estimates.

(3) The Office of the Ombudsman be immediately resourced to facilitate mandatory inspections and delivery of inspection reports as required by legislation.

That is particularly in the area of the Custodial Inspectorate.

Mr President, this is a frightfully important oversight body. As individuals we may well have relied upon it ourselves, and we know many of our constituents do. It is imperative that such an office is adequately resourced to ensure they can undertake their work. It was pretty clear from our hearings and the evidence we received that it has been an ongoing battle. I hope it is changing. I know there have been more staff engaged in more recent times but the demand has not diminished. In fact, it continues to grow in many areas. With those comments I will leave it to other members to make their contribution.

[11.44 a.m.]

Ms RATTRAY (McIntyre) - Mr President, firstly, I would like to thank the Public Accounts Committee for the work they did and for agreeing to take on the reference that I put to the committee. For a number of years Committee B through the Estimates process had scrutinised the work of the Ombudsman and the budget that had been delivered for that office and year in, year out we had the same message. We could see that as members of parliament, where we would get a request from a constituent saying they had put a request into the Ombudsman's office for information and had not, for months and months, been able to source that information. And the member for Murchison is absolutely right when she said the former member for Windermere had mentioned or talked about it, time and time again, that was 13 months, it was 14 months but it was certainly weeks and weeks. And I was concerned it was not well resourced and how do we deal with that? Again, as a member we can send requests to the Public Accounts Committee who look at the dollars and cents of where resources go for particular departments. That is a pretty good lesson or, just some information for all members, there is always that opportunity to ask the Public Accounts Committee to look at an issue. Because it is difficult for, in this case the Ombudsman Mr Connock, to sit before a parliamentary committee in the Estimates process and he has the minister, in this case, sitting beside him, to actually complain about the way his office is resourced.

Ms Forrest - He did appear before the Public Accounts Committee on his own.

Ms RATTRAY - He did. That does not happen under the Estimates process. The minister sits beside him at the table and obviously, the minister is asked the question and then the minister, as we know, can invite Mr Connock - in this case the Ombudsman - to respond.

Ms Forrest - I do not know why it is not like the Auditor-General. The Auditor-General appears on his own as an independent statutory officer. I would have thought the Ombudsman would do the same.

Ms RATTRAY - That is possibly a question we could follow up, Mr President. It is a good point the member makes and it is difficult to sit at the table through the Estimates inquiry process and not feel uncomfortable in some respects around being able to say, 'I am not well enough resourced to do the work.' But then again, it is up to the committee to ask the questions that deliver the answers on resourcing.

Mr Valentine - Let us face it, it is very difficult for them to advocate for themselves.

Ms RATTRAY - Yes. That is exactly right. We were fortunate to have as a member of Committee B, in the Estimates process, Mr Willie, who is also a member of the Public Accounts Committee. That was very helpful to be able to explore the resourcing. The member for Murchison, who presented the report, picked out a number of the findings. Finding 28, the Office of the Ombudsman received additional funding of $245 000 per annum for request for information work in 2019/20 state Budget. It goes on to say:

> The additional funding received by the Office of the Ombudsman has/will be used to recruit additional staff to work within the Right to Information area with the initial aim to clear the RTI backlog.

Now, that will be music to a lot of people's ears who have had requests for RTI in the system for months and months. I hope that Ivan Dean, the former member for Windermere, receives his information, albeit he is not a member of this place. He would still be interested in having that information and I am sure that process will unfold. I expect other members of the House have not read the *Hansard* from our committee scrutiny but the Ombudsman, Mr Connock, did say they have an increase, they now have 28 people in the department. That certainly will make a difference. A couple of positions had not exactly been filled and he went on to say that there will be one fixed-term position for 12 months and two permanent investigation officer positions, and a deputy Ombudsman and a conciliator. That is going to make a big difference. The Attorney-General went on to say, about the deputy Ombudsman's position, and I quote:

> I don't know if members are interested in that but it's something that Mr Connock put to us and it makes sense to have someone that he can delegate his roles and functions to, who can decide on a day to day basis rather than by reason of going on leave and formally delegating. Just on a day to day basis will give that backup and operations -

And conflicts as well, Mr Connock went on to say…

Ms Forrest - Is she saying that she is appointing a deputy?

Ms RATTRAY - No, that is part of the increase. That will be a position in the Ombudsman's office, a deputy Ombudsman. She has not said she was appointing that person, it was part of those increased positions in the office. I am assuming there will be a process for that under the application process.

Ms FORREST - One of the biggest delays was waiting for the Ombudsman to sign off on everything. It had to go through him particularly. Whereas if you could delegate some of that -

Ms RATTRAY - That is exactly what that deputy Ombudsman's role will be, delegating his roles and functions - signing off. One person cannot be available every day of every week in a working environment. We know that. If everything is done but staff are waiting for a sign-off before it can be shuffled out the door, this will make a big difference.

He gave us some figures around the annual report. I noticed the Ombudsman's annual report is on our Tabling of Papers list today, so that will be something to look at in the future. Homework for me, in the ensuing months. Who has got time for homework? I will make some time for that particular report, because I believe it is important that we continue to follow up. The Estimates process is certainly a valuable process for scrutiny, but this is probably the follow-up stage, to send a reference to the Public Works Committee and then to have a report and be able to give feedback to the Ombudsman as well, and any other area that we scrutinise.

Mr Connock talked about the annual report that had not been finalised at the time but he went on to say that there had been an increase in health complaints to 440 from 323 the previous year, and they also managed close to 488 compared to 371 complaints last year. As you can see, this is a significant increase in that one area of health complaints alone, let alone all the other areas. I listened to the member for Murchison when she talked about the recommendations and the first one was the Ombudsman be consulted about any proposed legislative change that could impact on the ability of the office to undertake its functions and responsibilities. I am not sure how that would work, and whether it is a responsibility of members to say we are not going to pass a piece of legislation because it is going to impact on the Ombudsman's office. That is something the Government would need to take on board.

Mr Valentine - You need to get some assurances.

Ms RATTRAY - Yes - to get some assurances that if there is a further obligation by the Ombudsman's area to increase the workload related to a piece of legislation, then we have that assurance from the Government that it will be adequately resourced.

Mr Valentine - It is our role.

Ms RATTRAY - It is our role. You would not want to pass a piece of legislation dependant on that, but I am sure a guarantee or certainly a commitment by government would be useful.

Mrs HISCUTT - Through you Mr President, as per our sitting schedule there is a briefing scheduled for midday. Can I ask the member to adjourn the debate if you are of a mind to?

Ms RATTRAY - Mr President, I move that the debate stand adjourned.

Motion agreed; Debate adjourned.

SUSPENSION OF SITTING

[11.56 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

> That the sitting be suspended until the ringing of the division bells for the purpose of the briefing.

Motion agreed to.

Sitting suspended from 11.56 a.m. to 2.30 p.m.

QUESTIONS

Pharmacists and National Immunisation Program (NIP)

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.33 p.m.]

Thank you, Mr President.

(1) Prior to the election, then health minister, Sarah Courtney released a statement committing to enable pharmacist immunisers access to NIP vaccines and to undertake a scope of practice review for pharmacists:

(a) What is the proposed time frame for this review; and

(b) What stage is the review at?

(2) Regarding access to NIP vaccines, I note that the timing of implementation of this is important for the timing of vaccine orders and access as evidenced by the role pharmacists and pharmacies have played in delivering COVID-19 vaccinations:

When will access to NIP vaccines for pharmacies be progressed?

ANSWER

(1) In answer to question (1), as would be appreciated, the Government's focus necessarily remains on responding to COVID-19. This is likely to remain the case for many months.

While we are committed to a review of Tasmanian pharmacists' scope of practice, it will need to utilise specialised human resources within the department likely to include the Chief Pharmacist, the Chief Medical Officer

and legal services, and will need input from key external stakeholders such as pharmacy and medical representative groups.

The Government is committed to conducting a high-quality, evidence-informed review. The disruptive effect of COVID-19 means there remains many significant competing priorities to maintain public health and safety.

Accordingly, the review is likely to be undertaken in the second half of 2022 and finalised in 2023. It is a significant piece of work and the minister wants to ensure it is appropriately informed and to the highest standard.

(2) In answer to question (2), we are working towards allowing pharmacist immunisers to be authorised to administer NIP influenza vaccine to all people 65 years and older who are NIP-eligible in the 2022 flu season. The department is currently working through the logistical considerations prior to being able to finalise a time line.

Pharmacists - Review of Scope of Practice

Mr VALENTINE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.35 p.m.]

During the 2021 House of Assembly election period the Government promised to review the scope of practice of the pharmacy profession. The question is, when will this review take place?

ANSWER

It is a little bit of repetition, but anyway. As would be appreciated, the Government's focus necessarily remains on responding to COVID-19. This is likely to remain the case for many months. While we are committed to a review of Tasmanian pharmacists' scope of practice, it will need to utilise specialised human resources within the department, likely to include the Chief Pharmacist, Chief Medical Officer and legal services, and will need input from key external stakeholders, such as pharmacy and medical representative groups.

The Government is committed to conducting a high-quality, evidence-informed review. The disruptive effect of COVID-19 means there remains many significant competing priorities to maintain public health and safety. Accordingly, the review is likely to be undertaken in the second half of 2022 and finalised in 2023. It is a significant piece of work and the minister wants to ensure it is appropriately informed and of the highest standard.

Huntingfield Development and Sale of Land

Ms WEBB question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.36 p.m.]

Given that the Huntingfield development is public land:

(1) How has the sale price for the land been determined?

(2) How have the costs and sale price for the houses the Government hopes to build and sell been determined?

(3) How much public money will be generated from the sale of this public land?

(4) How did Government decide who would develop the land? Please provide details of the selection processes used and specify the developers selected.

(5) Have any of these developers made donations to the Liberal Party since 2010? If yes, please specify which developers and the amount of that donation.

(6) What is the estimated cost per block for developing this land?

(7) What is the estimated sale price per block for the developed land?

(8) For the Huntingfield site, how will the Government guarantee:

(a) social housing will be built and will remain social housing stock; and

(b) affordable housing will be built and that these houses will remain affordable housing stock?

ANSWER

I thank the member for her eight questions.

(1) The sale prices have not been determined. The subdivision has been carefully designed to provide a range of lot sizes and densities to accommodate a broad range of home sizes and price points. The sale price of the land will be determined by the Director of Housing in accordance with the provisions in Part IV of the Homes Act 1935 and based on advice from the Valuer-General. Sale prices will be set closer to the date of any sales occurring.

(2) The sale price of any houses to be sold will be determined after the build costs of any such homes are known. No home designs have been considered as yet. Any designs presented to or commissioned by the Director of Housing will be selected on a range of criteria, including build costs, ongoing maintenance, energy efficiency and ongoing running costs, as well as amenity, aesthetics and suitability of design. The sale price of any houses sold by the Director of Housing will be in accordance with the provisions of Part IV of the Homes Act 1935.

(3) This will be dependent upon the sale price of homes that are sold, which is yet to be determined. As per the previous answer above, the sale price of any houses sold by the Director of Housing will be in accordance with the provisions of Part IV of the Homes Act 1935 and based on advice from the Valuer General. Sale prices will be set closer to the date of any sales occurring.

(4) The procurement process for a developer or developers has not been decided at this time. Any procurement will be in accordance with the Financial Management Act 2016 and any Treasurer's instructions issued under that act. The Treasurer's instructions and accompanying guidelines determine marketing approach as appropriate for the value and nature of procurement. The Treasurer's Instructions and accompanying guidelines also provide guidance on assessment criteria and evaluation of submissions for a procurement.

(5) No developers have been selected.

(6) The detailed design process will commence after the Kingborough Council issues a planning permit together with development conditions. Once the detailed design is complete it will be possible to estimate a cost per lot. Based on recent subdivision works, costs are expected to be around $75 000 to $100 000 per lot. I note in a media release that came out today from the Minister for State Development, Construction and Housing, stage 1 of the Huntingfield subdivision was approved last night by the Kingborough Council.

(7) As detailed above the sale price for the land will not be determined until closer to the release date. Sale prices will be supported by advice from the Valuer-General and will reflect values at that point in time.

(8) As previously advised, the Government has long committed to delivering at least 15 per cent of social and affordable housing on the site.

Process for Determining Senior Next of Kin

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.41 p.m.]

I need to give some historical background to my question. In January 2015 the Coroner's Office failed to recognise Ben Jago as a deceased male partner's senior next of kin resulting in Ben not being able to see his partner's body and being forced to negotiate with his partner's family to attend the funeral as a friend. The Coroner's decision was based on a misunderstanding of Tasmania's Relationships Act. Ben Jago subsequently lodged a discrimination complaint with Equal Opportunity Tasmania against the Coroner's Office. The Anti-Discrimination Commissioner found a prima facie case but the Coroner's Office asserted immunity from the Anti-Discrimination Act before the Anti-Discrimination Tribunal.

Early this year, the Supreme Court upheld the Coroner's immunity and so all staff at the Coroner's Office - not only magistrates - will be able to discriminate on any grounds in the employment of staff and the provision of services. The Supreme Court decision has resulted in no resolution and ongoing distress for Ben Jago.

In 2011 the Coroner's Office also failed to recognise that another man in a same-sex relationship was a senior next of kin to his deceased partner. The bereaved partner also made a complaint to the Anti-Discrimination Commissioner. The complaint was resolved in conciliation, with the Coroner's Office agreeing to an enforceable order that it would undertake reform of its policies and procedures. During Ben Jago's Supreme Court case, the Coroner's Office revealed that it had not undertaken any such action and had no intention to.

These two cases have resulted in harm to the partners concerned and anxiety among LGBTIQ + Tasmanians about whether their legal rights will be respected by the Coroner's Office. That is the history and the reason the question is being asked.

Will the Government, through the Attorney-General:

(1) Enforce the order against the Coroner's Office so that it will reform its policies and procedures as agreed to in 2011?

(2) Amend the Coroners Act to make the process for determining senior next of kin clearer, more transparent and less open to abuse as well as providing parties with an express right of appeal?

(3) Amend the Coroners Act so that non-judicial staff must abide by the Anti-Discrimination Act?

(4) Provide a government apology to Ben Jago for the pain he has endured while he has sought to have state law recognised by the Coroner?

(5) Arrange for the cremation and interment of Ben's late partner in Hobart as was his wish - that is his partner's wish; and

(6) Consider any further actions?

ANSWER

Mr President, I thank the member for Murchison for her question. It is quite a lengthy answer which I will read out because I found it very interesting. Following a recent meeting with Mr Jago and Equality Tasmania in July 2021, the Attorney-General has directed the Department of Justice to consider and provide advice for consideration on options for any further improvements or law reform that may be required to address any potential discrimination regarding same-sex partners through the coronial process. Once this advice is received and considered by the Government any proposal for legislative change would be subject to consultation prior to introduction to parliament.

To your specific questions.

(1) The history of Mr Jago's complaint is one of discrimination against the Coroner's Office on the grounds that it failed to recognise him as the senior next of kin for his deceased partner. The senior next of kin is the person who has specific rights under the Coroners Act 1995. These relate to being notified of a decision:

- Not to hold an inquest - sections 26 and 26A
- Requesting a coroner not to direct that an autopsy be performed - section 38
- Being notified of an exhumation directed by the Chief Magistrate - section 39
- To request the deceased's name not appear in an inquest report section 57.

The senior next of kin's rights arise later in the potential coronial process which, in the case of Mr Jago's partner's death, were not engaged and were of limited practical relevance. It is important to note that none of these statutory rights legally affect a person's standing regarding other matters, including legal or family disputes regarding the ability to view a deceased person's body, the administration of an estate, or to arrange or attend a funeral, as deeply important and distressing to the individual as these matters are.

The Attorney-General has met with Mr Jago to offer her condolences and discuss his concerns directly. As part of this meeting, the Attorney has assured Mr Jago that the Coroners Court is now fully aware of the legislative and procedural requirements for appropriate determination of senior next of kin and is respectful of LGBTIQA+ Tasmanians and their rights.

There are multiple occasions each year in which a same-sex partner is recognised as the senior next of kin in coronial matters. There is no legislative or other barrier to those determinations, which are made when the nature of the relationship satisfies the relevant criteria. This process is consistent across all categories of relationships, whether they are same-sex or heterosexual, so long as they meet the requirements of being a spouse. Spouse is not gender-identified and is defined in section 3 of the Coroners Act as 'includes the other party to a significant relationship within the meaning of the Relationships Act 2003'.

Section 4 of the Relationships Act provides, 'a significant relationship is a relationship between two adult persons - (a) who have a relationship as a couple; and (b) who are not married to one another or related by family'. The Relationships Act further provides that if a significant relationship is registered under Part 2, proof of registration is proof of a relationship. The act also provides that if a significant relationship is not registered under Part 2, in determining whether two persons are in a significant relationship, all the circumstances of a relationship are to be taken into account, including specified matters such as duration and nature of relationship, common residence, property ownership and commitment to a shared life and so on.

It has been confirmed with Mr Jago that the changes that were being sought have occurred since his experience in 2015. A review has occurred to ensure that information regarding processes and legislation applying to the Coronial Division is comprehensive, accessible and available via the website and in hard copy if requested. Communication processes have also been improved between coroners, their associates and families or next of kin regarding coronial processes.

The Tasmanian Coronial Practice Handbook and a guide have also been extensively updated. The handbook and guide called - The Coroner's Court: a Guide for Family and Friends, were both updated in 2016 and contain detailed information on the senior next of kin. They also clearly explain that the definition of 'spouse' in the Coroners Act includes the other party to a significant relationship as defined in the Relationships Act 2003. Both documents are available on the court's website, which itself has web pages to similar effect.

These materials also clarify the role of the senior next of kin, being primarily to have a single person acting as the point of contact in order to keep family informed and call on them for any required further information. They also explain that the Coroner's decision on who the senior next of kin is has no bearing on legal proceedings outside the Coroners Court.

As previously mentioned, examples include probate or estate issues or disputes, or other practical matters such as funeral arrangements between family members or disputes about being able to visit a grave.

For instance, if there is a disagreement about to whom the body should be released, disagreeing parties are required to apply to the Supreme Court under probate law. As such, the role of senior next of kin under the Coroners Act has no bearing on this process.

The materials also provide information on the process for disputes about senior next of kin determinations, including how to apply to the Coroners Court and the ability to provide further or supporting information.

(2) The Attorney-General has directed the Department of Justice to consider and provide advice on the request by Mr Jago and Equality Tasmania on options for any further improvements or law reform that may be required to address any potential discrimination regarding same-sex partners through the coronial processes.

Once this advice is received and considered by the Government, any proposed legislative change will be subject to consultation prior to introduction to parliament.

(3) The immunity provisions in question in this matter include section 67 of the Coroners Act that has the effect of protecting coroners and 'a person acting under an authority given under the Act' against legal proceedings, unless the person was acting in bad faith. This is a standard immunity provision for statutory officers to ensure they are not influenced by potential legal proceedings filed against them when undertaking their functions and duties in accordance with the law. However, this immunity is not broad enough to mean that the Coroners Act permits discriminatory behaviour that is deliberately and intentionally engaged.

It is crucial there is no undue or outside influences impacting the independent, impartial determinations of our courts and tribunals. As a fundamental principle of our democratic system of government, it would take significant justification to consider encroaching on the separation of powers, as is being proposed.

Accordingly, the Government does not consider any change to the Coroners Act appropriate in relation to this proposal.

(4) The Attorney-General has met with and extended her condolences on behalf of the Government to Mr Jago. As addressed earlier, because the legal proceedings address jurisdictional matters of law which necessarily brought these legal

proceedings to an end, the factual allegations were not required to be decided by the tribunal or the court.

The Government sympathises with Mr Jago regarding his concerns and experiences, and recognises the distress that not only the coronial process but subsequent tribunal and court processes in turn have caused. Action has been taken to ensure improvements have been made and, as previously stated, the Attorney-General has directed the Department of Justice to consider and provide advice for consideration on options for any further improvements or law reform that may be required to address any potential discrimination regarding same-sex partners through the coronial processes.

(5) The Government understands that Mr Jago sought for his partner's body to be exhumed from Ulverston and buried or cremated in Hobart.

This is a very personal matter affecting Mr Jago and his partner's family. There is a narrow statutory power under section 39 of the Coroners Act for the Chief Magistrate to order exhumation on the basis of a reasonable belief that it is necessary for an investigation of a death. As no further investigation is required, it is not possible for that power to be used in this instance. Again, while the Government sympathises with Mr Jago, this is personal matter for him and Mr Lucas' family, in which the Government is not able to intervene.

(6) Is covered with the above answer.

Ms Forrest - Thank you, I appreciate the answer.

Screen Tasmania - *Wild Things*

Ms RATTRAY question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.54 p.m.]

In 2019-20, Screen Tasmania made a $50 000 production equity investment in a documentary titled *Wild Things*.

According to the Screen Tasmania terms of trade, 'Screen Tasmania invests in productions where the Tasmanian production company has an equity position in the production or where there is a demonstrable significant economic and cultural benefit to the state'.

The Government provided the following advice to parliament on 24 September 2020 in answer to some questions:

Final audited figures are yet to be provided by the production company. The Tasmanian spend is estimated to be $150 000. This is expenditure on, for example, Tasmanian crew and locations and post-production services and travel undertaken within Tasmania.

And then it goes on to say:

An estimated $150 000 of expenditure on Tasmanian goods and services, including employment for eight Tasmanian filmmakers and one emerging filmmaker attachment, plus the potential recoupment and returns if the film is distributed in other markets.

My questions to the Leader are:

(1) Have the final audited figures been provided to Screen Tasmania by the production company? If not, when will the Government receive this information?

(2) What was the total Tasmanian spend by the production company on this project?

(3) As the film has been distributed in Australia and internationally, what has been the financial return to the Government since the film was released?

(4) What is the forecast financial return to Government over the next 12 months?

ANSWER

I thank the member for her question. I do think the answer will be shorter than the last one.

(1) Yes, the project has been acquitted.

(2) $129 227 was expended on Tasmanian goods and services. As the anticipated expenditure fell below the contracted amount, the Tasmanian Government exercised its right not to pay the final $5000 tranche of investment funding.

(3) No returns have been received to date. Returns are not the Government's primary reason for investing in screen industry projects. The principal consideration in the production investment program is economic, in terms of leveraged expenditure within Tasmania generated from production activity.

(4) The amount to be received will depend on the production company's ability to secure sales to secondary Australian outlets, such as television or streaming services, and broadcasters or cinema distributors internationally. Returns are not the Government's primary reason for investment in screen industry projects. The principal consideration in the production investment program is economic, in terms of leveraging expenditure within Tasmania generated from production activity.

Recreational and Commercial Fishing Policies

Ms ARMITAGE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.58 p.m.]

Thank you, Mr President.

Regarding the policies of DPIPWE on commercial and recreational fishing, can the Leader please advise:

(1) How many endorsements have been issued by the department to catch King George whiting?

(2) What is the catch limit for each King George whiting endorsement holder?

(3) How are King George whiting catch limits managed when fishers are using nets?

(4) What happens to undersized catch in these circumstances?

(5) Regarding crayfish, can the Leader please advise whether it is being considered that the recreational catch limit is currently under consideration?

(6) Regarding recreational longline usage, can the Leader please advise whether the number of hooks on longlines will be reduced from the current number of 15?

(7) Are there any water police based in the north of the state?

(8) Regarding calamari and squid fishing, can the Leader please advise whether in the event of these stocks being overfished, commercial limits will be decreased before recreational limits will?

Ms Forrest - I think the Member for Windermere should answer that.

ANSWER

I thank the member for that question.

(1) There are no endorsements that apply specifically to King George whiting. Rather, King George whiting is one of a suite of species that commercial fishers can take with the gear allocated through their scalefish licences where they are authorised to operate.

(2) As above, there are no endorsements specific to King George whiting. There is no trip limit for holders of a scalefish gear licence.

(3) There is no trip limit for commercial fishers.

(4) The Living Marine Resources Management Act 1995 stipulates that a person does not commit an offence if they return a fish to the water as soon as they become aware it may not be legal - in this case undersized. A person who uses a seine net must empty the net of scalefish before the net is removed from the water and must not haul the net ashore while there are scalefish in it. This may allow fishers to release undersize or non-target fish in good condition.

(5) Recreational bag and trip limits for rock lobster are not under review. The rock lobster management plan (Fisheries Rock Lobsters Rules 2011) provides a statewide total allowable recreational catch limit (TARC) of 170 tonnes. The latest estimate of statewide recreational rock lobster catch for the 2020-21 season was 81 tonnes. No change to the TARC is currently being considered.

(6) The number of hooks on a longline is not currently under review.

(7) Marine Police officers based in a number of locations in the north of the state. It may be appropriate to request further advice directly from Tasmania Police if you are looking for more advice on that.

(8) A discussion paper on management of the calamari fishery has recently been released for consultation. This is a non-statutory process to canvas these issues and receive feedback from recreational and commercial fishers. No formalised proposals have yet been developed, and any such proposals must undergo statutory consultation processes. Calamari is a shared stock between the sectors.

Expungement of Homosexual Offences

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[3.02 p.m.]

With regard to the enactment of the legislation relating to the expungement of historic criminal records for homosexuality and for cross-dressing in 2017, I understand there have not been any successful expungement applications as noted in the independent statutory two-year review of the legislation with a report released last year. To address deficiencies in the legislation and to boost applications, the review put forward 13 recommendations. The Government has not provided an official response to the review. My question is:

Will the Government through the Attorney-General indicate:

(1) Which recommendations will or have been accepted?

(2) Will the Government implement measures to promote and support the lodgement of applications?

(3) Will the Government provide a full response to the review in Parliament; and

(4) If so, when is it expected?

ANSWER

Thank you, Mr President, I have quite a lengthy response to that with one more question to come. With your guidance, Mr President, perhaps the member for Murchison will allow me to table this to get it finished. Are you happy to do that?

I seek leave to table the answer and have it incorporated into *Hansard.*

Leave granted.

Incorporated answer below:

The Department of Justice is currently assessing and developing advice on the review's 13 recommendations for consideration of the Government, which includes consideration of potential legislative and procedural amendments to the application process. Accordingly, while the formal government response to the review cannot be provided at this time, a preliminary overview of matters under consideration has been prepared, as follows.

In principle, the Government supports the proposed measures to support applicants to make use of the scheme. While some recommendations are straightforward, others have some considerable complexities that are taking time to work through.

The review proposed legislative changes in recommendations 1, 5, 7, 9, 10, and 11. Some of these are accommodated for in practice, such as continuing protection of confidentiality and further assistance to applicants, while others represent significant policy or administrative changes (such as records management), which require further consideration and are being worked through as to their feasibility.

In relation to recommendations 2, 3 and 4, regarding the provision of information on the scheme:

- necessary information is already available, but discussions will occur with Service Tasmania as to how to make this more available;
- in relation to support services information, the Expungement of Historical Offences (EHOS) website is a central source of information on the application process and includes contact information for the department where queries arise. The website also includes information on free support services that are available to anyone involved in the process. As an electronic resource, the website can be easily maintained and updated as required;
- to clarify, an applicant is not required to provide every last detail requested on the application. The questions and answers page on the EHOS website under the question 'How do I apply?' already provides information. However the following wording is suggested to be added to the form to provide further guidance.

  The information we collect will help us locate the official records. We understand that these matters took place a long time ago and that you may not remember a lot of detail. Please complete the application form as best you can;

- it is important to note that not all information is necessary for the application process to progress. However, identity documents are mandatory for submitting an application, which reflects the nature of the information being accessed, collected and potentially disclosed in the expungement process.

In relation to Recommendation 6, to provide applicants with an appropriate feedback mechanism to identify any system issues or obtain support, this is supported in principle going forward.

In relation to recommendation 8, as to the disposal of records, the appropriate response to the important balance of document disposal and accountable record keeping is being considered.

In relation to recommendation 12, the Government acknowledges the need for consultation with LGBTIQ+ community representatives in relation to any appropriate promotional activity of the scheme. Work will continue to be undertaken, including the development of a communications plan, as appropriate.

Recommendation 13 relating to ex gratia payments suggests a significant departure from all other Australian jurisdictional schemes for expungement of historical offences. That is, none appear to provide for compensation. It is acknowledged that there are a range of views which is why this issue is continuing to be explored in the Tasmanian context, to see what the appropriate response or option is for local circumstances.

The Government has committed to providing a formal response to the review once the Department of Justice has completed its consideration and provided advice on the recommendations.

Container Deposit Scheme Proposal

Ms ARMITAGE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[3.03 p.m.]

Regarding the proposed container deposit scheme for Tasmania, there was a request for tender for commercial advice for the implementation of a CDS in Tasmania on 10 July 2021. This request for tender was issued by the Department of Primary Industries, Parks, Water and Environment. Will the Leader please advise:

(1) Who won the tender?

(2) What information can the Leader provide regarding the brief to the successful tenders?

(3) To what extent was the public feedback on the CDS considered when this request for tender was issued, given that the closing date for public submission was 9 July and request for tender was issued on 10 July?

(4) When is the term of this tender expected to conclude and the full advice requested be provided to the department?

(5) Will the full advice be made public?

ANSWER

I thank the member for her question.

(1) PricewaterhouseCoopers Consulting Australia Proprietary Limited.

(2) The scope was provided to all potential bidders on the request for tender #DPIPWE 2115 as follows: the Department is seeking expert commercial advisory services to support it in its establishment of the two administrative bodies (the Scheme

Coordinator and the Network Operator) which form part of the governance model for a CRS in Tasmania.

(3) The two processes you were talking about are unrelated. The draft Container Refund Scheme Bill requires a period of public consultation. The engagement of commercial advisers to assist in the procurement of the Scheme Coordinator and the Network Operator to run the Container Refund Scheme in Tasmania is an operational contract.

(4) The term of the tender is expected to conclude with the engagement of the Scheme Coordinator and Network Operator, but has scope to continue until scheme implementation.

(5) No, the advice will not be made public as it will contain commercially sensitive information.

Recognition of Visitors

Honourable members, we have joining us in the Chamber today students from the TasTAFE Young Migrant Education Program. We have been doing question time here where honourable members have the opportunity to question the Government on all number of things and we are about to move back into our orders of the day, where we are currently noting a motion.

Welcome to the Chamber and I am sure all members will join me in saying welcome and thank you for coming to the Legislative Council today.

Members - Hear, hear.

MOTION

Consideration and Noting - Parliamentary Standing Committee of Public Accounts Report No. 14 - Office of the Ombudsman and Health Complaints Commissioner

Continued from page 15.

Ms RATTRAY (McIntyre) - I have lost my momentum from having to stop for the briefing, but I hope I am able to pick it up again and make my contribution of interest to our visitors in the Chamber, welcome.

Before the adjournment, I was giving some figures on the increased number of complaints and I gave the health complaints numbers. I was about to let you know the Ombudsman - through the Estimates process - went on to say there has been an 11 per cent increase to 715 from 642 complaints and also a 9.5 per cent increase in inquiries. Certainly, an increased workload and that additional staffing resource has been allocated by the Government, and I know the Ombudsman and his team will be very appreciative and it will be well used, given the increase in numbers.

Mr Connock also went on to talk about the RTIs and I know the member for Murchison touched on that. I briefly spoke at the beginning of my contribution about the former member

for Windermere, the honourable Ivan Dean and how he had waited around 13 months to get an RTI request to him. There are other members in the community also that have waited a significant length of time. Mr Connock told us they had received 70 new applications for external review, compared to 65 the year before and 57 the year before that. Again, the workload keeps increasing. I will not go through every figure provided because it is all on the public record, but it will also be in the new annual report tabled in the parliament today. I have not had a chance to read the report, but it will be interesting to see if those figures provided were the actual numbers. I expect they were very close, because they would have already been doing the work to collate that information to have it in time for the printing of this year's annual report.

Mr Connock went on to talk about the various ways the Ombudsman's office is used and he talked about how they liaise with the departments of Communities, Health, Police and DPIPWE and they have meetings with them. Their offices all get together and they go through each of the applications. He goes on to say -

> Bearing in mind always that it can't be like an ordinary conciliation because an applicant is entitled to that information unless it's exempt information.

And he goes on to say:

> If there is an exemption that applies the agency is entitled to stand on that and not release.

And he made the comment:

> We can't push anybody into a position but what we are trying to do is say -

And I, by interjection, said:
> You can encourage them into it.

And he said:

> We can encourage, you know, do you still object to the release of this information?

And obviously, departments do use their opportunity to object. And people who have received an RTI request will see a lot of blanked out information where a department has decided that information is not going to be available as part of that RTI request. Always, there is some negotiation by the Office of the Ombudsman but also they have to do that in conjunction with the department and we understand to some extent. I have seen some of that redacted information and often wonder if there is much value in it because you completely lose the objective of the RTI and obviously it is a separate issue aside from the work of the Ombudsman, but an important role they undertake in that area.

We also know there are always complaints through the Justice department and the corrections area - interestingly, the complaints from Tasmania Prison Service were slightly down. Given there was that lockdown arrangement, I thought there would probably be a higher level of frustration, but that may well come out in the annual report, whether these numbers are firm in that area. It was interesting the Ombudsman has a direct 24-hour phone line to the

Tasmania Prison Service. That is a very reasonable service to have for those people as part of the prison system. A 24-hour service. They certainly do give a huge commitment to the Tasmanian community.

They also undertake some complaints regarding the University of Tasmania and not surprisingly, Mr President, there are some also in relation to the local government area. We always have a number of former local government representatives on our committee and we are always interested in what is happening in local government.

All of that information is provided. Getting back to the recommendations, and the member for Murchison read out those recommendations. The number two recommendation was that the Office of the Ombudsman be appropriately resourced to enable it to meet all its statutory obligations and responsibilities. I absolutely agree with that recommendation, but would have liked to have seen 'in a timely manner' on the end because this is the point that really needs to be honed in on here. It is okay to meet your statutory obligations and responsibilities, but if it is not in a timely manner and you are waiting months and months and weeks and weeks for information to come back, sometimes the momentum has been completely lost.

Mr Valentine - It is dispiriting for the person.

Ms RATTRAY - That is a nice word. It is possibly quite frustrating also.

Mr Valentine - That too.

Ms RATTRAY - Yes. That too. Again, I appreciate the work of the committee. The third recommendation, the Office of the Ombudsman be immediately resourced to facilitate mandatory inspections and deliver an inspection report as required by legislation. Three very key recommendations there and I certainly will be looking forward to the response by the Government because as we know these reports are aimed at the Government as part of the parliamentary inquiry process. I look forward to seeing what the Leader has in regard to the response on behalf of the Government. There is not a lot else that I can add. The report is very much to the point.

I did appreciate the role of the Ombudsman, having it spelt out like it was in the report I thought was very useful for anyone reading the report. It also reminded me again of the significant work that the Ombudsman undertakes in the role of scrutiny and also being able to have that representative of the community as well for the roles and functions that he undertakes.

Again, I thank the committee chair and the rest of the members of the Public Accounts Committee. We had three from this place and three from the other place. It was a joint House committee and it appears to work very well. I also acknowledge the work of the former chair and former member for Windermere, Mr Ivan Dean, who I know would also possibly be very interested in reading the report. We may well discuss that in a couple of weeks' time.

Thank you and I note the report. I look forward to more positive feedback from the Ombudsman's office as those positions are put in place and fully functional in the Ombudsman's office over the ensuing period.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - The Government notes the PAC inquiry into the resourcing of the Office of the Ombudsman and Health Complaints Commissioner carried out in 2019-20 and the final report tabled last year. The Parliamentary Accounts Committee (PAC) report relates to the final report tabled in 2020 that followed an own-motion examination of the Office of the Ombudsman and Health and Complaints Commissioner.

The report focuses on the budget and resources allocation of the office and makes three recommendations. Those three recommendations have been read out before. I will not go through them again.

In the formal submission to the inquiry, the Attorney-General on behalf of the Government advised PAC that the Tasmanian Government acknowledges and understands the critical role that the Ombudsman plays in ensuring the administrative actions of public authorities are lawful, reasonable and fair. It was also noted that the Government has confidence in the ability of the Ombudsman's office to manage its workload in the most effective and efficient way possible. In response to further questions the Attorney-General further advised PAC that the Government's oversight of the Ombudsman's office reaches only as far as the funding allocation provided in the budget. It would not be appropriate to reflect or comment on how the Ombudsman as an independent statutory authority chooses to allocate those resources.

However, the Government has, and remains, confident in the Ombudsman's ability in this regard. The Government notes that the Ombudsman appeared before the PAC at a public hearing to directly provide information regarding his budget and resourcing allocation as well as the performance of his various statutory responsibilities. In terms of budget allocation in 2019 the Office of the Ombudsman was provided with an additional funding of $245 000 per year to address matters raised in relation to difficulties experienced by his office in recruiting staff members to review RTI matters referred to the office.

From discussions with the office at the time, it was understood that this funding would enable the office to undertake reviews of RTI decisions made by public authorities, referred to the office, in a more timely manner. In the 2021-22 state Budget, the Government is providing even further additional funding towards the Office of the Ombudsman with $500 000 in additional resourcing. This amount will increase to $750 000 in 2022-23 and $1 million across the 2023-24 to 2024-25 forward Estimates.

It is important to note that in the 2021 Legislative Council Estimates Committee B hearing, the Attorney-General and Ombudsman answered further questions about his office's resourcing.

Mr Connock noted that our Government has provided this significant additional funding for his functions and operational priorities, including funding to create a position of Deputy Ombudsman.

This funding announcement followed constructive meetings between the Premier and Attorney-General with the Ombudsman to discuss a number of matters, including resourcing for the Ombudsman to clearly outline his resourcing requirements to ensure the office has sufficient resources in order to undertake all of its functions. In the most recent meeting with the Ombudsman, Mr Connock has advised that his office is sufficiently funded to deal with the

RTI requests and if there are any delays they are not due to funding deficits but rather internal staffing matters.

The Premier and Attorney-General also sought the Ombudsman's views as to what could be done to improve transparency within the act and committed that our Government would take whatever steps we need to ensure we can provide full, frank and open disclosure for the Tasmanian people, within the law.

It is important to note that the Ombudsman believes generally that the act works well but there may be some minor administrative matters that require attention and these are still under consideration. He has also noted that his own decisions should be subject to external judicial review, which is why the Attorney-General is considering this possibility as part of the further TASPAC reforms to be progressed at a later stage.

Accordingly, the Government notes the PAC final report and notes this motion.

Mr VALENTINE (Hobart) - It has all been said. It is quite clear that the Ombudsman's office is a very important entity. I know that only too well being on the integrity committee and it is an important service that is out there. It has to be resourced to be able to provide a proper function, as with the next matter that is coming before us from the member for Nelson.

There is an opportunity there to touch on the Custodial Inspector's annual report. They would not be able to do that if it was not for the services of the Ombudsman. I have to say, when you look at the aspect of non-registered health practitioners that the member for Murchison brought up in relation to an earlier inquiry, this is also a matter of the health of the community. If we cannot investigate matters and complaints that even come from that sector, then people may well be vulnerable to somebody who is not functioning in the right way in that sector.

So, it is important that these offices are indeed resourced correctly. I endorse it, I note the report, I note the struggle that the Ombudsman has had over a number of years now, since I have been in this place. It is good to see the Government is responding and hopefully that will go quite a way to alleviating the pressure that must be on the Ombudsman.

I think to myself, how does a person function effectively when they have so much pressure to deliver and the lack of resources to deliver it with? It is of paramount importance the Ombudsman is effectively funded and that is all I have to say on the matter, to lend that support for the further funding and encourage the Government to continue it as they have right through until 2025, but let us hope beyond.

Ms FORREST (Murchison) - I want to thank members for their contribution to the report and I note the Leader's comments saying the Ombudsman has provided information his office is currently adequately resourced. If there are delays in getting, particularly, RTI information back and reviews of RTI requests back and there are problems within his office then they probably need to be sorted out, because timely release of information is what open and transparent government is all about. These are the frustrations that people in our community face, they get despondent and feel untrusting of governments when they cannot access information they believe is their right. It is the Ombudsman's responsibility to get those things dealt with as promptly as possible.

The changes referred to by the Leader hopefully will make that difference including, as the member for McIntyre mentioned, the Deputy Ombudsman and how to try to delegate some of those responsibilities. I would also ask the member for McIntyre, particularly in her role as the Chair of Committee B with Estimates, to look at having the Ombudsman appear as an independent statutory officer, independent of the minister, as we do with the Auditor-General. I am not sure what the difference is there. Maybe there is a reason, but it should be investigated because these are independent statutory officers that should be able to talk about the funding of their office without fear or favour. It is difficult if you have the minister sitting there beside you. They had other mechanisms for dealing with those relationships.

That is what has been happening with the Auditor-General for as long as I can remember. He has appeared in Committee A and it gives the Treasurer a half-hour break which he is often quite pleased about. That is the only comment I would make and it may need to be followed up and looked at.

I thank members for their contribution and note the report.

Report considered and noted.

MOTION

Minimum Age of Criminal Responsibility

[3.28 p.m.]

Ms WEBB (Nelson) - I move -

(1) That the Legislative Council notes:

(a) The United Nations Convention on the Rights of the Child requires countries to establish a minimum age below which children are presumed not to have the capacity to breach the criminal law, and that countries should work towards a minimum age of criminal responsibility of 14 years or older; and

(b) the global median minimum age of criminal responsibility is 14, while the minimum age of criminal responsibility in all Australian jurisdictions is 10 years.

(2) That the Legislative Council further notes:

(a) Groups including, but not limited to, Amnesty International, the National Aboriginal and Torres Strait Islander Legal Services, Australia's National Children's Commissioner, the Australian Medical Association, the Royal Australian and New Zealand College of Psychiatrists, and the Royal Australasian College of Physicians have called on governments to raise the minimum age of criminal responsibility to at least 14;

(b) in Tasmania, groups including the Commissioner for Children and Young People, the Law Society of Tasmania and the Tasmanian Council of Social Service (TASCOSS) agree that the minimum age of criminal responsibility should be raised to at least 14 years;

(c) evidence demonstrates that, at the age of 10, a child's brain is still developing, particularly as to reasoning, impulsivity and consequential thinking;

(d) evidence shows that many children involved in the criminal justice system come from disadvantaged backgrounds and have complex needs better addressed outside the criminal justice system through a developmentally appropriate, trauma-informed and culturally safe early intervention model that supports children in their families and communities; and

(e) evidence also indicates that the younger children are when they first encounter the youth justice system, the more likely they are to reoffend.

(3) That the Legislative Council further notes:

(a) The Council of Attorneys-General initiated a working group on the minimum age of criminal responsibility in November 2018, but have not reached a nationally agreed way forward; and

(b) notwithstanding the national working group discussions, the age of criminal responsibility is entirely a matter for the state, and there is no reason why Tasmania cannot proceed to raise the age of criminal responsibility in this state.

(4) That the Legislative Council call on the Tasmanian Government to:

(a) Raise the minimum age of criminal responsibility to at least 14; and

(b) commit to the principles of justice reinvestment, divert young people – particularly those under the age of 14 – away from the youth justice system into programs and services that address the underlying causes of their behaviour, and implement a program for Aboriginal youth led by Indigenous people.

Mr President, I begin my contribution today by acknowledging the palawa/pakana of lutrawita/Tasmania, the Tasmanian Aboriginal community. I pay my respects to their Elders, past, present and emerging. I acknowledge the enduring connection of the palawa to this land which was never ceded, a connection that has survived invasion, dispossession, colonial violence and continued discrimination. I make this acknowledgment because of the particular relevance of the motion we are debating today to the First Nation's people of this state and this country.

Nationally, Aboriginal and Torres Strait Island young people, aged 10-17 years are vastly over-represented in youth detention facilities. According to analysis by the Victorian Sentencing Advisory Council, published this year, Indigenous young people are six times more likely to be detained in Tasmania than non-Indigenous young people. Remarkably and sadly, this is the smallest difference in detention rates between Indigenous and non-Indigenous young people of any state and territory, but I do not believe it is a distinction we can feel proud of here.

Nationally, Aboriginal and Torres Strait Island people children, are over-represented in the youngest age groups in particular. Across the country on an average day in 2018-19, 65 per cent of children aged between 10 and 13 years who were under youth justice supervision were Aboriginal and Torres Strait Islander, 65 per cent.

While Tasmania rates comparatively well on a national level in the disparity in detention rates between Indigenous and non-Indigenous youth, we can all agree that any level of disparity is unacceptable. Our current minimum age of criminal responsibility and our system of youth justice, including incarceration, is not just discriminatory, it is failing. It is failing on every measure. It is failing the young people who encounter it, who are more likely to have experienced disadvantage, abuse, mental and physical ill health, disability, developmental delays, disengagement from education, precarious housing and contact with the child safety system.

We know rather than recognise and meet their needs for support and assistance, the youth justice system sets them instead on a path where they are more likely to reoffend and compound the difficulties they face. But it is also failing our community, where rather than making us safer, more cohesive and resilient, the current ineffective youth justice system puts us more at risk and contributes to a community more divided. When we look at the current minimum age of criminal responsibility and the youth justice system, what is clear is it is neither smart nor compassionate. Just as all laws are updated from time to time to reflect the developing views and expectations of the community and the increasing understanding and evidence base of good policy, it is timely for us to be considering an increase to the minimum age of criminal responsibility in this state.

The motion we debate today should not be viewed in isolation. Right across the country the momentum for raising the age of criminal responsibility is building, and members have a chance today, in this place, to not only be part of that momentum, but to shift it into a higher gear here in our state of Tasmania. In December 2019, the Council of Attorneys-General called for submissions on whether to raise the minimum age and what an alternative system for managing youth justice would look like.

They received submissions from organisations such as Amnesty International Australia, National Legal Aid, the Aboriginal Justice Caucus, the Australian Medical Association, the Australian Youth Affairs Coalition, the Council of Social Services, the Murdoch Children's Research Institute, the Australian Red Cross, the Royal Australasian College of Physicians, the Royal Australian and New Zealand College of Psychiatrists, Save the Children and the Youth Network of Tasmania.

These are organisations whose expertise spans human rights, the law, physical and mental health, Indigenous justice and youth services. All of these recommended raising the age of criminal responsibility from its current level of 10 years. National Legal Aid, in its submission,

helpfully provided some context for how society recognises the physical and cognitive and emotional vulnerabilities of children under the age of 14 years. Their submission highlighted children under 13 years old cannot register as Facebook users. Qantas considers children under 12 years old as unaccompanied minors. An average 10-year-old requires a booster seat to travel safely in a car. In some Australian jurisdictions it is a criminal offence for a parent or guardian to leave a 12-year-old alone and accompanied. Yet across Australia 10-year-old children can be arrested and detained in custody for alleged criminal offences.

It seems incredible we are perhaps more careful about who we sit an 11-year-old next to on a plane than we are with what we might expose the same 11-year-old to in our youth justice system. This is not just an issue that has momentum in Tasmania, or nationally. It is an issue that has international attention. In 2019, the United Nations Committee on the Rights of the Child - the UN committee I am going to call it - recommended all UN member states raise the minimum age of criminal responsibility to at least 14 years of age.

In its observations on Australia the UN committee noted, with serious concern, the very low minimum age of criminal responsibility in all states and territories and recommended Australia raise the minimum age to reflect internationally accepted standards to the upper age of 14 years. In its general comment number 24, 2019, on children's rights in the child justice system, the United Nations Committee on the Rights of the Child noted that under article 43 of the convention, state parties are required to establish a minimum age of criminal responsibility, but the article does not specify the age. Over 50 state parties have raised the minimum age following ratification of the convention, and the most common minimum age of criminal responsibility internationally is 14.

It is worth noting at this point the age of 14 has not not always been the internationally recognised standard. In 2007, the UN committee's last general comment on this matter, it stated that:

> A minimum age of criminal responsibility below the age of 12 years is considered by the committee not to be internationally acceptable.

In 2019, however, it revised that age to 14 years based on documented evidence in the fields of child development and neuroscience, which indicates clearly that:

> Maturity and the capacity for abstract reasoning is still evolving in children aged 12 to 13 years due to the fact that their frontal cortex is still developing.

This is a good example of responding to the improvement of our understanding based on evidence and reflecting community views and expectations. The UN committee noted that children under age 14 are therefore unlikely to understand the impact of their actions or to comprehend criminal proceedings fully. Not only has this been recognised by the United Nations but by many of the stakeholders who have engaged with this issue - from social workers, lawyers, former magistrates, and youth services. The UN general comment went on to recognise that these children are also affected by their entry into adolescence. As the committee notes in its general comment number 20 from 2016, which is on the implementation of the rights of the child during adolescence, 'Adolescence is a unique defining stage of human development characterised by rapid brain development.' This affects risk taking, certain kinds of decision-making and the ability to control impulses.

In January of this year the Australian Government appeared before the UN Human Rights Council in Geneva for its major human rights review that happens every four to five years. At this review, known as the Universal Periodic Review, the UN member states questioned Australia about its human rights record and recommended improvements. 122 countries made close to 250 recommendations to us. One of the key issues of concern raised in that forum was the very low age of criminal responsibility in Australia. 31 countries recommended that Australia raise the age to at least 14. These recommendations came from countries including Italy, Venezuela, Slovakia, Spain, Sri Lanka, Mexico, Canada, Denmark, France and Germany.

These criticisms of Australia's record on this issue are nothing new. In its concluding observations on the combined fifth and sixth periodic reports of Australia in 2019 the Committee on the Rights of the Child urged Australia to raise the minimum age of criminal responsibility to an internationally accepted level and to make it conform with the upper age of 14 years. In 2017 the UN Human Rights Committee stated that it remained concerned that the age of criminal responsibility for Commonwealth, state and territory offences is 10 years and that the state party should raise the minimum age of criminal responsibility in accordance with international standards. So too did the Committee on the Elimination of Racial Discrimination. These are resounding calls. Furthermore, the United Nations Special Rapporteur on the Rights of Indigenous Peoples published a report on her 2017 visit to Australia and noted:

> The application of criminal responsibility as low as the age of 10 years across the country is deeply troubling and below international standards.

And further, that:

> It is wholly inappropriate to detain children in punitive rather than rehabilitative conditions. Aboriginal and Torres Strait Islander children are essentially being punished for being poor and, in most cases, prison will only perpetuate the cycle of violence, intergenerational trauma, poverty and crime.

To put Australia's minimum age in an international context, we can look to the age of criminal responsibility in other national jurisdictions. The global median age of criminal responsibility is 14. In Angola, for example, the minimum age of criminal responsibility is 14 and the minimum and maximum sentences for those between ages 14 and 16 are reduced by two thirds, and halved for those between 16 and 18. A sliding scale applies there, through to the age of majority - 18 years. The needs of rehabilitation and social reintegration are also to be taken into account for anyone under the age of 18 in that jurisdiction. In Belarus, the standard age of criminal responsibility is 16 ; but those between the ages of 14 and 16 can be held responsible for select serious crimes, as outlined in a particular part of their criminal code. The ages 14 years or higher in Georgia, in Germany, Japan, Vietnam, Columbia, and the Democratic Republic of Congo - these are just some examples. Hugh de Kretser, the Executive Director of the Australian Human Rights Law Centre observed that the Australia's human rights record is:

> … plagued by human rights failures and particularly by its treatment of Aboriginal and Torres Strait Islander peoples. As a wealthy, stable democracy Australia should be leading the world on human rights, yet too often Australian Governments breach people's rights in critical areas. This

> must be linked to the appalling rates of incarceration we see in our First Nation people.

As stated by the United Nations Committee on the Rights of the Child, the medical and scientific evidence on neurodevelopment supports the claim to raise the age of criminal responsibility. Numerous Australian medical organisations have supported raising the age to at least 14, with their views rooted firmly in scientific research. These include the Royal Australian and New Zealand College of Psychiatrists, the Australian Medical Association, the Royal Australian College of Physicians and the Public Health Association of Australia.

The science is clear. Neurodevelopmental evidence demonstrates that the period of adolescence brings increased impulsivity and sensation-seeking behaviour, coupled with a heightened vulnerability to peer influence which affects decision-making capacity. The frontal lobe of the brain, that plays a key part in various elements of cognition including judgment, empathy, consequential thinking, the inhibition of impulses and coherent planning, continues to be developing physically until a person enters their early 20s. This means the frontal lobe is significantly underdeveloped when a child is in adolescence, particularly early adolescence. Children under the age of 14 are also limited in their capacity for abstract reasoning, which means they are unlikely to comprehend the true impact of their actions or of criminal proceedings.

The Royal Australian College of Physicians has stated that:

> A range of problematic behaviours in 10 to 13-year-old aged children that are currently criminal under existing Australian law are better understood as behaviours within the expected range in a typical neurodevelopment of a 10 to 13-year-old with significant trauma history. Typically actions that reflect poor impulse control, poorly developed capacity to plan and foresee consequences such as minor shop lifting or accepting transport in a stolen vehicle.

Given the high rate of neurodevelopmental delay experienced by children in juvenile detention, including conditions such as fetal alcohol spectrum disorder (FASD) and delayed language development, the Royal Australian College of Physicians submitted that these behaviours often reflect the developmental age of the child which may be several years below their chronological age. Judging criminal responsibility on the basis of a chronological age is therefore inappropriate for children who may have a much lower developmental age due to a number of medical and developmental conditions described.

Similarly, there is also significant evidence that a large proportion of young people in the criminal justice system have significant health issues, including mental health issues; disability - including FASD; substance misuse; sexual health - including STIs; and trauma. Young people who enter the justice system are more likely to be affected by disabilities and poor mental health and wellbeing. Youth justice supervision and detention exacerbate these challenges that the young people and children face.

A recent study by the Australian Institute of Health and Welfare found that 75 per cent of young people involved in the justice system had experienced some form of non-sexual abuse including physical, verbal, emotional, financial or neglect. Compared with their peers in the general community, justice-involved young people were six times as likely to have attempted

suicide; more than twice as likely to have recently self-harmed; and twice as likely to experience high or very high psychological distress. A third of the young people involved in the justice system met the criteria for at least two mental health disorders. These are not conditions that are best dealt with in prisons. These are not members of our community that are best helped by the justice system.

Mr Valentine - You said six times?

Ms WEBB - Six times as likely to have attempted suicide.

Mr Valentine - If they are incarcerated?

Ms WEBB - Yes, young people who have got an involvement with the justice system.

Mr Valentine - I wanted to get that clear, sorry to interrupt your flow.

Ms WEBB - Additionally, it has been proven that incarceration of young people may systematically degrade their healthy development further. Cumulative incarceration duration during adolescence and early adulthood, is independently associated with worse physical and mental health later in adulthood, including functional limitations, depressive symptoms and suicidal thoughts.

Expert witnesses at the 2016 Royal Commission into the Protection and Detention of Children in the Northern Territory, directly linked experiences of youth detention with subsequent violent offending and with a cycle of repeat incarceration, setting young people up to fail.

As was submitted by the Public Health Association of Australia, and I quote:

> Despite the high level of need for mental health services, few young people involved with the justice system access these services in the community. There is a clear need for holistic trauma informed social and health care interventions for these young people with priority given to preventing, identifying and intervening to reduce abuse.

Not only is the current system not helping the children, nor is it helping society more broadly. Studies have shown that the younger children are when they encounter the justice system, the more likely they are to reoffend. We set them on the path.

The Australian Institute of Health and Welfare identified that children who are first subject to supervision under the youth justice system due to offending when they are between the ages of 12 and 14, were more likely to experience all types of supervision later in their teens, 33 per cent compared to 8 per cent of those who first became involved at older ages.

There is no doubt that this issue affects Aboriginal and Torres Strait Islander children and young people more than anyone else. Indigenous children are vastly over-represented, as I said, in the justice systems of all jurisdictions in Australia. A very important step to addressing this is raising the age of criminal responsibility.

The Australian Medical Association notes that about 600 children below the age of 14 are locked away in youth jails each year nationwide, with Aboriginal and Torres Strait Islander children constituting 70 per cent of this cohort. They also note that about 9000 children below the age of 14 have contact with the broader criminal justice system each year. Overall, Aboriginal and Torres Strait Islander children constitute about 5 per cent of the youth population, yet close to 60 per cent of children in prisons.

The National Aboriginal and Torres Strait Islander Legal Services (NATSILS), in their submission to the Council of Attorneys-General Age of Criminal Responsibility Working Group Review, stated that a higher minimum age could also prevent children and young people, particularly Aboriginal and Torres Strait Islander children and young people, from being trapped in the quicksand of the criminal justice system. I think that is a really appropriate metaphor, 'the quicksand'. It is very hard to get out once you are in.

NATSILS also suggested that a trauma-informed approach to the minimum age of criminal responsibility is particularly important for children and young people. NATSILS suggests that this is critical factor that must be considered when discussing raising the age, as Aboriginal and Torres Strait Islander children and young people are particularly more likely to experience early trauma than their non-Indigenous peers.

Locally, Rodney Dillon, is a palawa elder and Amnesty International's Indigenous Rights Adviser. He has called for Indigenous and community-led solutions, stating that:

> This is about all the kids. I don't want to see one set of 10-year-old eyes in a prison system. It really hurts me to see that when those kids could be doing better somewhere else. … As an Aboriginal person I have seen all my life people go into that system and never come out of it, and I could have been one of those kids.

That is powerful. NATSILS, in their submissions, stated the importance of Indigenous children's connection to country, to land, family, community and spirit. They emphasise that children flourish particularly when they have and are allowed to develop strong and positive social networks and have strong leadership in their families and communities.

Members of the stolen generation and their children are particularly more likely to be forced into or experience poor physical and mental health outcomes, inadequate housing, substance abuse, lower incomes, over-policing and therefore over-incarceration.

In 2012-13, almost half of all Aboriginal and Torres Strait Islander adults reported that they or their relatives had been removed from their natural family.

Because of these entrenched and systemic disadvantages, some Aboriginal and Torres Strait Islander children can be trapped in cycles of trauma, poverty, injustice and illness at key times of their neurological development. These further compound and entrench their disadvantage.

I was particularly struck by another comment from Rodney Dillon. He said this:

> I fear that there are a lot of kids that have gone into that system that would have made great leaders in their communities.

That is a comment that goes to the heart of this issue. Children embody potential. How we support and educate, love and protect them, will determine whether that potential has the opportunity to be realised.

I would like to mention some matters now in relation to this motion that come up and are raised at times in the discussions on the proposal to raise the minimum age of criminal responsibility. Currently, when a child between the ages of 10 and 14 is charged with a criminal offence, what occurs in response is governed by the common law legal principle known as doli incapax - I am probably saying that incorrectly and I am going to keep saying it incorrectly but we will all cope. This is the presumption that children under the age of 14 cannot be held criminally responsible for an offence unless it is proven that they knew what they were doing was seriously wrong.

The principle of doli incapax is often raised as an argument against raising the age of criminal responsibility. However, there are so many practical problems with the current application of that principle in Australia that render it giving very little or no protection to those children who need it most.

As emphasised by Youth Law Australia, the Human Rights Law Centre and the Law Council of Australia, the evidence of doli incapax's application in Australia highlights concerns with evidentiary issues. They point to it leading to the admission of evidence that would commonly otherwise be inadmissible. To an unofficial reverse onus of proof, to inconsistent application and a lack of coherence of the principle which can lead to the prolonged involvement of children in the criminal justice system.

There are practical difficulties in proving whether a child knew that a certain act was wrong under doli incapax. Reports have shown that in attempting to rebut the presumption the prosecution is often allowed considerable evidentiary concessions and prejudicial normally inadmissible material is deemed to be admissible. The UN Committee on the Rights of the Child observed that the presumption of doli incapax can lead to children being treated differently based on evidence brought to rebut the presumption which might not necessarily require evidence from an expert, like a psychologist.

As Youth Law Australia observed, 'the evidence that is commonly used fails to take into account the interaction between a child's developmental maturity and the conditions in which an offence occurs'. Furthermore, contrary to the key element of the presumption that the onus of proof lies on the prosecution, in practice the principle is applied inconsistently which can lead to unofficial reversal of the onus of proof. According to recent research with legal stakeholders in Victoria, the onus commonly fell on the defence to provide a report at their own cost to establish that the child is doli incapax. Stakeholders in this research also indicated that children may refuse an assessment without full comprehension of the consequences of that decision and this could lead to the wrongful conviction of children.

The presumption has also been criticised on the basis that it prolongs a child's involvement with the criminal justice system due to a lack of coherency over how the presumption operates, leading to children being held in custody for lengthy periods before the presumption is led or tested in court and the child acquitted. The trial to determine capacity and guilt could take months or longer, depending on court lists, case management processes or the availability of experts and other witnesses relevant to the proof of knowledge and maturity.

As there is significant research demonstrating the negative psychological affects experienced by children in custody, this prolonged involvement with the system is troubling.

The vast majority of submissions to the national working group recommended abolishing the flawed presumption of doli incapax on the basis that it does not work in practice and instead, to use the effective measure of raising the age to at least 14. The issue of raising the age of criminal responsibility in Australia has been discussed for some years.

The Tasmanian Attorney-General, Elise Archer, has repeatedly stated that she wants to see a nationally consistent position on any reform in this area. The Council of Attorneys-General initiated the working group on the minimum age of criminal responsibility in November 2018 but three years later here we are and we are yet to have reached a nationally agreed way forward.

On 27 July 2020, the then Council of Attorneys-General was presented with a report from the Age of Criminal Responsibility Working Group public consultation, comprising submissions - and I have mentioned some of these already - from 88 bodies, legal; Indigenous; human rights; social service organisations. That report about those submissions overwhelmingly recommended the age of criminal responsibility be raised to at least 14. And yet the Council of Attorneys-General postponed a decision on raising the age last July. A change to the council's operating structure now means it will only convene as necessary to discuss up to three items of national importance over a 12-month time frame. And guess what? Raising the age is not on this year's agenda. We are going to push it down the road even further, if what we are waiting for is a national approach. In a statement the federal Attorney-General's department said the minimum age of criminal responsibility is primarily an issue for states and territories, as the overwhelming majority of offences involving children are state and territory, not Commonwealth offences and that ultimately, it will be a decision for each jurisdiction whether to raise the minimum age.

It is clear that left up to the federal Attorney-General or the Council of Attorneys-General this much needed reform will not take place in the foreseeable future. And it does not need to wait for action at that level. It is both right and appropriate the states and territories take this matter into their own hands, rather than allow continued bureaucratic delays at a national level to hold us back from a reform which is both smart, compassionate and also timely.

This has already begun to happen in other jurisdictions with the ACT government passing a motion to raise the age to 14. In July, a discussion paper was released by the ACT Attorney-General to help steer the government's approach to the complex legal and systematic questions that lay at the heart of implementing this issue. On 10 October, an independent review commissioned by the ACT government was released, detailing the work and the reforms needed to assist in raising the age with the new legislation being planned to be introduced in the territory in 2022. It is an excellent report released just this year. The report assessed the current service system and identified the changes necessary to better meet the needs of children most affected by raising the age. It is a very valuable resource and provides what is virtually a road map that could and should be used to help other jurisdictions, including Tasmania, to make progress on this issue. What this also illustrates is this is a commitment by a state or territory government to raising the age is the starting point for a careful process to plan for its implementation.

We need to be very clear this is not a case of simply raising the age out of the blue one day and leaving it at that. A commitment is the starting point, a decision on the policy is the first step and then we look to how - the 'how' of how we replace an inappropriate and ineffective system with an evidenced-based, appropriate and cohesive system. Recently, we have also seen traction on this issue in Western Australia, with the Western Australian Labor Party passing a motion at their state conference committing to raising the age. With that party holding 53 of 59 seats in the West Australian Legislative Assembly and 22 of the 36 seats in the Legislative Council it is highly likely this reform will be legislated there in the near future. And yet Tasmania has a chance here to be the first state to pass a parliamentary motion of support for raising the age and to be a nation leader in this much-needed reform. Rather than waiting for an unnecessary national approach, it is important and perhaps more appropriate for Tasmania to make our reforms on this issue a leadership issue nationally. Each state and territory in Australia has its own youth justice legislation policies and practices. It is up to us, therefore, to decide what happens in this state on this issue.

It is also important to note that historically there has not always been uniformity when it came to the minimum age of criminal responsibility. It is not a precondition for us to make this change that everybody else does it at the same time or lands in the same place we do. It took around 24 years for the Australian government to achieve the present uniform minimum age of 10 years in all Australian jurisdictions, with Queensland first raising the age from seven to 10 years in 1976, and Tasmania being the final jurisdiction to raise the age from seven to 10 years in 2000, 24 years later. That time we were the last out of the block. This time we have the opportunity to be the first state out of the block to make this change.

The Tasmanian Government has the positive opportunity to grasp this position and step out from behind unnecessary delays that are occurring at a national level. It would be very poor, indeed it would be a threadbare excuse that inaction at a national level should see us continuing to fail Tasmanian children and communities in delivering a more effective youth justice response in this state. Rather, the Government can have confidence in taking leadership action on this issue.

There is a great deal of support in the Tasmanian community for raising the age of criminal responsibility. Just yesterday, Amnesty released a statement of support which was signed by around 50 prominent Tasmanians. I would like to read that statement into the record today and mention some of the signatures to show the breadth and depth of support for this positive reform. This is the statement of support to raise the age of criminal responsibility in Tasmania. It says:

> We, the undersigned, call upon the Tasmanian Government and the Parliament of Tasmania to take urgent action to raise the minimum age of criminal responsibility in Tasmania to at least 14 years of age. Major Australian organisations representing the medical, mental health, child welfare, and legal professions, as well as human rights bodies and organisations representing Aboriginal and Torres Strait islander people agreed that the current minimum age of criminal responsibility, 10 years of age, is far too low.
>
> The scientific evidence is overwhelming that at the age of 10 a child's brain is still developing, particularly in terms of reasoning skills, impulsivity and consequential thinking. The evidence also shows that many children who

> become involved in the criminal justice system come from disadvantaged backgrounds and have complex needs that are better addressed outside the criminal justice system, through a developmentally appropriate, trauma informed and culturally-based early intervention model that supports children in their families and communities.
>
> Furthermore, there is also strong evidence that the younger children are when they first encounter the youth justice system, the more likely they are to reoffend. Finally, the numbers show that the criminalisation of children in Australia overwhelmingly affects Aboriginal and Torres Strait islander children. The UN Convention on the Rights of the Child, in force in virtually all countries in the world states that the best interests of the child must be the primary consideration in all actions concerning children.
>
> We note that this issue has been under discussion nationally, that after three years, Attorneys-General of the states and territories have not been able to agree on a way forward. There is no reason for Tasmania to wait for national consensus. Indeed, the Federal Attorney-General has stated that ultimately it will be decisions for each jurisdiction whether to raise the minimum age. This is an opportunity for Tasmania to show a better way of treating kids, a model based on programs and services that address the underlying causes of their behavior, including programs for Aboriginal youth led by Indigenous people. Tasmania should act swiftly to raise the age of criminal responsibility and we commit ourselves to support this process in whatever way we can.

What a wonderful resounding statement that is, especially that commitment to support the process in whatever way. Let me mention some of the signatories to this letter. I will table it so the full set of signatories can be put on the record. But just to mention Professor David Adams, Professor of Management at UTAS; Professor Nicole Asquith, who is the Director of the Tasmanian Institute of Law Enforcement Studies; Yvette Cehtel, CEO, Women's Legal Service Tasmania; Rodney Croome from Equality Tasmania and the 2015 Tasmanian of the Year; Kristen Desmond, founder of Tasmanian Disability Education Reform Lobby and Chair of the Children and Young People with Disability Australia; Connie Digolis, CEO of the Mental Health Council; Rodney Dillon from Amnesty, as Indigenous Rights Advisor; Saul Eslake, independent economist; Matthew Evans and Sadie Chrestman from Fat Pig Farm.

We have Simon Gates, President of the Law Society; the honourable Lara Giddings, former premier and attorney-general of Tasmania. We have Michael Hill, the former chief magistrate of Tasmania and former acting justice of the Supreme Court of Tasmania. He is also the chair of the Just Desserts Drug Court Incentives group; Tania Hunt, CEO of YNOT; Rosalie Martin, founder of Connect42 and 2017 Tasmanian of the Year; Leanne McLean, Commissioner for Children and Young People in Tasmania; Scott Rankin, creative director and CEO of Big hART and 2018 Tasmanian of the Year; Councillor Anna Reynolds, Lord Mayor of Hobart; Grace Tame, 2021 Australian of the Year; Rob White, Distinguished Professor of Criminology, School of Social Sciences at UTAS; Thirza White, General Secretary of the CPSU; and I will finally mention Jim Wilkinson, former President of the Tasmanian Legislative Council and President of the Tasmanian Football Board.

That is just some of the signatories; but it gives you a flavour of the breadth of people who support this move. I was particularly impressed with that collection of former Tasmanians of the Year; I almost had a set.

Mr President, I seek leave to table the document.

Leave granted.

Ms WEBB - Thank you, Mr President. In addition to those prominent Tasmanians who are signatories to that statement, we know that there are many everyday Tasmanians - mothers, fathers, brothers, sisters, teachers, elders - who do not want to see 10-year-old children locked up. I particularly acknowledge the work of Amnesty in this space, and the work of local volunteers here in Tasmania, in particular Sylvia Merope, the convenor of Amnesty Southern. Sylvia and the Amnesty team have been strong and persistent advocates on this issue.

In its submission to the Council of Attorneys-General Age of Criminal Responsibility Working Group Review, Amnesty highlighted that the minimum age of criminal responsibility has been an important area for Amnesty International's research into the over-representation of Indigenous children in youth justice systems across Australia. In addition to recommending that the minimum age be lifted to at least 14, Amnesty further recommended that all Australian governments transition all children out of prison within a year, and abolish the notion of doli incapax.

Raising the age of criminal responsibility provides an opportunity to redesign the approach our state's system takes to understanding and responding to harmful and troubling behaviour in children. Redirecting our response to this behaviour from a criminal justice response will shift the focus from what the child might have done, to what the services need to do to better support and prevent such things from happening. The discussion paper that was released by the ACT government includes many helpful areas of suggested reform to redesign our service system to better meet this need. They suggest the creation of a multidisciplinary panel, for instance, made up of experts who can assess the needs of the children and young people, provide referrals to appropriate services to meet their needs, and work closely with the children and their families to ensure that they attend these services. Suggestions are that experts on this panel could cover areas such as medical, paediatrics, education, social work and child protection and that this work would be done in an inclusive and cohesive way. The panel would be able to respond earlier and more effectively, and with a greater emphasis on the rights of the child than the current youth justice system ever could. That is just one model that is being looked at in that ACT paper.

It is clear that further support is needed for children and young people and their families well before situations reach crisis point. These supports, like physical and mental health services, education support, disability services and counselling, as well as services such as stable accommodation, will go a long way to addressing the issues that result in children becoming involved in youth justice.

With the Government's recent announcement of the closure of Ashley Youth Detention Centre, now is the time to start the much-needed reform of youth justice in this state. I echo the words of the Premier, Peter Gutwein, in his announcement on 9 September, regarding the need for reform and investment in 'a contemporary, nation-leading therapeutic approach' to youth justice. Raising the age is the first step to this reform, as has been recognised by civil

society, Indigenous organisations, United Nations and other national and international jurisdictions.

In conclusion, by chance, we are debating this motion in National Children's Week. I hope that other members of the Chamber have found it as valuable and enlightening as I have to direct our attention to this topic, and to give consideration to the opportunity that we have in this state for sensible, evidence-based, compassionate reform. We have all received some compelling communications from a range of advocates on this topic, and I am sure that some of those will be referred to in contributions from my colleagues in the Chamber.

I will finish by sharing an anecdote from a young lawyer who has communicated with me on this topic. It illustrates the need for reform. He told me this:

> As a young law graduate I volunteered and undertook an internship with the Aboriginal Legal Service in Western Australia. There I came into contact with so many young clients many of whom were first charged with offences at the ages of 10 or 11. In a situation that highlights the farcical nature of the current system, once at the magistrate's court, the magistrate who was appearing via video link told our client to stand up. He did so. Then the magistrate told him again to stand up. The magistrate had to be informed that the client was in fact standing up, because he was so small that she could not tell.

Children do not belong in the criminal justice system. To have them there is not smart justice; it is not compassionate justice. It does not serve our community. This motion today is a statement of encouragement from this place to the Tasmanian Government. We are at an ideal time for positive change. We have an opportunity to do better - not only for the safety and wellbeing of our community overall, but importantly for those Tasmanian children who teeter at a point in their already disadvantaged and too often trauma-laden lives; at a point at which they might be provided with support, growth and healing, or at which they may be criminalised and face a slippery slope to entrenched criminality and harm.

Let us agree to grasp this opportunity and to put our state at the forefront of positive change. I commend the motion to the House.

Ms FORREST (Murchison) - I rise to speak in support of this motion. I commend the member for Nelson for bringing this matter to the House for debate. Her comments have covered all aspects very thoroughly, and points 1, 2 and 3 of the motion are basically all statements of fact. I note them as written in the motion before us.

I will make some broad comments about the motion and the need to act, before speaking more specifically to point 4 of the motion which states that the Legislative Council call on the Tasmanian Government to:

(a) Raise the minimum age for criminal responsibility to at least 14; and

(b) Commit to principles of the justice reinvestment, divert young people - particularly those under the age of 14 - away from the youth justice system into programs and services that address the underlying causes of their

> behaviour, and implement a program for Aboriginal youth led by Indigenous people.

There have been significant discussions on this important matter around the world. I note there is not a consistent approach to the age at which a young person should be considered criminally responsible. Regardless, I believe it is irrefutable there is a consensus among those working with young people, especially those who engage with child safety services and the youth justice system, that 10 years of age is far too young. Having the age of criminal responsibility at 10 years and older means that an alleged offender as young as 10 years of age can be charged by the police and convicted in court. Between 10 and 14 years old I understand there is a requirement to prove the child has sufficient capacity to know that the act or omission was one that they ought not to do or make.

In 2019 the United Nations Committee on the Rights of the Child recommended 14 years, as the minimum age of criminal responsibility. I note this recommendation, as contained in the briefing, was for a minimum of 14 years. We were informed in the very informative briefing that the member for Nelson organised, that the age of criminal responsibility varies from 10 to 17 years of age in various jurisdictions around the world. One would ask, why does this motion settle on the age of 14? We hear, and I have read, other evidence that child development studies have found children under 14 often lack impulse control and have poorly developed capacity to understand consequences.

There are also people older than 14 who still have challenges in that space. Sadly, the earlier a child enters the justice system, the evidence shows that they are more likely to have repeat interactions with it.

I note from the information provided by the Commissioner for Children and Young People, Leanne McLean, that in Tasmania there are a small number of children between 10 and 14 years of age - the age which this motion calls to be considered in raising the age of criminal responsibility - who often have very complex needs and can create and/or cause significant harm for themselves and others in the community. I do not think anyone denies that. That is the reality that we are dealing with.

As was mentioned by the member for Nelson, I note the work of the ACT government and what they have done and their recent legislative reform plans to introduce or commence legislation next year. This has been guided by the recently released review of services for children. The title is, Review of the Service System and Implementation Requirements for Raising the Minimum Age of Criminal Responsibility in the Australian Capital Territory, final report.

This report clarifies what the term 'complex needs' refers to, stating, and I quote from the report:

> 'Complex needs' is a term usually used about individuals who have a combination of: mental health problems; cognitive disability, including intellectual and developmental disability; physical disability; behavioural difficulties; precarious housing; social isolation; family dysfunction; and problematic drug or alcohol use … Further factors identified as specific to children include the risk of harmful behaviours in early life and early educational disengagement. … In addition, a large number of children in the

> justice system have at least one disability, cognitive or neurodisabilities, including intellectual disability; other specific learning disabilities (e.g., dyslexia); communication disorders (e.g., language and speech disorders); attention deficit hyperactivity disorder (ADHD); autism spectrum disorder; and foetal alcohol spectrum disorder that often go unnoticed and unassessed prior to entry to youth justice services.

The commissioner provided information that in 2018-19 there were 26 685 children aged between 10 and 13 in Tasmania, with only six youth offenders in this age group in detention. Therefore, we are not dealing with a huge number of young people and should be able to consider supporting these young people through other measures that are more therapeutic and more restorative.

There are others who resort to stealing, the most common offence. They find themselves interacting with the youth justice system rather than a form of youth or child support service. Some of these children have committed what are serious crimes or acts that harm others. I acknowledge that. I suggest the underlying factors that led to this behaviour were often little understood or even addressed, particularly at a point much earlier in that child's life.

We are only just beginning to really understand the full impact of trauma in a child's life and I will come more to that later.

The recent welcome announcement by the Government to close Ashley Youth Detention Centre also means that this is an ideal time to consider this matter as another approach to restorative youth justice.

Many of these children have suffered trauma, poverty, neglect, homelessness, as witnesses or victims of family violence, exclusion and other factors. Our past and current approaches have failed to address these children's needs early in their life. And, what I am talking about, that starts right back from conception. We have failed perhaps to recognise the need to provide support for some of these mums who are having their first or second baby or whatever number baby it is, when we perhaps should have provided more support right back then.

I commend the work that is being done in this space, especially the children and youth strategy with a particular focus on the first 1000 days of a child's life. That does begin from conception and for the first three years beyond that point.

Our identification of needs and interventions implemented must begin at conception as conditions such as foetal alcohol spectrum disorder cause irreversible acquired brain injury and result in babies being born at risk. That is not reversible, you cannot make those problems go away. We can identify which babies are at risk. We need to be much more proactive in providing supports for those pregnant mums, particularly in helping them hopefully to cease alcohol consumption but certainly reduce it significantly just to reduce that harm. You have one chance, one nine-month period, one chance to reduce that to prevent an acquired brain injury through fetal alcohol spectrum disorder.

The ACT report I referred to previously described a system with many failings, very like Tasmania's. I do not believe we need to reinvent the wheel to know the areas that need urgent

attention and the new models of care and support for children ahead of and as part of raising the age of criminal responsibility in Tasmania. Quoting from this report, the report says:

> This report concludes by outlining what is required to respond effectively to the needs of children who are most affected by raising the age of criminal responsibility. Based on the findings of this report, we argue for seizing the opportunity for comprehensive systems reform. This means building a stronger, more coordinated service system, ensuring early identification of needs and providing more universal support to meet those needs. These reforms are underscored by a shared responsibility for the children's wellbeing and safety.
>
> Raising the age of criminal responsibility highlights the importance of early, coordinated and sustained help for children and their families. A key outcome of this reform is to meet children's needs. This outcome will not only be of value to them and their families but will benefit the wider community as well.

The report further notes:

> Children who are at risk of offending experience multiple health and mental health challenges, often with significant underlying trauma and disability. They are known to disengage from school early and to develop problems with substance misuse and are, too often, from Aboriginal and Torres Strait Islander backgrounds or from families where parents have been incarcerated. Many of these children are involved with the child protection system and have a history of family violence (as victims and/or perpetrators), sexualised behaviours and sexual exploitation. They are also at risk of homelessness.
>
> By the time children interact with the youth justice system, unmet needs have been multiplied and become more complex. The literature clearly recognises that the complexity and clustering of risks and the unmet needs increase the probability of future problems. Tackling these issues requires coordinated or multiservice interventions … as well as trauma-informed service responses matched to individual needs.

That is what has been identified in the ACT. I think we could have easily put Tasmania in that. I think we know that we need a much more coordinated approach to these young people and their families right from the very beginning. The report also highlights gaps in services for children under the age of 14 in the ACT. When reading through the section it was apparent that here in Tasmania we face many of the same challenges and inadequacies in our system. The report notes the literature and stakeholders consulted in this review identified the issue that service systems are often unable to meet children's complex needs because of a lack of identification and assessment, ineffective information sharing and communication between services, a lack of coordination between services, service gaps and a lack of familiarity with existing services or the functions of other services, including referral pathways.

I know here in Tasmania, since the COVID-19 pandemic reached Tasmania, some positive changes have been made in some of these areas, particularly with regard to data sharing

related to vulnerable children in the education and child safety areas. That is a positive thing. It shows that it can happen and we cannot afford to lose some of these benefits.

I note the Government's commitment to trauma-informed support for children, particularly through the education system. That is a positive thing too. It highlights again how we failed comprehensively in the past to address the needs of some of these young people. These are admittedly a small number of young people who end up in detention, but even needing additional support in the community. I know in my electorate it is almost impossible to get a child to see a psychologist in a reasonable time frame, particularly someone who is trained in trauma-informed support, which is vital if we are actually going to make a difference to these young people's lives. These changes that we did see regarding data sharing through COVID-19 have been a positive outcome. I hope it will continue and ensure a more proactive approach is taken.

The report continues on with identifying some other barriers, where it states:

> Barriers to adequately addressing complex needs in the ACT include a **lack of coordination and integration** across the service system, including: limited information sharing; lack of capacity to work with children with multiple needs; limited specialised and generalist programs; service delivery modes that are inflexible; barriers to navigating the system; limited understanding of child-specific familial and cultural needs; and long waiting lists for specialised services.

I could have put Tasmania in there. It goes on:

> Stakeholder consultations revealed that **demand outstrips the availability of services**. Almost all stakeholders raised the difficulty of accessing mental health and alcohol and other drug services, identifying long waiting lists or narrow eligibility criteria as some of the main reasons.

I know in my community and it is the same in many other members' communities, those challenges are just as real here in Tasmania and a constant source of frustration for families, for teachers, for others even in early education and care trying to support these children and their families.

I know from talking to many involved in the care and education of children, the challenges and service gaps identified in the ACT are very real here in Tasmania. Access to mental health services on the north-west and west coast is completely inadequate. As I said, access to trauma-informed care and support is seemingly impossible for many young people. This must change if we are to make a difference in the lives of these children and others at risk of offending. I am sure all would agree prevention is far better than dealing with the fallout of juvenile offending, when early intervention could result in a much better outcome for the young person and their family and our community.

I do note and welcome the additional funding for trauma-informed services for children within our education system, but this is urgent and a significant issue. The lack of specially trained and experienced trauma-informed counsellors and other professionals has made this challenge even greater it seems. You cannot suddenly magic out of thin air those counsellors and others that can provide trauma-informed support. I am sure there is a huge demand for

these people skills. We do need to train our own to ensure we have an equitable distribution around the state of these skills so children right across the state and their families can get support from people specialising in trauma-informed services.

The report further notes:

> [in the ACT] As a result, and only when problems escalate, the tertiary services (e.g., child protection or Youth Justice) will attempt to comprehensively address the needs of these children.
>
> One of the major concerns identified in the consultations was that children aged 10-13 - most affected by the reform - are commonly **not eligible for a range of services** in the ACT. This is particularly true for children under 12 years of age. They are too young to access many of the adolescent services and too unwell or complex for early intervention services, but not complex enough to access specialised services. They may also have comorbidities (e.g., disability and/or AOD or trauma response) that exclude them from key mental health services.

You can see the complexity of the problem here and with any change made we must address these matters to ensure no child is left without the support they need.

Workforce capability issues were also discussed as even in a territory with a better educational outcome than many areas of Tasmania and a larger population where tertiary education qualifications are more accessible, that being the ACT, the difficulties of accessing adequate numbers of specialist staff to support these students was an issue. The report noted:

> They also included significant workforce shortages in key areas, such as allied health professionals available to support children with trauma experiences and emerging mental health challenges.
>
> More is required to develop a **trauma-informed workforce**. The ACT needs a workforce plan, tailored for specific service contexts and including a training and professional development strategy designed to operationalise trauma-informed care principles into practice and build the capacity of the sector to be more collaborative, child and young person -centered and culturally safe. If mainstream organisations set up to support children and families are not taking the lead in working in trauma-informed and culturally effective/sensitive ways, they can inadvertently cause further harm.

That is the last thing these young people need. The report noted a lack of safe and secure accommodation, including crisis accommodation for this age group and a secure therapeutic facility for children in need of mental health treatment who are at risk of harming themselves or others was an issue. I would argue it is also a significant issue and barrier to access of appropriate services for Tasmanian children.

The Australian Human Rights Commissioner's views were partly expressed in the motion as noted in the 2020 paper Review of the Age of Criminal Responsibility. I will quote from this paper as it clearly outlines the case for raising the age to at least 14 years of age. The paper

notes there are many reasons the commission advocates for raising the age of criminal responsibility, including that:

> Many children involved in the criminal justice system come from disadvantaged backgrounds and have complex needs better addressed outside the criminal justice system.
>
> …Raising the age of criminal responsibility would help decrease the rate of overrepresentation of Aboriginal and Torres Strait Islanders children in detention.

The Productivity Commission's latest figures tell us that Aboriginal and Torres Strait Islander youth are detained at a rate of 23 times that of non-Indigenous young people. Research on brain development shows that 10-year-olds have not developed the requisite level of maturity to form the necessary intent before criminal responsibility. Children under the age of 12 'lack the capacity to properly engage in the criminal justice system resulting in a propensity to accept a plea bargain, give false confessions or fail to keep track of court proceedings'.

Criminal offending by children is generally non-violent and more than 50 per cent of crimes committed by children between the age of 10 and 14 are theft, burglary or property-related offences. A snapshot of children in juvenile detention facilities reveals that at any one time over 50 per cent are on remand, not having been convicted or sentenced. Studies have shown that the younger the child is when encountering the justice system, the more likely they are to reoffend.

It would bring Australia into line with its obligations on the Convention on the Rights of the Child, particularly out of article 40 which requires the establishment of a minimum age of criminal responsibility.

To return to the ACT report, I note the following passage in their report:

> Children who commit crime have considerable heterogeneity in their characteristics and needs. They require individualized, in-depth, coordinated support from a variety of services. There are, however, some key characteristics that associate strongly with early offending behaviours, i.e. under 14 years. Previous research identifies the major risk factors for early onset criminal behaviours, including personality or temperament, and early environmental conditions, such as harsh and erratic parenting, early behavioural problems or trauma, history of parental offending and the role of adverse childhood experiences. These factors seem to predict offending more than later risks caused by subsequent changes in the family, school or peer environment. These differences in risks and the time at which they merge are often used to argue for prevention strategies with an emphasis on implementing early intervention services, such as intensive parenting programs.

I have often said in this place and observed in my former profession as a midwife and childbirth educator, that generally the families who most need and benefit from such a program are often the ones most difficult to engage with. They just do not come to childhood education

classes or parenting classes. We need to take a very holistic approach, especially during the first 1000 days of a child's life to ensure all parents and children have the best possible chance in life. We need to be more creative about how we engage and interact with these families, who we know are at risk.

The ACT report further noted:

> If welfare and early intervention services are adequately resourced and well coordinated they can be effective in reducing vulnerability for children at risk of entering the criminal justice system. Based on the complex needs profile they are likely to be multiple service users; however, services often do not exist or are unlikely to be coordinated or tailored to meet children's multiple psychosocial challenges simultaneously. In Australia and comparable jurisdictions, current systemic and welfare responses appear to have only limited impact on preventing early contact with the criminal justice system from escalating into a cycle of incarceration and re-incarceration. Paradoxically, systems mandated to address the psychosocial problems of children with complex needs, such as education, child welfare, youth justice and mental health, continue to operate and be delivered in departmental silos.

I know that currently, this Government is doing a lot of work to try and break down some of those silos and bring some of those together through the strategy. One would hope that we may not be facing all the same trials as the ACT is with some work being done in this space. I hope that the Leader will speak to that in her contribution.

Sadly, I still frequently hear accounts of an inadequate Child Safety Service, failing the needs of some of our most vulnerable children and families. Clearly, more needs to be done here in Tasmania. The ACT report states that it is still an ongoing problem in the ACT -

> Australian and international evidence shows a strong overlap in children involved in the youth justice system and child protection services, perhaps unsurprisingly; children in the child protection system share the same risk factors as those in youth justice. Specifically, Australian data show that children in the child protection system are 12 times as likely as the general population to be under youth justice supervision. Similarly, children under youth justice supervision are 12 times more likely than the general population to be in the child protection system. Non family-based out-of-home care (residential care), is a particularly strong predictor of a child's involvement in youth justice.

We know what the challenges are; we know what the flags are. It should not be a surprise. We do not need to reinvent the wheel; clearly, a lot of the work has been done for us. The report also notes that recent Victorian and South Australian research indicates that Aboriginal and Torres Strait Islander children in the justice system appear to have experienced greater cumulative adversity than non-Indigenous children. None of us would be surprised by this tragic finding.

The report also provides information regarding the characteristics of children who engage with the justice system. I will list these, as it clearly highlights the need for a holistic and coordinated approach if we are to deal with them. Characteristics of these children include:

engagement with child protection; a history of domestic and family violence; child development and intellectual disability; childhood trauma; sexualised behaviour; mental health concerns; moderate to extreme school behavioural concerns; and having been suspended or expelled from school. For most children this related to violent, threatening behaviour towards teachers or peers.

This report is very comprehensive. I commend the whole report to all those with an interest in this matter. It may help prevent us reinventing the wheel or calling for unnecessary research. These children and their families need holistic approaches to harm prevention, support and restorative measures, as opposed to punitive measures where appropriate. The failures exposed in the ACT report and the matters that must be considered in tandem with raising the age of criminal responsibility, I believe are reflected in the Tasmanian experience. These changes to our systems would need to be implemented with or before raising the age of criminal responsibility to 14.

I believe both can, and must be, achieved. The ACT report also contains many recommended actions, some of which Tasmania is already working on or has in place, which is positive. We must not continue to fail some of our most vulnerable children. When working as a midwife, I and my colleagues would often feel anxious, sending some babies home to a situation where the risks were real and access to very necessary services were limited or non-existent. It was heartbreaking. It was only a matter of time till we saw those children readmitted to the children's ward as a so-called failure to thrive, or some other matter. As a society, we must do better.

Speaking specifically to point 4 of the motion, which calls on the Tasmanian Government to do certain things, I support both these aspects but suggest much more than this needs to be done. The ACT report provides significant guidance on this matter. I urge the Government to fully consider the report and what actions are needed prior to, and I hope, after supporting the intent of this motion. I will close by quoting part of the report that identify the failings, as it is vital these matters are addressed in Tasmania, whether or not we raise the age of criminal responsibility. I quote:

> It was strongly acknowledged that responding adequately to children who may be at risk of harmful or unsafe behaviour requires a coordinated and more integrated response. The barriers identified in the literature were reflected in stakeholders' descriptions of the barriers preventing children and their families from accessing effective responses across the service system. They pointed to a lack of coordination and integration across the service system, including: ineffective information sharing; a lack of capacity to work with children with a range of needs; a lack of specialised and generalist programs; types of service delivery modes that lack flexibility; complexity in navigating the system; limited understanding of child-specific familial and cultural needs; limited understanding of what services are available; and long waiting lists for specialised services. Across the consultations, stakeholders repeated that the demand for services outstripped the availability.
>
> A view held across stakeholder groups was that there is not enough screening or identification of responses to younger children. Rather, the system is responding to crisis and focuses on those who are already in the youth justice and child protection systems.

> More proactive methods of identification and intervention for struggling children who do not yet meet the criteria for mental illness are required, and support is necessary while waiting for a diagnosis that will hopefully provide access to help.
>
> There is a widely held view that the existing service system remain siloed, fragmented and difficult for vulnerable families to navigate, particularly given long waiting lists and strict eligibility requirements. There are also limited services that are culturally safe for Aboriginal and Torres Strait Islander children and families.
>
> Early wraparound (multidisciplinary) support and parenting education for children and their families working together is also required. … Identifying and intervening earlier by responding to children and their families' needs, including the impact of intergenerational trauma, is essential. This is where the root of the problem often lies.
>
> Many stakeholders described (and identified as a risk for raising the age) the problem that access to secondary or specialised services was dependent on a child's presence in either the child protection or the youth justice systems.

They should not have to get there to get these services.

One stakeholder said - 'if services can be delivered in the youth justice system they should be able to access them in the community'. Another said - 'kids shouldn't have to get into trouble to access support, and by the time they are it's too late'.

> Mental health services were repeatedly identified as a gap in the system. Stakeholders made the point that because mental health services do not class trauma as a mental health issue, healing from trauma remains an unmet need for many children.

We must understand trauma and the impact much better.

> They also point to a lack of in-patient mental health services that are designed and equipped for adolescents who display harmful or challenging behaviour. Currently children are treated in adult mental health facilities or sent interstate for in-patient mental health treatment because of the lack of services in the ACT.

That has been the situation in Tasmania too.

> The consultations identified a further significant gap, that of violence services/ treatment for children in the age group, noting that children are often both victims and perpetrators of domestic and family violence. Children frequently come into contact with police and the youth justice system because of their violent and antisocial behaviours, but they are left without holistic support to address these behaviours.

> Other specific issues included the ability to attract and retain professional and specialised staff, such as psychologists, leading to a reliance on private sector clinicians.

The associated cost is outside the reach of many of these families.

> Other workforce gaps identified include limited availability of specialised practitioners to respond to children with trauma-related behaviours; children aged 10 and over who are developing mental health challenges; and children experiencing harmful sexualised behaviours and violence.
>
> A range of stakeholders identified the need for safe accommodation for children. They emphasised that this will be intensified by the change to the age of criminal responsibility.

Aspects of the lack of safe and secure accommodation included: there is a lack of after-hours and crisis accommodation options that can respond to children aged 10 to 13 years who, for example, are unable to go home; and police may lack adequate options, as it is likely they will continue to be first on the scene. A small group of stakeholders identified the need for a secure, locked therapeutic facility. They highlighted how the Children and Young People Act 2008 outlines the capacity for therapeutic protection orders but no facilities to enact those orders. For continuous reoffending there might be a period where children need to be in another type of secure setting. UK models for secure training centres were suggested that keep children safe and the community safe but they are also therapeutic to support healing. There is a lack of safe housing options for children at risk of homelessness, a risk factor for harmful behaviour.

Early identification and intervention are the key, and identifying the underlying determinants is essential to the wellbeing of the child. As the report noted, whether we are responding to children or parents' needs in the early years through health and parenting programs, or we are employing effective health screening at school aimed at spotting and responding to learning difficulties, disabilities and parenting stress, identifying and responding to needs early can improve outcomes, reduce future risks and tackle future social problems. Early intervention has been shown to achieve, at relatively modest cost, changes to prevent harms that are very expensive to remediate.

Furthermore, we know that trauma plays an enormous part in this area. Only in recent years are we becoming aware of the full extent of trauma-related impacts and the need for trauma-informed support and programs. Not all children or young people impacted by trauma end up engaging with the justice system but almost all those who do are impacted by trauma. More work is needed to reduce the organisational barriers employing integrated trauma-informed care and ensure that teachers, practitioners and others have the skill to respond effectively to trauma.

In the ACT report they noted that trauma-informed care and the provision of trauma-focused treatments are not the sole responsibility of one sector or service. Every program and service system that touches the lives of children can play an important role. Reforming the service system provides an opportunity to embed a shared understanding of trauma and the impact it has on a child's learning, behaviour, relationships and feelings. Operationalising trauma-informed care into practice is also crucial as this builds this knowledge into policies

and procedures. In the absence of trauma-informed care and response, services are at risk of inflicting further harm on children and families.

There is a lot of information there but it does really provide the information that the Government needs to consider. Not just if and when they raise the age - and I hope they will support the intent of that - but regardless these things need addressing. They will particularly need addressing to fill that gap between the age of 10 and 14 if this motion flows through to legislative reform. I support the motion and I also support recommendations made in the ACT report as without significant reform in this broad area we will not serve the needs of these children, their families and our communities.

I commend the whole report to the Government for guidance and direction on how to implement the necessary changes not just when the age of criminal responsibility is raised but now to provide adequate support and preventative measures to those children who are currently engaged in the child safety system and the justice system as well as those who will hopefully be supported outside of those systems.

My final comment is this quote from the report:

> Based on the findings of the current review we argue for taking the legislative change as an opportunity for comprehensive systems reform. Unless broad-ranging service reform is undertaken neither the legislative change nor the proposed therapeutic response will result in better outcomes for children. Therefore, the findings identified in this report should be used not just to 'tinker' by adding a few more services, but to strengthen the system's responses to children and their families to better match their needs. This involves building a stronger, more coordinated system with a focus on early identification of problems and universal support responses. It requires a system that takes on a shared responsibility for children's wellbeing and safety. In the absence of systems reform the legislative change is likely to result in failure to meet children's needs but also to drive an increase in reporting to child protection services and, ultimately, to more children entering the justice system at the age of 14.

None of us want to see that happen.

[4:49 p.m.]

Mr GAFFNEY (Mersey) - I do appreciate the thorough and detailed presentations on this issue by the member for Nelson and the member for Murchison. I rise, perhaps for not quite as long, to support the motion of the member for Nelson.

Across Australia children as young as 10 are being held criminally responsible for their actions. They are being arrested, held in remand, prosecuted and incarcerated. In doing so they are being separated from their support networks, their families and their communities. I wish to address a few of the points raised by the member for Nelson. In January 2021, the United Nations Human Rights Council's Universal Periodic Review led to 31 UN member states calling on Australia to raise the age of criminal responsibility.

The Executive Director of the Human Rights Law Centre, Hugh de Kretser, described Australia's low age of criminal responsibility as out of step with international standards. The

United Nations Convention on the Rights of the Child calls for the minimum age of criminal responsibility to be 14 years or older.

The Independent Expert on Children Deprived of Liberty, Manfred Nowak, noted to the UN General Assembly that:

> Depriving children of liberty is depriving them of their childhood. The large number of children in detention is a result of the lack of adequate support for families, caregivers and communities, to provide appropriate care to children and encourage their development.

In looking at the international stage we can see there have been no negative consequences in terms of crime rates across the European Union in countries which have the minimum age of criminal responsibility of 14. In fact, the average minimum age of criminal responsibility internationally is 14, putting Australia clearly on the outside of best practice.

Whilst these international comparisons do not in themselves mean that Australia must raise the age of criminal responsibility, they act as a clear demonstration of the feasibility and impacts of how raising the age has supported youth. Many of these countries experience low incarceration rates for older youths, supporting the evidence that avoiding early contact with the youth justice system reduces the risk of a child becoming entrenched in that very system.

The member for Nelson further moved that the Legislative Council notes that the evidence demonstrates that a child's brain is still developing the ability to reason, manage impulses and think consequentially at 10 years of age. Our understandings of developmental psychology and the cognitive capacity of children have been infinitely deepened in the past few decades. The prefrontal cortex is the region of the brain responsible for executive functions including impulse control, managing emotional reactions and predicting the consequences of one's actions.

Research shows that the prefrontal cortex does not finish developing until 18 years of age. As a result, early to mid-adolescence is a highly vulnerable period where children experience increased risk-taking behaviours. We now know that children aged between 10 to 14 years old are more vulnerable to peer influence, have limited ability to recognise emotions and a limited ability to plan into the future.

The lack of cognitive capacity of 10-to 14-year-olds to understand the implications of their actions has significant consequences on the judicial processes that occur to sentence them to detention. Young people are more likely to falsely confess than adults or to be influenced by others when making decisions about how to plead and interact with judicial officers.

Without a fully developed prefrontal cortex, youth have severely limited attentional capacities and intellectual functioning which in turn affects their ability to follow and understand complex legal proceedings. As noted in the paper, The Age of Criminal Responsibility: Developmental Science and Human Rights Perspectives, this does not mean that young people bear no responsibility for their behaviour but rather they may be less responsible.

We should be creating a justice system that allows for early intervention and prevention for young people aged below 14, based on an understanding of science and best practice. As noted in the ACT's raising the age final report released in August 2021:

> Pre-school programs and providing age-appropriate interventions based on cognitive behavioural therapy are the most cost-effective developmental crime prevention approaches. … The younger the child is at intervention, the more effective it is likely to be.

Without labouring the point, needless to say, the evidence indicates that children lack the essential components of criminal responsibility in both behaviour control and moral awareness. The current medical understanding of the cognitive development of adolescents strongly supports the raising of the age of criminal responsibility to 14 years.

Finally, the member for Nelson noted that younger children, when encountering the youth justice system, are more likely to reoffend and that many children who encounter the youth justice system come from disadvantaged backgrounds.

A research paper of the Australian Institute of Health and Welfare in 2019 found that of youth between 10 to 17, sentenced between 2000 and 2018, 41 per cent of those youth returned to supervised sentences before turning 18. Of those in sentenced detentions, 59 per cent returned to detention within six months and 80 per cent within 12 months. These are staggering rates of reoffending. If we go another level deeper, we see the disadvantaged youth and Indigenous youth are at increased risk of being drawn into the youth justice system at an early age. As stated, Aboriginal and Torres Strait Islander youth are more vulnerable than their non-Indigenous peers, from ongoing impact of trauma, dispossession and racism. Indigenous youth make up only 16 per cent of young people between the ages 10 to 17 and yet they make up over 50 per cent of those in youth detention. Indigenous youth are detained at 23 times the rate of non-Indigenous young people. More broadly, experiences of family violence, homelessness or drug and alcohol abuse are all factors that increase a child's probability of encountering the youth justice system. Once undergoing a criminal trial, the process itself is traumatising for young children and may lead to the child developing an internalised deviant identity. As highlighted in the ACT report, supporting the development of children requires early and sustained attention to the range of different life domains. There is a need for a stronger focus on early and coordinated support. At the time children interact with the youth justice system, their unmet needs have often multiplied and become more complex. The separation of the child from their community, cultures and support networks further serve to entrench criminal behaviours in young people and they continue to reoffend as they grow older.

These statistics speak for themselves. By allowing youth to become entangled in the criminal justice system so young, we are perpetuating behaviours into what can become a lifetime of offending. Tasmania is already taking steps in the right direction towards a therapeutic understanding of justice for our young people. This is evidenced by the Government's announcement of the closure of the Ashley Youth Detention Centre in early September this year and by the dedicated funding in the state budget this year towards diversion and intervention strategies for at-risk youth, such as those who are homeless or experiencing mental health challenges.

As pointed out by Australian criminal lawyer and child advocate, Shahleena Musk, increasing the age of criminal responsibility would create more chance to intervene before

children become institutionalised, and this means more investment in prevention, rehabilitation and community-based programs. Tasmania is well placed to do these things. In November 2019, the then federal Attorney-General made it clear the issue of raising the age of criminal responsibility is primarily a matter for states and territories. Whilst the Council of Attorneys-General still have not released their report, resulting from their 2018 investigations into raising the age, I do not believe, as the member for Nelson, this is a reason to postpone the conversation. At this point it is time to consider the words of Youth Law Australia's senior solicitor, Meredith Hagger:

> Indeed, it needs to be remembered that this inaction is decades old and that children's rights advocates have been calling for this change for a very, very long time.

The plight of young people under the current age of criminal responsibility is not a new concern, nor will it be the last time we hear of it in our parliament. Dozens of submissions have been made over a number of years by legal, health and youth experts, raising concerns over the lower age of criminal responsibility. The number and detail of these submissions are evidence this is an area of law reform the community feel incredibly passionate about and are well supported by research, data and anecdotal experiences to comment on. We are failing our young people by placing them in detention for years on end and exposing them to the youth justice system before they have the opportunity to develop both socially and cognitively. For every year this reform is postponed, more of our young people are entrenched in the youth justice system and consequently increasing future crime rates. However, there is a caveat on this discussion, the conclusions of the ACT report note that:

> The findings identified in this report should be used, not just to 'tinker' by adding a few more services, but to strengthen the system's responses to children and their families to better match their needs.

We have the opportunity, as has been stated, to be leaders in Australia by reforming these laws and ensure the youth of Tasmania receive the care and support they need to be successful members of our society. To do so we must view youth offending in a holistic sense so we can truly address the root causes of their offending. I would like to conclude with a comment by Mr William Tilmouth, an Indigenous man, member of the stolen generation and chair of the Aboriginal community organisation, Children's Ground. He has spoken on many occasions of the impact his being held in detention as a youth had on the rest of his life. I believe this simple statement captures the essence of what we are trying to raise here today. He said:

> We need to empower these children and work with their families. Part of that is giving them the chance to mature. They have not learned life lessons as the age of 10.

I sincerely support the member for Nelson's motion to raise the age of criminal responsibility from 10 to 14 in Tasmania. I hope the Government takes this opportunity to be the first state in Australia to do so.

Ms LOVELL (Rumney) - I would like to thank the member for Nelson for bringing this motion to the Chamber. This is an important debate. I think that, as a number of members have indicated, there is no better time for us to be having this debate in light of the opportunity we have before us, here in Tasmania at the moment, for some really significant and important

reform in the area of youth justice. I will say from the outset I will be supporting this motion. I am pleased to be able to speak. I am not going to speak at length because other members have done an excellent job of canvassing much of the evidence. Indeed, the member for Nelson has covered much in her motion and contribution. I am not going to rehash the same data and the same information, but I do want to talk about why I think this is an important motion and an important step for the parliament.

One of the key things we need to acknowledge is this proposed change to raise the age of criminal responsibility is not about not holding young offenders responsible. I know that is something of a concern raised. It is not about saying children who offend or undertake criminal behaviour will not be held responsible. It is about making sure the way they are held responsible is a way that is appropriate, that it is focusing on trauma-informed responses that will better support those young people and rehabilitate them and discourage them from future criminal behaviour.

As we have heard today and as we know, there is vast evidence that shows us the younger a child or a young person is when they first offend, and have that first interaction with the youth justice system, the more likely they are to have future interaction and the more likely they are to have interaction with the adult justice system. We cannot continue with a system that sets people up for a life of crime, a life of interactions with a system that does not support people.

Mr Valentine - It becomes a way of life, doesn't it?

Ms LOVELL - It does, it absolutely does and it entrenches that. Not only do we have a youth justice system that does not support and rehabilitate people, but we have an adult justice system that does not adequately support people. If we want to focus on the end goal for anyone, nobody can argue that a safer community is not something we all want. That is probably a debate for another time.

It is a time where we have an opportunity to have some really significant and important reforms. We have had the announcement of the Ashley Youth Detention Centre, a very welcome decision made by the Premier to close that centre and to open alternative centres. While we are yet to hear the detail on what model those centres will operate under, I hope sincerely the Premier consults broadly with experts in this field and makes sure we grasp this opportunity to get this right. This is a moment where we do have a moment in time to have a system that better serves young people in Tasmania. But this will be the system we will be dealing with for many years to come and we need to make sure we get it right.

As I and other members have noted, evidence shows the rate of people who end up in the adult justice system after being in the youth justice system is far too high and the younger they are when they first offend, the more likely they are to reoffend. There cannot be any stronger indication our system is not working. Our systems are supposed to be about reform and rehabilitation, about discouraging people from future criminal behaviour. It is just not how it works in reality. Is it any wonder? The justice system, as outlined by the member for Mersey, with all the legal jargon, formalities, uniforms, the sterile environment. I imagine that kind of environment would be incredibly intimidating for an adult. I would find that intimidating, let alone a child.

How on earth can we expect a child to be open to rehabilitation and support, even if they are on offer in an environment like this, when we know especially that the vast majority of

young offenders come already from a background of significant trauma? A key question we have to be asking is what is happening in the lives of children who commit crime? What is driving them to this behaviour? We need to do so much more so much earlier. There are so many opportunities for earlier intervention touchpoints in the lives of children and their parents where as a state we can be intervening and offering support that would put people on a path that can be quite different than might otherwise be available to them.

We know there are high proportions of children in the justice system who have suffered significant trauma, high rates of fetal alcohol spectrum disorders. This highlights the need for adequate resourcing and we cannot pass this motion without noting that. In order for these reforms to work, to be effective, we need to make sure that our systems are adequately resourced. We need to be investing in our children and young people. We need to be focusing as you yourself noted, Madam Deputy President, we need to be focusing on prevention and early intervention making sure that we have adequate mental health support for people in the community. Support for parents and families at infancy, before conception, right back as early as we can. There are so many opportunities for intervention where we can be better supporting our communities.

I know there has been some, I would not call it opposition, some reluctance, some hesitation about states and about Tasmania taking action on this on our own, and a push for a national approach. I know that has certainly been the position of the Government up until now. I would argue, as have many others, that a national approach is not necessary. We know that we are dealing with state-based legislation. We know other jurisdictions are making moves already and it is simply not good enough to argue that we need a national approach when so little progress has been made. The member for Nelson has described what is happening with the Council of Attorneys-General and that it has all, in fact, ground to a halt. We cannot wait for that. Tasmania has an opportunity before us now and we need to grasp that opportunity.

On a personal level, my daughter is 10 years old. She is still losing teeth, sometimes she has nightmares that keep her awake at night. She likes to play games that come entirely from her imagination. She still questions her belief in many things that I consider illogical. Her brain does not work the same way that mine does or even the same way the brain of a 14-year-old would. She does not reason the same way, she does not have great impulse control. She is very much driven by her emotions and I am not looking forward to her teenage years, I can tell you that now, as she struggles at times to keep them in check. I have watched her grow and develop for the last 10 years and I can see now that at the age of 10 she is impulsive. She loses her temper, she can be irrational and she can be emotional.

Many years ago, in my late teens and early 20s I spent a number of years volunteering for St Vincent de Paul and Edmund Rice Camps working with children from varied backgrounds. Primarily, the role I volunteered in was going away on overnight camps with children in the school holidays. Children who, for lots of different reasons, would not normally get the opportunity to go somewhere in their holidays. We would go away with groups of 20 or 30 young people and spend two or three nights with them.

I saw lots of young people from very varied backgrounds up to the age of 12 or 13 and a little older. I saw many differences amongst those children, many differences between those children and my daughter, as I see between my daughter and her friends. I saw many similarities in how they were able to reason, their impulse control, the level if logic that those children had, the things that they would understand that I would not understand and vice versa.

I look at my daughter and I think about those children I have worked with in the past and I just cannot fathom how anyone could expect children as young as 10 or even 11, 12, 13 to have the capacity and the reasoning to be held responsible for their actions in such a permanent and drastic way. In a way that does not support them to grow or to change and in a way that can impact on the rest of their lives.

As other members have noted, I thank the many organisations and people who have advocated for this change over many years now. In particular, I thank Amnesty International and the Southern Tasmania group, who I have met with on a couple of occasions. I thank the Commissioner for Children and Young People, as well as Rodney Dillon, who came and briefed the Legislative Council, and a number of other organisations. I know the member for Nelson has tabled the letter that was sent to all of us yesterday with a number of names of members of the community and organisations who support this. I acknowledge all of those people for their advocacy on this issue. This is an issue that touches a number of people quite broadly in the community and I thank them for their advocacy.

The last point I want to make on this is that I really hope the Government listens. We have all seen motions in this place go nowhere and this would be such a missed opportunity, that right now in Tasmania is the prime time for this to happen, for this critical reform, in light of everything that is happening in our state at the moment. We have seen the launch of the commission of inquiry just this morning and heard even this morning some deeply concerning allegations and issues being raised about our youth justice system through that process.

This is a chance to make a real difference in the lives of vulnerable children and young people, a difference that can change the course of their lives. The question for all of us is what do any of us have to lose from that?

Mr WILLIE (Elwick) - Thank you, Madam Deputy President, I thought I would rise to make a short contribution. I did spend nearly four years as a shadow minister for child safety and youth justice and you cannot spend time in that role and not appreciate the difficult circumstances many of our young people in Tasmania find themselves in through no fault of their own.

If we are going to get tough on crime, you need to be smart on crime, and whilst this will not be a silver bullet on its own, it will, I think, address some of the causes of crime. It will give kids a new opportunity. Many of the kids I have met through my time in this place, and as a teacher, as a volunteer mentor for Whitelion, come from broken backgrounds. They have had adults let them down, they have had institutions let them down and they need a chance.

This is not about avoiding responsibility. In fact, it is probably harder for young people to go through that personal growth, to accept the services that may become available to them and to change their behaviour and to find a new path that they are not familiar with. That is hard. So, this is not about not accepting responsibility for their actions. There is absolutely accountability in a measure such as this and a new design in service delivery to assist young people and it will make our community safer. That is a fact.

If you take out the emotional and social arguments, there is an economic argument. We heard in the briefing from Rodney Dillon that incarcerating someone for a lifetime costs $6 million. What does it cost to intervene early, to help a young person change their path, their

direction, to become a contributing member of society? I suggest it would be a lot less than that. Why do we not do it? It is a waste of human potential.

As I said to the Commissioner for Children and Young People in our briefing, it is great that we can consider these sorts of measures. As a teacher I know from my time - and we have another teacher in the Chamber - that there would be a red flag for a lot of these kids in the education system, well before they get to the youth justice system. There have been system failures in their life, as well as adults who have failed them and we are not intervening in the school system either. We are identifying all of these kids through testing, through assessments, through cognitive assessments with specialist staff and we are not doing anything about it in many cases.

Too many kids are moving through school and they do not develop foundational skills, the ability to be able to read, engage with the curriculum. About 1500 kids every year reach high school without adequate literacy levels. I guarantee most of the kids in Ashley do not have adequate literacy levels. I was fortunate actually, in my time as the shadow minister, to visit Ashley two or three times and I have to say it is a pretty grim place. You walk through a cage to get in there. One bright spot in Ashley is the school and there are many young people in Ashley who are re-engaging with school in Ashley because they are getting the services they need and the support to do that. But aside from the school, there is not much else happens in that place. You have teenagers locked up in their room for long periods of time. When I was there there was a traffic light system. I cannot understand how you can keep boys and girls in a confined space, with pent-up trauma backgrounds - a whole range of things have happened in their life confined to a space like that without many productive things to do, so how that is beneficial to them or society? It is not. We know Ashley is a failed model. The Government has recognised that. Yet, at the same time the Government is saying, well, we are quite happy for 10-year olds to be held criminally responsible. We might send them there in the next few years, even though we are saying that model is not fit for purpose any more for any child. Potentially, we are still going to be happy to send 10-year-olds there.

Mr Valentine - They might change their mind when they see this and hear it.

Mr WILLIE - I just want to add my voice to support this measure. It is embarrassing also for us, a country like Australia, to go to the UN and have 31 countries chastise us. The member for Nelson did not put it in that way, but I am sure some of those recommendations were very direct. We are a wealthy country, we should be able to provide a better life for many of our citizens. That is a government choice. This is a choice. This is one step on the way to, hopefully, some good reform. I hope the Government listens. I hope the Opposition support actually paves the way for the Government to be braver in this space. Hopefully, we can see some change soon.

Mr VALENTINE (Hobart) - I, too, want to thank the member for Nelson for organising the briefings and the Leader also. It is a very interesting area. There is no doubt we can certainly do better when we are dealing with our young people. Restorative justice is what we are talking about at the end of the day for young people meeting the justice system. That is exactly the same for adults really. That is what we need to be concentrating on. Locking people up simply makes them angrier. At the end of the day it makes them a different person.

We referred to the statement about the global median being 14 years. I do not know whether people understand what median is. It is not average, just a very short thing. If you

have 151 countries, you line them up in order, from the least to the greatest age they have for criminal responsibility. Then you pick the middle country. Whatever value that middle country has is the median. It is like the median strip in the road, it means between. It is not the mean. If you add them all up and divide them by the number of countries, then you get the mean. It is the median.

There will be other countries, no doubt, that indeed may have the same age as Australia. But quite clearly, we are behind the trend of the totality of countries, because the median is 14. We are four years behind that. Some might be up as high as 17. I note the supporting letter. It is very interesting to see the names of those people as read out by the member for Nelson. I know probably half of them personally. The first one on the list, Professor David Adams, Professor of Management, University of Tasmania, was actually in charge of the policy and planning unit when I worked for the department for Community Welfare, emphasis on the for. It was a big debate in those days. You know we are here for the community, it is not the department of. Professor David Adams and Chief Magistrate Hill, Rodney Dillion - you could not find a more down to earth character than Rodney Dillion. Our children's commissioner, Leanne McLean, so committed to task.

I spent four years with Community Welfare and put the first computer network in at Ashley and had quite a bit of time up there. During that time, I was able to observe the kids, talked to some and you realise how different their life experience has been compared to someone like myself. You start to realise a place like Ashley is simply preparing them for what some would call the big house. It becomes a way of life for them because mum or dad does not care, do they? What else have I got to live for, it is that sort of thing. Mum and dad probably do care, but the child may not think that because they are in there getting dealt with in the way they are.

In working with staff at Ashley, back in the late 80s there were a lot of people up there with really good intentions. They really wanted to see those kids fixed. But unfortunately, the system does not really allow that to happen in such a positive way all the time. There might be some successes, there might be. But I have to say when I was there and I was just looking for a telephone line to put the computer system on. I said 'what about that one there,' because we needed to connect it to the computers in Hobart. They said 'you can't use that.' I said 'why can't you use that?' Because if a kid escapes, we have an alarm on that. I said, 'what do you mean you have an alarm on that?' They said, 'it rings down in the town hall in Deloraine to let the town know that someone has escaped.' Drilling down a bit further in that, the kids used to play games with it. They used to see how far they could get when they escaped before the alarm rang. It was a game to them.

But, we are talking about young kids. Young kids should not be in that sort of an environment, they really should not. I remember when I was lord mayor back in the 2000s, the first decade of this century, we used to have the youth activities resource centre and it was there to assist kids doing it tough - they were problematic and it basically gave them an opportunity to do activities that tried to focus them, give them opportunities to look at VET courses and all of those sorts of things. And I learnt during that time through the community workers who were there on the ground. There was one group of kids out on the street and living rough, they were living in someone's garage and the youngest was six years old. No mum or dad anywhere near. A six year old, possibly with an older brother. You think of those sorts of kids and you think it is inevitable they are going to end up meeting the justice system somewhere along the line.

It is really important when we are dealing with kids we are not putting them into an incarceration circumstance going to end up shaping their lives forever. I noted some of the comments made by Rodney Dillon, when he came to talk to us. He said, 'kids don't need to be in the prison system. They deserve to be with their families'. He said, 'there is not one skerrick of evidence that locking kids up works. This is about having a place where kids are not fit to be.' He was talking about Ashley. 'Kids need therapeutic help.' Another statement - 'it is about smart justice, it is about being human. They don't deserve to spend a lifetime in prison.' Then he made a statement that I felt. He was talking about going to Ashley and visiting some of the Aboriginal kids that had fallen into that system, and he said, 'when you turn around to walk out, kids' eyes burn into your back as you leave'.

It is important that Indigenous kids can be dealt with effectively by their own community. There is a real opportunity there, to rescue them from the system. A 10-year-old should not be incarcerated. There is no question about it.

I looked at the recommendations in the Tasmanian Custodian Inspector's Annual Report 2019-20, in relation to Ashley Detention Centre. I will read a couple of recommendations, to set the scene:

> That CT [Communities Tasmania] provides a private space in each unit at AYDC [Ashley Detention Centre] to afford appropriate privacy for young people to make telephone calls. Additionally, a telephone system with the ability to record calls similar to those being used in other jurisdictions should be considered.

That is the recommendation from the Custodial Inspector. You think about that, about a young kid who wants to talk to his family. Those opportunities need to be made available. You can imagine what that conversation might be like. The response to the Custodial Inspector's report was:

> As previously noted in response to the Custody Inspection Report, limited private spaces within residential units are available for young people to make telephone calls. In the event of a sensitive telephone call being required, a young person may be provided with use of another professional room within the centre. Additional spaces are being considered as part of a planned infrastructure upgrade.

They do not have enough spaces to make it happen; but recording of telephone calls is not supported. You can imagine these children. They want to communicate, and yes, they have a space to be able to do that; but they are on their own. They are young. They are in this state of tension and stress.

The recommendation is:

> that CT considers implementing video visits for young people at AYDC by means of communication tools such as Skype and FaceTime to further facilitate family and community contact.

The response is, 'this will be considered as part of the infrastructure commitment to AYDC'. The update on that is, 'it is now in operation'. They could not do that, not very long

ago. They could not connect with their family. The isolation that causes. These kids are on their own.

> That CT updates the visiting facilities at AYDC, including by providing an outdoor visits area to make visits more relaxed and family-friendly.

You go into Ashley and you go through security. All the time you are there, you are aware of the mechanisms around you, keeping those kids in place. You are the adult and here are these kids, and all this stuff around you is to keep them in. The spaces they are allowed to access can only be accessed in very controlled circumstances. Again, you think of your own kids and think, I would not want my kids here.

> That CT considers providing a secure electronic form of communication for young people at AYDC, such as the Email a Prisoner system.

This is Communities Tasmania's response -

> CT acknowledges the importance of email as a relevant and timely means of communication for young people. There is currently no infrastructure capacity to facilitate a secure electronic form of communication for young people at AYDC.

Everyone has access to email, but not there. It will be considered as part of an upgrade. This is in 2019-20.

> That CT considers, including in case management records invitations to families, significant others and community supports to participate and have input into young people's case management and exit planning meetings.

The response there is quite a caring approach, if you read this in part -

> Case Management hold regular meetings with residents, inclusive of Case Plan Reviews and during Exit Planning. Exit Planning sees invitations to many stakeholders, including family, government and non-government connections.
>
> Case Management note the attendance and content of these meetings and any other relevant discussions, such as a resident complaint. In addition, such information, including electronic emails/invites, are stored within the Youth Custodial Information System for the purpose of auditing, in line with quality improvement work.
>
> Family and significant others are immediately advised/consulted, when a young person is admitted to the centre and encouraged to attend and participate in conferencing and other decision-making processes.
>
> Travel reimbursement options are made available to parents/guardians in the form of fuel reimbursement cards or bus travel vouchers.

There is a caring approach, but it's the sheer atmosphere that is created by having all of these children, with all these different and quite complex problems, inhabiting the same space. They learn from each other, and it may often be detrimental to their individual pathway. They are entrenching bad habits that they learn from the older kids, pointing them to a streetwise existence. We do not want our kids, those young kids, starting a life like that.

Yes, they have had a rough time. Their parents, in a number of cases but not all, may also have been in touch with the justice system and they may develop in that child a disrespect for justice. We all know that; but it is about breaking the cycle. You cannot break the cycle if you start so early on the incarceration path. That is what it comes down to. I consider the care paradigm does work better, in my own experience from seeing that. I am sure Rodney Dillon is right when it comes to how to deal with Indigenous kids. Facilitate their community to work with that child in spaces where they can teach culture and they can teach children respect and the like.

It is easy to say all this but it is really important - and I think the member for Nelson mentioned it - to note that it is policy first. You have to have the policy, then you also have to have the programs in place. There is not much point in saying, let us do this - bang, yes, it is now 14 - if you are not prepared for it. It has to happen in a very organised way. I am sure the Government, if they consider this, will be wanting to make sure there are programs in place to deal with children like this. They must spend the money. It is far cheaper than keeping them in custody and it can only have better outcomes, to my mind.

Part of that report I was reading from, the Custodial Inspector's Annual Report 2019-20:

> That CT considers ways to increase the participation of young people at AYDC in community activities outside of the Centre to strengthen their connections with community.

The response to that:

> AYDC regularly considers ways to increase the participation of residents in community activities. The Manager of Professional Services and Policy met with the Centre Manager and key staff on 11 September 2019 to determine the strategic pathway for programs for the 2019-20 year.
>
> Strategic partnerships are sought and/or retained with Colony 47, Save the Children, Deloraine Football Club, the Tasmania Police Early Intervention and Youth Action units.
>
> AYDC is currently working with the Manager, Skills Response, Department of State Growth, for apprenticeship opportunities for residents.

It goes on, gym instructor courses and those sorts of things. There is also a heap of other strategies. Some of that research, which the member for Nelson included in her offering, ought to be considered as well. No-one is saying it is easy, no-one, and there will be times when the system is tested. There is no question.

I printed out a Parole Board decision and this applicant was initially sentenced to imprisonment for the term of his natural life as a 15-year-old -it means he probably committed

the crime when he was 14 - following his conviction for three murders. That was in 1990 when he was sentenced. Under that sentence, he was granted parole on 27 August 2012. He had 21-and-a-half years behind bars. Sometimes, you get young people who do dreadful things.

There need to be really good programs to deal with someone like that. Reading down, with part of the consideration it is noted that this applicant identified - and he was later convicted of drug crimes as well - that his drug offending behaviour arose as a result of his engagement with pro-criminal associates who he had developed relationships with while serving a sentence.

You do not improve people's lives by incarcerating them. It makes them harder. It reduces their opportunities. It costs the community.

I fully agree with the motion and encourage the Government to very definitely consider and to implement this, bearing in mind there will be some exceptions. I know people do not want exceptions but they are pretty tough. There has to be some opportunity to deal with the exceptional when it comes to some of the crimes, whether it is sexual crimes or whether it is those sorts of crimes that I have just read out, because there are victims associated with it. We all know that we cannot ignore the impact on victims.

Overwhelmingly, the statistics that were read out, the statements that have been included in *Hansard* now by those who have had long experience in this area, certainly need to be taken on board and the Government needs, most definitely, to consider the 14-year age limit. The member's statement says, at least 14. I am certainly supportive of 14 and would be interested in debate if it comes back, as to whether it ought to be more than 14. I support that.

Ms ARMITAGE (Launceston) - I thank the member for Nelson for raising this matter. Many arguments exist as to how lower ages of criminal responsibility entrench the disadvantage of already disadvantaged groups of people.

In the Australian context, for example, the Australian Human Rights Commission emphasises that raising the age of criminal responsibility would help to decrease the rate of over-representation of Aboriginal and Torres Strait Islander children under youth justice supervision and detention.

The AHRC also states that Aboriginal and Torres Strait Islander children aged between 10 and 17 are 17 times more likely to be under supervision than non-Indigenous children. The reasons for this over-representation, according to the AHRC, include legal and policy factors, socio-economic factors, cultural displacement, trauma and grief, alcohol and drug misuse, cognitive disability and poor health and living conditions.

Would it not be logical to target issues like drug and alcohol misuse, poor health and living conditions? Perhaps lowering the age of criminal responsibility would be one lever of many that needs to be recalibrated to have better results for youth offenders. However, I do not necessarily see a cause and effect relationship between lowering the age of criminal responsibility and better outcomes for young people at risk of committing acts that result in them being placed under supervision or detention. That is something I want to understand better.

It could also be argued that keeping a lower age of criminal responsibility is not in line with our understanding of how young people's brains develop. After all we have an age of consent and an age at which people can vote, drink, gamble and smoke, or drive a car, amongst many other things. We have these ages because we as a society have made the collective decision that at those ages people are considered to have the capacity to make certain choices. An 18-year-old is considered to be old enough to understand the risks associated with smoking or drinking alcohol, for example, and should they choose to do it must necessarily accept responsibility for it.

What we might consider coming of age is the time at which we accept that people have full autonomy and agency and the ability to make risk-based assessments of their choices. It is the age at which we have all agreed at a macro level at which parents and other people responsible for a young person ceased to be able to legally have any influence over decisions the other person can make. The AHRC states that the age of criminal responsibility at 10 years does not align with current research into brain development. In their words, 'children have not developed the requisite level of maturity to form the necessary intent for criminal responsibility.' In criminal law the mental element of commission of any offences requires the person was acting both voluntarily and intentionally. These are often very difficult and specific elements which need to be established beyond reasonable doubt. For fully developed adults there are often arguments about whether a person was acting under the influence of drugs or alcohol, in a psychotic state or even sleepwalking. Any of these factors can diminish a person's ability to act voluntarily and intentionally.

It may then follow a person whose brain is still in the state of developing necessarily lacks the ability to form the requisite intention to commit a crime. More practically, it could also mean children lack the capacity to properly engage with the criminal justice system, resulting in a propensity to accept a plea bargain, give false confessions or fail to keep track of judicial proceedings.

I acknowledge for most people these arguments are very academic and hold little bearing outside a court room. But we do need to consider community expectations when it comes to assessing the responsibility of people when they commit a criminal offence. There are compelling reasons some young people should be put under supervision or in detention where a risk to the public, to animals, property are factors in their offending. I have been an independent person for many, many years, I would say over 20 years, probably many more. I have seen a lot of young people come through the police station, and the youngest I have had was 10. This little boy lived with his mother and grandfather. His grandfather was an alcoholic and his mother was an alcoholic also. There was no father. He used to escape when his grandfather and mother had either gone to sleep or fallen into a stupor. He, along with his little friend, would go to the local bottle shop or car park, if there was a hotel. They would smash the windows of the cars, break into the cars and steal whatever they could find. That was just something they did regularly. He was banned from every shop.

It was a very sad situation when you consider there was not a shop or store in the small town where he lived he was actually able to go to. He was not allowed to go to school. He could not go to any of the stores because he caused grief and trouble. The police would always call me in when they had him because I started to develop a rapport with him because they had sent him so regularly, which is also really quite sad. Even sadder, he said to me one day, why am I here because it is not my fault? My friend - I cannot remember his friend's name - is the

ringleader, he is the one who tells me to do it. I asked the police, why have you not brought his friend in? They said, no, because he is only eight.

You appreciate some of these children, as I think the member for Nelson has said, do not really have much of a chance. That little boy time and time again - I do recall one Saturday going in to see him. Sometimes I would go in of a night, sometimes the early hours of the morning, sometimes it would be weekends. One Saturday he came in, he had paint all over his fingers. The police were asking him, why do you have paint? I thought, gosh, he said he had been doing something good. 'I have been helping the teacher', he said. 'We have been painting, I have been back at school.' I thought that was really great. But unfortunately, I was called in again on the Sunday. He actually had not been helping the teacher, he had been throwing paint around the classroom, he had broken into the school.

It was a terribly sad situation. Each time I had seen him he would say he was not going to do it again. The really saddest situation was the last time I saw him on a Sunday and I have not seen him since. He was actually going to Ashley. That was his first time. He was 10 years old. He had offended again and again. They did not know what else to do with him. He was being sent to Ashley. As I said, that was probably 10 or more years ago now, the last time I saw that little boy. I have not seen him since. I would only hope, because the police did call me in regularly to see him, maybe he had decided not to go to Ashley, not to continue. But unfortunately, the home life he lived in made it unlikely. I think that is one of the sad things I see.

I could stand here for hours actually telling you some of the cases I have had over the period of time. But one other one I find very sad was a young boy of 15. He did not commit any bad offences, not like some you read with knives and fire and arson. He did not commit bad things but he did steal. He lived with his grandmother because he did not get on with his mother, his parents were split up. I saw him because he had been charged by the police with breaking curfew 11 times. I must admit I would tend to act a bit like their mother and I would be there and say, 'why on earth did you do this, how could you do this?' When he was finally picked up by the police he gave a false name. I said to this boy, 'how could you break curfew 11 times?' He said the first time he was not there and then when the police came each other time, because he knew he was in trouble for the first time, he actually hid. He was home the other times, but was so afraid of being in more trouble he hid each time and he would not show himself.

When the police saw him, he knew he was in trouble and gave a false name. The sad part about it was I asked him the school he went to, and I said, 'what school do you go to and what do you want to do? Because you are under 18 and these things will not be on your record, you can start a new life'. He told me he had been to a primary school and I said, 'no, you are 15 what high school do you go to?' He said he had never been to high school. He had only ever been to school at Ashley, he had no friends that were not Ashley children because other people did not want him to go around with their children. He said, 'I do not have any other friends apart from people at Ashley and I have never been to high school'. The saddest part was he said to me there is no hope for me. It just makes you feel like crying. I said to the police at the time, 'what can you do, can you send him somewhere? Can you get some help?' They said they did not have the ability to send him anywhere.

After we had finished with him, after I had watched him get fingerprinted and photographed and DNAd he was then put outside and on his merry way, such a really sad situation.

Ms Forrest - It is a complete failure.

Ms ARMITAGE - It is so sad. Like the member for Hobart I have been involved with Whitelion also and I have been to Ashley on a number of occasions and, yes, you go through gate after gate after gate, there are no metal knives or spoons and everything is foam. The one thing I really remember from Ashley, there was a girl there I was talking to. She had obviously done some things wrong. The interesting thing was I was walking through our Launceston Mall and I saw her and I went up and said hello to her. It was like I had struck her with a hot iron, it was like, how can you speak to me? As if she was shocked I had remembered her. I thought that was really interesting because they have such low self-esteem. A lot of these young people do not expect you would speak to them if you did not have to - you might when you came to Ashley but why would you speak to them when you see them out in the community? That was so sad they do not consider themselves important.

As I was saying to the member for Nelson earlier, there are maybe some young people that perhaps need closer supervision than some of the others. I have been involved in these situations for a very long time and find most of them very sad. It is worth considering the practical implications of holding young people criminally responsible for their actions and as the AHRC points out, younger cohorts are more likely to reoffend if they encounter the justice system. Between 2011 and 2012, children who were first subject to supervision under the youth justice system due to reoffending when aged 10 to 14 were more likely to experience all types of supervision in their later teens, 33 per cent compared to 8 per cent for those first supervised at older ages.

We want the system to work. We want crime rates to go down and young people to either never offend in the first place or if they do to never offend again. If detention and supervision arrangements that currently exist indicate reoffending is more likely that suggests we could perhaps look at changing what those detention and supervision arrangements actually are.

It is interesting in other countries such as Sweden and Norway the age is 15 and they are two countries we often hold up as great examples.

Ms Rattray - As a beacon.

Ms ARMITAGE - We do hold them up as a beacon particularly, for the young people and preschool. I can recall when we had the Education Act we were often holding up Sweden.

Ms Rattray - Finland as well.

Ms ARMITAGE - South Korea - 14, Vietnam - 14, Russia - 14, Japan - 14. How sad, to see Iran - the age for girls is 9 and the age for boys is 15. It is extremely sad. We need to assist these children and their families, as in an ideal world I agree that no child should enter the criminal justice system. However, when attending the Police department as an independent person, I am often amazed to see that no help is offered or services provided to these children. They are generally charged and bailed to attend court, or held for court appearance and then transported to Ashley.

Some of them are tough nuts, I have to admit. I can recall one in his maroon tracksuit who had broken out of Ashley. He had done all measure of things and he was articulate, he looked good and he spoke well. He said to me, 'I just want to go to the big house. It is where my family members are'. He was probably about 15 and he could have done anything he wanted. I said, 'you could do anything you want. You are really good at speaking. Why did break out of Ashley? You have been in this car accident with your young brother.' He said, 'I just want to go to the big house, Miss.' When they call you Miss, you know they have been institutionalised for a long time. Obviously, he came from a family that had been incarcerated as well. He saw that as something he was looking forward to and I have to say he got his wish. I have seen his name many times in our newspaper over the last years, and it is sad. We will never know whether that would have changed if he had not gone into that system as a small child or a younger person. I hope his brothers have not followed him down that path.

In fairness, the police officers I have been involved with at the station treat the young people in a fair manner, without exception. They often get them McDonalds or their favourite drinks. They do look after these young people. On occasion I have berated them, thinking these young people have committed a crime and sometimes the police are offering them all sorts of inducements. They tell me it is to get them to admit to some of the crimes they have committed. It is a pretty sad situation.

I acknowledge that changing the age of criminal responsibility does not mean there aren't any consequences or accountability for one's actions. However, it means we do not look at children as criminals, but recognise that young people often come from extremely difficult backgrounds and there are often other reasons for their actions. Ideally, I believe we should be assisting children before they reach the courts or the youth justice system and break the cycle. I am sure early intervention would prevent many of them starting on this path. However, it will not work for every young person. Unfortunately, there is sometimes a problem when a child at risk, who is in diversionary care, is then sent back to the very home that caused the problem and where the risks are real. I acknowledge the comments from the member for Murchison that often people don't want to send children back to the homes where they know they are at risk; but there is no alternative.

We need to start work earlier with many of these families and help the parents as well. To my mind, we often don't start early enough in assisting our young people. We need to focus on sufficient funding for many of the necessary services as our children are our future. That is all our children, not just the ones that behave. These other children live with us too, and we cannot have a 'them and us'. We all need to be together and we all need to be supporting.

In closing, I thank the many different groups and organisations that briefed us, and I commend the member for Nelson for bringing the motion forward.

Debate adjourned.

SUSPENSION OF SITTING

[5.59 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bells for the purpose of a dinner break.

I anticipate that about 7.00 p.m. the bells will ring again.

Motion agreed to.

Sitting suspended from 5.58 p.m. to 7.00 p.m.

MOTION

Minimum Age of Criminal Responsibility

Resumed from above.

Ms ARMITAGE - I have finished my contribution.

[7.02 p.m.]

Ms SIEJKA (Pembroke) - Mr President, I thank the member for Nelson for bringing the motion forward as it is an issue that I feel quite strongly about. It has long been a concern to me. I was CEO of the youth peak body, YNOT, for many years, as well as chair of the National Youth Coalition for Housing. I was also a member of a couple of the organisations and groups that you mentioned in that letter, including the federal youth peak body. Previously I would have been the person that signed or sent that letter and advocated for those young people. As part of those roles, I also reviewed some programs for young offenders. Some of that work was in Launceston, which has made me think perhaps some of those young people are the same young people that I also spoke with.

One of my first meetings as CEO of YNOT was on the Ashley Youth Detention Centre advisory group. It was a group made up of legal experts, advocates, department staff, academics, and our role was to provide oversight on key decisions at Ashley. I had just started the job and did not know much about it. A couple of things at this meeting that shocked me as a completely new person. One was the conduct of strip and cavity searches on children and young people and the fact that they could be as young as 10. At the time they weren't even in the police protocols, so it was shock upon shock. I remain very concerned about that. I know cavity searches do not happen often but it is still there, even with the progress made in this space.

The other thing that shocked me was the age of criminal responsibility. I personally find it alarming that children - and these are children - as young as 10, can be arrested, searched, charged with a criminal offence, remanded in custody and sentenced to detention. It has long been argued that this is far too young an age for a child to be criminally responsible. There are children and young people who commit terrible crimes but it is rare, and more often than not there is a story behind that and there are steps that could have been taken to prevent it.

I do not believe that the criminal justice system is the appropriate system to support and rehabilitate troubled children. We are not just there to punish, we are supposed to be preventing reoffending. It is not effective and it is not appropriate. In my roles working with children and young people, I met many troubled young Tasmanians who had not had access to the right

supports through care and attention that we would want every child to have and I think that they deserve.

As the member for Launceston said, I have also had children and young people tell me that they think that there is no chance for them and they could be very young and it is really sad. It is hard to know sometimes what to say to that because it is such a firm belief that so many of them have because they have never had anyone in their life who believes they can do any better. It is really upsetting. And for some of these young people it means a life of reoffending, homelessness, low educational attainment, unemployment and the continuation of that cycle of poverty intergenerationally. Too many of them have terrible trauma and stories that we would not even believe because it is so far from our own experiences. I firmly believe that they need support and not punishment.

At age 10, as we have heard so much, the brain is still developing and there is that risk-taking and impulsiveness, even with children and young people who are not committing crimes. I am sure we are all very familiar with the risk-taking and the snap decisions and all of that thinking that goes on at that age and the big difference between what they mean to do and sometimes what happens. It can be quite different.

There is also evidence that we have heard that rather than preventing children from reoffending, a punitive approach is much more likely to lead to reoffending. So, I will not go on any further with that because I think we have really covered all of that.

But, we do know, and even with this recent data and the changes to the way we think about these things, it has long been thought - and it was something when I first started - that people would say that by the time you get to grade 9, there are lots of thing and if you have not done them, you are unlikely to do it. Whether it was smoking, commit a crime or whatever and that is about 14 so obviously there is a lot more evidence now that confirms that but that was the thinking.

The United Nations has set age 14 as the minimum age a child can be found criminally responsible. I think that it is fantastic that there is a benchmark that we have to meet, but I find it embarrassing that internationally we have been called upon to raise the age and we are so far behind. Part of my role as well was I was involved in a previous policy steering committee to the United Nations right from the commencement of a child on youth issues. One of those issues was about raising the age and the high number of young people from Indigenous backgrounds who were incarcerated. There was a lot of work done and that was quite a few years ago now and we were calling on age 14 then and that seemed aspirational, whereas now I feel it is the bare minimum we can do to keep up.

Some 86 other countries have made the decision already; I just feel like we must do it. We are not going to be leading. So many other jurisdictions have already done this work and they have made the age higher. We are doing the bare minimum, in my view.

In all regards, there is so much more evidence to support the need to raise the age and it is just too difficult to refute. I do not think it can really be argued. It is something the Government must commit to urgently before even more children are left in a cycle of reoffending. And I know that the Government has the Child and Youth Wellbeing Strategy, so there are a lot of people who really want this work, to happen, and I guess there are different ways that you can make it happen.

I do not think we should wait for a national approach. There is no reason why Tasmania cannot do this and I think we have to. Obviously, we need to make sure that we have suitable investments in other areas in the supports and programs and through care which I think so often is just forgotten once somebody has moved through a system. It is making sure they just continue on and are supported in those gaps.

Raising the age, calling for it to be raised and making a statement in support of the age is the first step to an improved system for our children. And I hope that so many of these children and young people that I have met and that we are talking about, these future young people that we are talking about, I hope that ultimately, we can create a system where there is reduced offending and a safer community for us and for them. This is one really simple way that we can do that. I thank the member for Nelson for bringing it on.
[7.10 p.m.]

Ms RATTRAY (McIntyre) - Interestingly I wrote an article for *The Examiner* - some members are invited to provide an op-ed - my 800 words went a bit over last Friday and I thought I might share some of that with the House. Before I do so, I thank the member for bringing this for a motion for discussion. It has been a very useful exercise and I trust that not only we get something out of it but the Government gets something out of it as well and there are some positive actions moving forward, whatever that might look like.

I also intend to make a couple of comments before I start about the Ashley Youth Detention Centre, AYDC, as it is fairly affectionately known in the north of the state. I have also not had the opportunity to visit a lot of times at the centre but when I did go we did not use plastic knives and forks, we actually used cutlery because I went for the Christmas lunch and the school presentation. Not last year because we were not allowed to go anywhere last year, certainly not to visit education facilities, but the year before. I was made very welcome and had the opportunity to speak with a number of those people. There were no 10-year-olds there at that particular time or if there were they were very grown-up looking. I did not ask each resident how old they were but they were certainly very grown up looking.

It was quite confronting to arrive at the gate - and I know after the $7 million that has been spent on the upgrade of the facility that was a lot. It went towards softening the entrance to AYDC and I feel that that is probably a fairly reasonable approach. On the other hand, you could say if you do not want detainees back there perhaps that confronting arrival at the centre is something that they may ponder on as they spend their time again at the centre. We have heard a lot of information about what happens with those people who have to go into the centre and have that supervision.

As I said, I want to really share with members what I put together for my op-ed last week. I want to say how impressed I was with the staff at the centre when I visited. I know there has been quite some criticism about the operations of the centre but I liken it a little bit to this place in some respects. Everyone comes in with very good intentions. I met the Extinction Rebellion members this morning at the front door and they were giving me a run-down on the members of parliament and I said, 'Excuse me, we all come here with very good intentions'. I absolutely believe that and whether we get to achieve what we want to achieve that is another matter but I absolutely believe that we do. There are good people in this place exactly as there are good people who were part, or who are part, of the centre and the education facilities for that centre.

I think it is important to remember that. People who have worked there for a long time have put their heart and soul into trying to turn around the lives of those young people. They are probably as regretful as a lot of people that they have not always been able to manage that possibly through no fault of theirs and perhaps through no fault of the young person who was there as well, but I think we need to remember that and some of the work that is being done there for many years has certainly over the past years, has changed the life of many. It would be worth quoting from an op-ed I did not write, Mr President. I am having a bit of trouble with my computer today, it has been playing up. Perhaps, it does not want to talk about this issue as much as I would. I did not print it out because I thought I could rely on technology, but sometimes you just cannot. I have found it. I just want to share what somebody else wrote and some people might be able to pick up - because it was an op-ed in *The Examiner*. This person said:

> One of the most prominent criticisms over the years is that rather than reforming young lives, Ashley served as a training ground for career criminals. There was some substance to that criticism in the past because of the former practise of routinely remanding young people initially facing the court system to Ashley where they mix with more serious or repeat offenders. As one of the many attempts over the years to improve Ashley, the wider youth justice system, there was a select committee inquiry into Ashley in 2007 and the committee made 32 recommendations of which almost all were eventually implemented. These included changes in remand policy, prioritising the diversion of young offenders from custodial youth justice in all but the most serious cases, as well as upgrading the Ashley school and vocational training. As a result, Ashley these days is barely recognisable from the Ashley of old, instead of the remand centre of first resort, it has become a place of last resort where the youth court determines that all other avenues have been exhausted and young persons offending is sufficiently serious to require secure detention. At the same time investment in facilities and staff have been increased allowing more intensive efforts to turn around these young lives. For instance, the teacher to student ratio in the Ashley school and trade programs is around one to one. We certainly do not get that in any other educational facility. A level unheard of in the mainstream educational facilities. Every effort is being made to provide young people with practical skills to assist their return to the community and many staff and youth workers say that Ashley is now working better than ever.

It is important we acknowledge those things because as we know, and I will just quote now from my op-ed:

> The Premier announced on 9 September that AYDC is to be closed within three years. He went on to say the Government would invest in new infrastructure and focus on early intervention, diversionary strategies and detention as a last resort;

Something that we already do, last resort.

> At this stage we don't know what this new infrastructure will be but we do know the Government has recently outlaid, $7 million upgrading the AYDC to enhance the facility and its model of care. The school within the facility

> run by the department of education includes six teachers and aides; a TAFE co-ordinator who organisers onsite woodwork, metal workshops; a full-time psychologist; healthcare; sporting and gym facilities; and catering classes including a café for barista training, where some of the community members attend and give freely of their time.

I know from the member for Hobart - I believe you read out something in your contribution around the Deloraine area volunteering. Was it you? No. Okay, it might have been somebody else. I thought I heard somebody say that but I have actually had a cup of coffee made by one of the detainees and they were very proud of the fact they could make a decent cappuccino. I ordered a flat white and they said, 'We can do that too.' That was pretty impressive, Mr President, because I cannot make a decent cappuccino out of one of those fancy machines and was suitably impressed.

I recently asked a question in parliament that, given this level of support for approximately an average of 10 detainees each day, what different outcomes does the Government expect by closing the facility? I was told the decision was not just about custodial youth justice, it is about setting our whole approach to the youth justice system and young people at risk on a new footing.

To further questions I was informed the Government, after proper consultation, will invest in a contemporary, nation-leading therapeutic approach across the whole youth justice system to ensure our young people have the wraparound support they need to rehabilitate and to live better lives. It must be remembered the majority of young people under the youth justice system are not in detention, but rather are under youth supervision. Statistics from 2018-19, tell us on an average day in Tasmania 155 youths aged 10 and over were under supervision, with Indigenous youth almost four times more likely to be under supervision than non-Indigenous youth. I know that has been spoken of quite a bit through the contributions today, 93 per cent of these youths were supervised in the community and 7 per cent were in detention.

Tasmania is not alone in focusing on a different approach to youth justice. In recent years youth justice has been put under the microscope, perhaps like never before. There have been extensive reviews by the states and various oversight bodies and these reviews highlight children who enter the youth justice system, especially detention, experience vulnerabilities and have diverse and complex needs. Again, we have heard that many times today from the thorough and considered contributions. They have been exposed to issues such as family violence, poverty, abuse or neglect and are likely to have received child protection services or out-of-home care and the member for Launceston shared her experiences which were profound as she made her contribution.

They also may suffer from intellectual disabilities, mental illness or drug and/or alcohol abuse or addictions. In short, they are in need of professional care and assistance and if you need any supportive evidence of that just ask any of the lawyers who act for these children day in, day out, in our youth justice courts. Nearly all of these reviews have also concluded youth detention centres have detrimental effects on children. Again, we have heard that. Separation, segregation and confinement as a means of punishment have been associated with physical and psychological damage which can often interrupt education and rehabilitation, thus all reports conclude detention is to be used as a last resort and there should be an increase in the use of diversion programs. That was one of the 32 recommendations from the 2007 select committee report.

All the reports conclude detention is to be used as a last resort and there should be an increase in the use of diversion programs, a reduction in the remand population and the raising of the minimum age of criminal responsibility from 10 to 14 years. Currently, in all Australian states the minimum age of criminal responsibility is set at 10. I have had four 10-year-olds, including three 10-year-old grandchildren. I cannot imagine a 10-year-old - and I listened to the member for Rumney's thoughts about her 10-year-old daughter and their capacity. It astounds me a 10-year-old could end up in a place like that, but we know it happens. This means a 10-year-old can be arrested, searched, charged with a criminal offence, remanded in custody and sentenced to detention. Being locked up at an early age greatly increases the likelihood of a person coming back into the prison system as an adult. Again, we heard that story about the young person aspiring to get to the big house to be with perhaps a brother or a relative. What an aspiration; how sad. Raising the age of criminal responsibility from 10 to 14 would bring Tasmania into line with 86 other countries. The member for Launceston read out quite a few of those countries. I would also support the 2019 findings of the United Nations Committee on the Rights of the Child.

A report commissioned by the Council of Attorneys-General has already looked into the issue, but at present has not released its report. It is on the back burner. The leader of the working group reportedly did not dispute that the draft contained a recommendation to raise the age to 14. It was also reported alternatives were offered to raise the age to 14, with exceptions for serious crime. The member for Hobart touched on the need for exceptions. If neither of those options were agreed, an option was to raise the threshold to 12 ,with the age of detention set at 14; a compromise. The leader of the working group has not confirmed it, but they did not dispute that they were options put forward.

Modern neuroscience identifies that children are impulsive, risk-seeking and excessively influenced by their peers - even the younger ones, such as an eight-year-old. I could not believe that either. They are still maturing and less likely to reoffend. Young children are not yet functioning at full capacity, therefore there is a need to, if possible, avoid punishment that will diminish a child's life prospects. Tasmanian legislation has already recognised this by having the power to divert children from the justice system, but more options need to be available.

We can already hear some people arguing that there needs to be consequences for criminal behaviour and children should be accountable, no matter how old the perpetrator. However, as the member for Launceston alluded to, shouldn't we be finding the right balance between public safety and helping the offenders address the factors that contribute to their crime - whether it is stealing to get money to buy food, or having nowhere to live and breaking into places so they can find somewhere to sleep for the night? It is quite confronting to think of that.

If we want to end increasing incarcerations, and youths coming into conflict with the law, we need to change out mindset on crime to one that emphasises prevention and restoration rather than punishment. Quite a few members attended the Greg Barns briefing on prevention and restorative justice. I appreciate the members who came to that briefing. I know Greg Barns signed the letter that was put into the public record today.

Such a change would not only be more beneficial to a child's future, it would also be a significant saving to the state. Youth justice detention alone costs the state $1 million per child per year in detention. That is approximately 10 times more expensive than an adult detainee. The costs do not stop there, as the effects of detention can lead to a child's repeated involvement

in the youth justice system and later, as has already been indicated, to the adult justice system. These imposts on the state budget could be more effectively used in early intervention and diversionary services required to divert a child coming into conflict with the law in the first place. I finish with an example from history. Back in the 1830s, Governor Arthur recognised 'the roots of crime are poverty, wretchedness, unemployment and lack of education'. We also heard today from the member for Elwick that a lot of those young people did not have -

Mr Willie - They are all identified in the education system.

Ms RATTRAY - They did not have the education skills for their particular age cohort. Governor Arthur went on to say 'By removing these, Governments would do more to reduce crime than by creating severer punishment'. Nearly 200 years later, surely there is an opportunity for real change. I have no problem supporting the motion put forward by the member for Nelson and I acknowledge every contribution made here today on this motion. It is an important aspect. It has already been stated - our children are our future. They are the ones going to be here, doing this job after we retire and move on.

It is important that we do our best, not only as leaders, members of parliament, but also as a community, to support those who make some poor choices. Unfortunately, to end up in AYDC they continue to make those poor choices, because they do not go there after the first problem they have with not doing what our society considers the right and honourable thing to do. I support the motion and appreciate the opportunity to share my thoughts on raising of the age from 10 to 14.

[7.32 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I rise to speak on this motion on behalf of the Government. The Government will not be supporting the motion. As members would be aware, the minimum age of criminal responsibility is determined by each state or territory. In Tasmania the relevant provision is in section 18 of the Criminal Code Act 1924. The minimum age of criminal responsibility is 10 years in each Australian state and territory. This is subject to the rebuttal presumption that children aged 10 to 14 years are criminally incapable unless proven otherwise by the prosecution.

There are three principal reasons why the Government is opposing the motion. National work is already occurring with respect to this issue. Secondly, the Government already has a detailed plan in place to continue to progress and consider work which is underway. Thirdly, simply raising the minimum age of criminal responsibility is a complex and somewhat problematic legal issue that may be a disservice to our young people. I will address each of these points in turn.

Tasmania, together with other Australian jurisdictions, is currently examining the age of criminal responsibility. Our Government believes that any reform in this area should ideally be progressed in a manner that maintains national consistency, as is currently the case. It is noted that a majority of jurisdictions also hold this view, including the ACT, where even though they have announced an intention to introduce reforms, the jurisdiction has confirmed its desire for national consensus on the issue. As this is a complex and sensitive issue for the community, it is important that we set out, for the benefits of members, what work has been occurring nationally and what the Government has been doing to progress consideration of this matter.

Under the Meeting of Attorneys-General or MAG, formerly known as the Council of Attorneys-General, an established national working group is currently progressing work to review the minimum age of criminal responsibility across Australia. Tasmania continues to contribute to this extensive and broad review. The inter-jurisdictional working group, chaired by Western Australia, has been reviewing and assessing information, including relevant reports, inquiries, agreements and standards from overseas and within Australia.

In July 2020, the previous Council of Attorneys-General noted the working group had identified the need for further work to occur regarding adequate processes and services for children who exhibit offending behaviour. This is an important issue and consideration and one to which I shall return to provide some more details on shortly.

At the MAG in March of this year, Attorneys-General considered the issue of minimum age of criminal responsibility. The Tasmanian Attorney-General was unable to attend as a result of the state's election and being in caretaker; however, it is noted the Attorney-General agreed the minimum age of criminal responsibility will be further considered. While the Northern Territory and the Australian Capital Territory have indicated they intend to raise the MACR, Northern Territory to 12 and the ACT to 14, most other jurisdictions have indicated they intend to continue to engage in the national discussion to achieve a consistent approach to the issue. Some jurisdictions, including New South Wales and Western Australia, have cautioned any changes would need to address children exhibiting offending behaviour, but neither have indicated an intention for reform.

It is considered even if this further work does not reach consensus, the continued discussions would assist individual jurisdictions to finalise their own positions in relation to the MACR and related issues, including the minimum age of detention and diversion of youth from the criminal justice system into support programs and services that may address youth offending. That is because the issues that inform the minimum age of criminal responsibility in Tasmania have national implications. It is important to note this position is shared by most states and territories. Accordingly, the Government maintains its position we would ideally like to see a nationally consistent position on any reforms in this area.

The second basis of our opposition to the motion is the Government already has a detailed plan in place and a considerable amount of further work underway to consider this issue, in addition to the work being done through MAG. I will outline some of the Government's current work in this area for the benefit of members.

One of the most important priorities of the Government is supporting those most disadvantaged or challenged in our community, particularly our young people. For those few young people who come into conflict with the law and are placed in custody by the courts, we want to ensure we provide the best possible rehabilitative support. This is why our Government is committed to a strengthened and improved approach, not just for custodial youth justice but across the whole youth justice system. As members are aware, this will involve the closure of Ashley Youth Detention Centre.

It will also involve an overarching blueprint for youth justice that emphasises earlier intervention and diversion is trauma-informed and child-focused and gives young people a far better chance of gaining the supports they need so they are in a better position to rehabilitate and live better lives. The Government launched It Takes a Tasmanian Village, Tasmania's first Child and Youth Wellbeing Strategy, on 22 August 2021.

More than $100 million is being invested across the next four years on an action plan to deliver this strategy. The strategy does not commit to raising the minimum age of criminal responsibility, but involves contributing to a national approach with further consultation. A youth justice blueprint would deliver an overarching strategic direction for an integrated therapeutic Tasmanian youth justice system. It includes the closure of Ashley Youth Detention Centre. The minimum age of criminal responsibility is addressed at strategic policy action five. The Government will contribute to a national approach and continue to consult with stakeholders as Tasmania further considers the issue.

The blueprint will align with the domains and principles of the strategy and deliver an overarching strategic direction for an integrated therapeutic youth justice system in Tasmania.

The blueprint provides an avenue to identify an appropriate service system response for children who engage in offending behaviours, but who are not subject to a criminal justice response due to their young age, ensuring it is developed as part of the broader response to youth offending. The strategy also has priorities regarding programs and services which have been developed into strategic policy actions. One is improving cross-agency and cross-sectorial collaboration and integration which is under priority three. Another is improving understanding of a range of services available to children and young people under priority six.

The Government will work with key partners such as Service Tasmania and community sector organisations to provide advice on the best way to develop a single access portal for children, young people, families and service providers that link to information on existing programs and services. Action 56 of the strategy relates to therapeutic programs that have the capacity to enable cultural connection. A business case will be developed for establishing therapeutic programs with capacity to enable cultural connection, including the concept of being on country.

The Strong Families Safe Kids/Advice and Referral Line, the ARL, is the first contact point for child safety and wellbeing in Tasmania. The ARL aims to strengthen families, keep the children safe and deliver early intervention and integrated services without the need for statutory intervention wherever possible. The ARL now has a dedicated youth wellbeing officer who works with our youth services and sector partners to ensure young people and their families can access the supports they need. When required, the ARL also refers matters to child safety for statutory intervention.

In addition to this work, the Department of Justice is also already undertaking a preliminary analysis of possible options for reform in addition to the minimum age of criminal responsibility, including the possible use of statutory intervention powers not based on criminal culpability, diversionary programs and support systems and the minimum age of detention. This will be informed by the work currently being undertaken by the Tasmania Law Reform Institute, the TLRI. In its 2020, Annual Progress and Financial Report the TLRI announced it would commence a review of the minimum age of criminal responsibility in Tasmania in 2021.

It is understood this work is being carried out in collaboration with the Commissioner for Children and Young People to complement and contribute to her ongoing work in advocating for young people in detention. There are other complex legal issues to consider in potentially raising the minimum age of responsibility. These include whether there should be exceptions to any raised age for extremely serious offences such as murder, the minimum age of detention, the option of creating statutory intervention powers that are not based on criminal culpability and questions around mandating participation in programs and services. These are all complex

and important issues. It is important these are all considered as part of any reform to the minimum age of criminal responsibility. The importance of these strategies cannot be understated.

It is the Government's position simply raising the minimum age of criminal responsibility would be problematic and may do a disservice to Tasmania's most vulnerable children. Without supportive reforms, raising the minimum age of criminal responsibility may prevent police and other supports in intervening in 'at risk' behaviour. Various reviews and stakeholders have noted raising the minimum age of criminal responsibility would require a police power to engage and divert children who are exhibiting harmful behaviour from the criminal justice system. It would arise when a child would have been reasonably suspected of committing an offence had they been aged over the minimum age of criminal responsibility.

As I stated earlier, the previous Council of Attorneys-General, now MAG, has emphasised the importance of this aspect. The national working group has also identified the need for further work to occur regarding adequate processes and services for children who exhibit offending behaviour. These interventions are very important and cannot be pre-empted through a reactionary approach that does not take into account all of the complex factors.

With respect to our youth justice system, the vast majority of young people who come into contact with the criminal law are dealt with by diversionary measures, such as cautions and community conferences. These are important ways to assist at-risk youth. For young people who do reach the court system, approximately 90 per cent are dealt with by community sentencing options.

The Government's comprehensive, whole-of-government Youth at Risk Strategy has a strong focus on early intervention and a whole-of-government approach to helping at-risk Tasmanians. This also includes moving towards a more modern, integrated and therapeutic youth justice model. It is noted that the CCYP, along with stakeholders from the legal, medical, child protection field have recommended raising the age to 14. This is evident through the recent public briefings held by the Legislative Council to inform members ahead of consideration of this motion.

Accordingly, the Tasmania Law Reform Institute (TLRI) has indicated that it would provide an objective evidence base on the legal implications of raising Tasmania's minimum age of criminal responsibility, the appropriate avenues of criminal law reform and the ways in which the criminal and youth justice system might be adapted to minimise any negative impact on the Tasmanian community and Tasmanian children from raising the age. The TLRI's examination of these issues from the Tasmanian perspective will be an important contribution to the Government's consideration of any reform to raise the minimum age of criminal responsibility and the complex associated factors. The Government looks forward to receiving that report for consideration, which will inform the Government's ongoing work in this area.

As such, it is considered that the motion calling for the raising of the minimum age of criminal responsibility in Tasmania is premature, given the large bodies of work that are progressing at both the national and state levels. The MACR is a complex and sensitive issue, which will also require the ability for the Tasmanian community to voice opinions through a public consultation process, as the Government undertakes with all major proposed law reform. It should be noted that this ability to provide public feedback is something that will not be afforded to the Tasmanian people if this motion were to pass, as proposed by the member for

Nelson, as there is no public consultation process suggested in the demand to increase the minimum age of criminal responsibility.

Finally, the Attorney-General continues to actively discuss this matter with her state and federal counterparts. It is a complex issue that will continue to be discussed in the meetings of Attorneys-General. It is for these reasons that the Tasmanian Government does not support this motion.

Ms WEBB (Nelson) - Might I just say thank you very much to the members here who have made contributions on the motion and made this a very interesting and worthwhile debate in this place. I really appreciate the thought, the time and the preparation that went into the contributions that were made, and for people's engagement with the briefings that we received and with the material that they have been sent by advocates and by others in the community. I really appreciate it. I think it is very positive that we have these contributions on the public record and the parliamentary record. I think it has been very reflective of the overwhelming evidence base, the national and international sentiment towards this occurring, and the inevitability really that this is the path we are on. We will be doing this at some point. It is for our state to decide, and for the leaders of our state to decide when that happens.

I brought this on for debate to help progress the public and the political conversation about it, hoping that there would be some receptivity there to look at the opportunity we have to be leaders and to be responding to solid evidence bases and solid national and international advocacy and very compelling local advocacy. Thank you to those who have responded to that and engaged with it.

I found all the contributions particularly of interest and thoughtful and useful. Thank you to the member for Murchison for a thorough and extended look at the different matters about this issue. I appreciated the time you spent recognising the limitations we have on accessing support services in this state, particularly in parts of the state that are more regional and remote. There is the need for us to do much better in providing those sorts of services. We need to change the way we do things and regardless of when this eventuality comes to pass, we will need to be looking at how we better meet the needs of the people of our state through service provision.

Member for Mersey, thank you for your contribution. I found it thoughtful and it pointed to a lot of the evidence base that was there. You are right. We do need to develop systems that are based on science and evidence. You picked up on the reality that we do not need to delay doing this as a state. We could be looking at it for ourselves.

Thank you to the member for Rumney. I appreciated your contribution. I found it interesting and quite compelling to hear you reflect on your daughter as a 10-year-old. Most people when they hear that the current age of responsibility is 10 tend to think of those people in their lives who are around that age and contemplate what that might mean for children of that age group. You talked about the fact that it is not about holding young people responsible. It is not about disregarding holding young people responsible.

You talked about it being holding them responsible appropriately and in a trauma-informed way. I thought that was spot-on, that we are not just going to whip away that age and leave a void and a vacuum. No-one is suggesting that, despite how the Government may like to paint this motion and mischaracterise the call that it is making - that is not something that

any of us are calling for. It is a shame that we cannot honestly engage with the content of the motion from the Government's point of view. I am disappointed about that.

I appreciated the member for Elwick's contribution. He has insight into this as previously being a teacher. He talked about the fact that we do identify young people readily through the education system who are going to ultimately potentially end up in situations where they encounter the youth justice system. He talked about the waste of human potential when we do not respond and we leave it too late. We have missed opportunities for early intervention when flags were raised and we end up in later stages of behaviour, later stages of urgency trying to respond in a way that can be healing and helpful.

It was interesting for many members' contributions to have reflections on Ashley Youth Detention Centre and I appreciated that it came from a range of members who had different reasons to encounter Ashley Detention Centre and were able to bring those personal reflections. I thank them for that. I have not been to Ashley Youth Detention Centre personally so I always find it interesting to hear from people who have with different hats on.

Member for Hobart, thank you for your reflections. I thought your reflections about someone who installed the computer system at Ashley Youth Detention Centre was one out of left field that I had not been expecting. That was interesting and going through the Custodial Inspector's Report was an interesting way to be considering some matters that related to this topic.

Mr Valentine - If I may, what I did not do was go to the same report for Risdon Prison and look at what they have found and you think to yourself, do you want to put children into that circumstance at the end of what they go through?

Ms WEBB - We know there is a clear trajectory from one to the other, do we not?

Mr Valentine - You would not want to put them there.

Ms WEBB - Yes. That is the trajectory that we are trying to disrupt here with making evidence-based changes to the way we do things which have been shown not to work well.

I did note that you raised the idea there have to be exceptions, I think that was the way you talked about it. That is part of the conversation about the complexity of implementation that was necessary and we all recognise is necessary and a part of this process. For me, my first response to that concept of exceptions is to think what would be our exceptional response? Rather than where would we make an exception and say that child is so bad we are going to punish them in this way, my response would be, I wonder what we would establish as exceptional responses to respond to those sorts of severity or urgency. That would be a very good conversation to have as part of the implementation planning with those who are expert in these areas.

Of course, other jurisdictions, many of them around the world, have grappled with similar things. We would draw on the overwhelming evidence base that would be there for us to look at and to see, especially for those jurisdictions who have made this sort of change some time past and we can see how it has played out over time and what that tells us.

The member for Launceston, thank you for your personal reflections too that added a lot of flavour to this debate. I had others. I was slightly concerned about the idea of police giving

Maccas to young children as inducements to confess. Unfortunately, that bit stuck in my mind probably a little bit too much. I would hope that would not be happening in the community.

Ms Armitage - It was more my complaint to them they were looking after these kids too well. They said they found they had better responses if they started bribing them, but they gave them things they liked, which they probably did not get very often.

Ms WEBB - That in itself is very illustrative. They found it was easy to work with the children when they met their needs and their basic need of hunger.

Ms Armitage - I do not think it was bribery, it was more they were giving them things they liked and they became much more conciliatory.

Ms WEBB - Taking that on face value now I am saying, isn't it interesting when you meet someone's basic needs? It becomes easier to work with them. They respond better. It becomes a better interaction. This is true of this whole system. It is actually what is behind the whole idea of raising the age of criminal responsibility, that if we had not been failing to meet the needs, the clear and demonstrated needs of these children over an extended period of time and their families, they would not have been in the situation they are now. Let us, in a broader, less fast food way, perhaps, give them their Maccas at an earlier point in the chain.

Mr Gaffney - If that option was not there at the age of 10, you would be looking for other ways of trying to make the change to impact on their behaviour. But because that is there at the age of 10, that is where we go for those really difficult kids.

Ms WEBB - One of the things I have been reflecting on listening to contributions is the idea about people feeling in a sense we cannot not hold these children responsible in some way for their behaviour. It does have consequences and there may have been victims. This sense of who is responsible? Who can we hold responsible? My reflection on that is well, while it might be tempting and an inclination to hold these children responsible, we should surely first have to hold ourselves responsible. Hold ourselves responsible as a community, hold ourselves responsible as a government, as a parliament, as service systems that have the ability to meet the needs of our community and the people in it, that have the ability to respond well and better and earlier when people have been shown to need support.

That is our responsibility, but who is holding us responsible for that and holding us to account? That is what this is inviting us to do more effectively. Again, thank you to the member for Pembroke for her contribution. I knew with the background with the Youth Network of Tasmania, you would have some very pertinent reflections on this. It was also very positive to hear about your experiences when you were in that role and again, how it is actually through different sorts of lenses to some of the others. You talked about the punitive approach being more likely to lead to reoffending. That is just so squarely demonstrated in the evidence we just cannot go past the need to change that.

Thank you to the member for McIntyre. I read your op-ed in *The Examiner* last Friday. I thought it was excellent. I appreciated that as your contribution to the public conversation. It was good to hear more on that from you today, thank you. You did mention in answer to the questions you had put in the Chamber that the Government had talked about wanting to have a nation-leading approach and wanting to put things like wraparound support in place. Like you, I was really heartened to hear that from the Government and it is very positive to hear that

intent coming through. It does present us with the opportunity to consider at this early stage of that work where raising the age fits. If we are doing this big redesign, with excellent principles underpinning it like wraparound support, like trauma-informed approaches, like restorative justice approaches, it is an ideal time to think about where we build in a raising of the age.

That brings me to the Government's contribution and I am not going to go into too much detail, I am just going to talk briefly about the fact I am disappointed the Government felt the need to mischaracterise and misconstrue the motion. It presented them with a really interesting positive opportunity. The Member for Elwick also emphasised the opportunity and hoped that the support from the Opposition on this matter would be an encouragement to the Government to see it was something they could be open and courageous about.

Of course, to be utterly clear, absolutely no one, not me, not other members in this Chamber, not any of those multitude of advocates out there in the community, including the commissioner for children, have ever suggested we would raise the age of criminal responsibility in some sort of void or vacuum. That we would summarily do it straight off the bat, without any process in place. What I will put on the record is what we heard very clearly in our briefing and believe it was Trevor McKenna from the Law Society of Tasmania, who spoke to us in the briefing about the absolute imperative to actually see this change happen you need the policy commitment first and then you need the implementation plan. Unless you get that policy commitment put in place, unless you have the intention stated by the Government, 'Yes, this is something we want to do. We want to raise the age of criminal responsibility because we know overwhelmingly it is evidence-informed and the right thing to do,' and from that commitment we then build a process to make it happen and we do that through the things the Government mentioned. Things like consulting with the community; having the TLRI provide expert advice; having other stakeholders provide expert advice. We lay out an absolutely credible and robust process of how we get there, but we do not do that - we do not do it in a comprehensive and effective way if we have not made the commitment first and that is what Trevor McKenna from the Law Society put to us in the briefing.

We need the policy commitment and then we need together to put the implementation plan in place. All the plans the Government talked about in their contribution today could be part of that implementation planning and phase. All of it could, all they need to do is start that process and it would fit very well into the other sorts of commitments they have made on closing Ashley and reforming the approach. To say, 'As part of this it is our intention to ultimately raise the age of criminal responsibility in this state to 14.' Built in then as we go forward over the next one, two, three years, across that process we then put a robust plan in place, just like ACT are doing now.

Mr Valentine - Phase one out, phase one in.

Ms WEBB - What a shame.

Mr Gaffney -What I heard was, 'We'll let the Attorneys-General come back with a plan,' and that may not happen within two years, five years, 10 years, 12 years. We could still be in this position 10 years from now because the national body have not made any changes or have not made any suggestions, regardless.

Ms WEBB - Precisely right.

Mrs Hiscutt - By way of personal explanation, the Attorney-General did say in her contribution that she is progressing those talks as we speak.

Mr Gaffney - Through the national group and itcould be forever. There is no commitment there at all.

Ms WEBB - I will pick up on that and just mention, as I pointed out in my contribution, it is not on an agenda to be dealt with by that group in the next 12 months in a definitive way. And here is the thing, even if national agreement was reached and a national intention formed through that group, as it may well be, we still have to do the work at a state level in this jurisdiction. Every jurisdiction looks a bit different, every jurisdiction's service system looks a bit different. Each jurisdiction will have to make their own policy commitment and they will have to make their own implementation plan. We are inevitably on the path to that. There is no way that we in this state are not raising the age of criminal responsibility to at least 14 at some point. It is happening.

At some point we have to decide to do it and we will put the implementation plan in place. What a shame the Government is not taking the opportunity, it sounds, to do it at this moment when they have other very laudable and very positive plans in place in this space. I was disappointed that the Government could not be honest enough to engage with the motion without trying to misconstrue it, without trying to verbal it and say it was something it is not.

None of us believe this is something that happens on a whim in a moment's notice or in a void or vacuum. All of us want to see this happen in a positive, comprehensive constructive way in this state. I thank the members who have expressed support for the motions and I commend the motion to the House.

Motion agreed to.

MOTION

Tribute to Tasmanian Athletes Competing at the Tokyo Paralympic Games

[8.07 p.m.]
Ms HOWLETT (Prosser - Minister for Sport and Recreation) - I move that the Legislative Council -

(1) Acknowledges our Tasmanian athletes who have represented Australia at the Tokyo Paralympic Games - Todd Hodgetts (shot-put), Alexandra Viney (rowing) and Deon Kenzie (1500 metres);

(2) Pays tribute to their dedication and hard work in realising their Olympic dream; and

(3) Recognises them as outstanding and inspirational role models for all young Tasmanian athletes.

Qualifying for an Olympic or Paralympic Game is a momentous achievement and it gives me great pleasure to move this motion today. The Tasmanian Government congratulates the three Tasmanian athletes who competed at the recent Tokyo 2020 Paralympic Games.

Alexandra Viney made her Paralympic debut in the sport of rowing and she was just shy of standing on the podium, finishing fourth in the final of the PR3 mixed cox four. Alex's story is inspirational having survived a serious car accident when she was 18 years old which caused impairments to her left arm. Alex began her journey as a para athlete in 2018 and placed second in the PR3 event and finished fourth at her first world championships in 2019.

I caught up with Alex online after the games while she was quarantining in Melbourne. It was so great to see how much the experience in Tokyo meant to her. Alex has been doing online talks at schools in Victoria and across Tasmania and by sharing her story has no doubt been inspiring to the next generation of para athletes to follow in their dreams. As Alex said to me, there may be kids out there who did not even realise that there was a pathway for a para athlete so even if I get one person involved in a para sport then it makes it all worthwhile.

Who can forget the hilarious interview that Todd Hodgetts gave during the Tokyo games? After things did not go quite right to plan for this man - known as the Hulk - Hodgetts was among three throwers who competed under protest having been told they arrived late to call the room before their event. As a result, their throws did not count on the official results. Tokyo was Hodgetts' third game, having won a gold medal at the 2012 London Paralympics which saw him awarded an Order of Australia medal in 2014 and a bronze medal at the 2016 Rio Paralympics.

Deon Kenzie headed to the Tokyo games as one of the most decorated para athletes having won the silver medal at the 2016 Rio Paralympics along with medals at the 2013, 2015 and 2017 World Para Athlete Championships.

The middle-distance runner managed to return home from Tokyo with one more addition to the pool room, claiming the bronze medal for his performance in the men's T38 1500 metre event.

We are so proud of these three amazing athletes and I cannot thank them enough for continuing to inspire all of us. I cannot mention para athletes without talking about Dylan Alcott. After winning the US Open title last month, Alcott became the first man in tennis history to complete the Golden Slam by winning four grand slam titles and a Paralympic gold medal in the same calendar year. What an incredible achievement and one that I believe makes Alcott not just one of the best para athletes that Australia has ever produced but one of the best athletes Australia has ever produced.

Thanks to the efforts of the amazing individuals that I have mentioned, the future has never looked brighter for para athletes and I cannot wait to see more Tasmanians competing at Paralympic Games in the future.

[8.11 p.m.]

Ms PALMER (Rosevears) - I too extend my congratulations to all athletes who competed so well and did us so proud at the recent Tokyo Paralympic Games. Certainly, with the implications we saw with COVID-19, the games being rescheduled from the original time frame in 2020, these athletes have shown incredible resilience in the face of such adversity.

My family is sports mad. My youngest son, Alfie, slept on our couch for weeks during the Olympics and the Paralympics so that he would not miss a minute and I mean that literally.

He moved out of his bedroom, took the pillow and the sleeping bag and set up camp on the couch in the lounge room.

Mr Valentine - Did he miss a minute?

Ms PALMER - No, he did not. It is fair to say he was exceptionally tired at school. He did nod off on one occasion. He then had to have a day off school because he had a cricked neck from lying on his side trying to watch the television and while I am sure there are many perfect parents out there who would frown on the decision by myself and my husband to allow him to do that, I believe that Alfie learnt so much glued to the TV screen.

He saw firsthand what good sportsmanship looked like. He also saw what bad sportsmanship looked like. He heard individual stories from athletes from around the world and learned what it took for those athletes to get to Tokyo. His passionate screaming late in the night for the athletes in the final moments of their competition woke the entire family up on more than one occasion.

This little Tasmanian kid listened day and night to the inspirational stories of what it takes to get to the top, the sacrifices and the heartache and the physical pain, all for that moment, when you get the chance to put on the colours of your country. You do not have to go any further for inspirational stories than some of Tasmania's very own Paralympians, Alexandra Viney, Deon Kenzie and Todd Hodgetts. They certainly embodied the traits that we as Tasmanians and Australians admire.

Alex Viney was a promising young rower during her high school years and at the age of 18 she survived a horrible car accident that was caused by a drunk driver. The accident caused permanent impairments to her left arm and had her questioning whether her time as a competitive rower was done. Rather than give up on a sport she loved, Alex had the courage and the persistence to pursue a new chapter as a para athlete. Alex was selected for the Australian senior para rowing team in 2019 and went on to place fourth in her first World Championships that same year. After finishing just outside of medal contention in the PR3 mixed-cox four at the recent Tokyo Paralympics, Alex is even more hungry than ever to continue her amazing journey and she has set her sights on the 2024 Paralympic Games in Paris.

And, as mentioned, what about Todd Hodgetts? What a man. What an incredible emotional roller-coaster his Tokyo campaign was and for all of us who were watching it from the sidelines. In the moments before Todd competed I was messaging his long-time friend and manager, Rob Fairs, who of course could not be in Tokyo with him. Rob was conveying messages of support that were coming to him straight to Todd and Todd was responding back through Rob. I think Rob was more nervous sitting in Launceston trying to communicate with Todd, than if had he been in Tokyo.

As a proud Tasmanian and a gold medallist from the London 2012 games, Todd was so keen to once again do his home state proud, but instead he missed his call time for the shot-put event by just two minutes, meaning he was not eligible for a medal after years of training for that moment. When you say he was keen to do his state proud - he did do us proud in the way he responded in that moment. Rather than feeling sorry for himself or perhaps blaming officials, he proceeded to give us one of the most memorable sporting interviews in recent history. There was a shout-out to Tasmania, there was a shout-out to the Premier. Then he

ripped off his shirt on live television, shouting this is what it is all about; and remember, after all these years of training he has just missed out on the opportunity. But he was there, and he was wearing the colours of his country, and he responded incredibly, taking responsibility for the fact that he had not made it there in time.

During that interview, Todd also shared that the shot-put had actually saved his life. Despite all those people out there who had knocked him, he came back and he was representing his country. He said that nothing is impossible and that he is living proof of that. What an extraordinary message for my young son, for any Tasmanian kid - for all Tasmanians - to hear in that moment.

Finally, Deon Kenzie, who grew up in the small town of Forth on Tasmania's north-west coast. As a young child with cerebral palsy, I am sure there were many times when those around him told him he could not do what he wanted to do. Now, at the age of 25, he is a former world record holder, a world champion bronze, silver and gold medallist, and a two-time Paralympic medallist, having won silver in Rio in 2016 and bronze in Tokyo in the men's T38 1500 metre event.

I cannot think of three more worthy people to be acknowledging here today, for their incredible performances as sports people, and also the example they have set for all of us, whether it be in achieving in their sport or the way they have responded when things did not quite go to plan. As the minister for Sport has said, the future has never looked brighter for para athletes. We thank our role models in Alex, Todd and Deon, for never giving up.

Like the minister, I cannot stand here today without mentioning Dylan Alcott. I am not a lover of social media. I would like to see it banned, worldwide. However, I do follow Dylan Alcott on Instagram. He is hilarious. He is real, he is inclusive, and aside from all that, he is a great champion. My son, Charlie, has a tennis lesson every week. A few months ago, when the Paralympics were on, his coach put him in a wheelchair and got him to play tennis. It is one of the hardest things Charlie says he has ever done. It was extraordinary to see him trying to think about all those things at once, which is hard enough for a little boy. But to have a tennis racquet, trying to move, trying to work out the shot, was incredible. It certainly gave him, as a young fellow, a great appreciation of what it has taken for Dylan to do what he has done.

Finally I would also like to acknowledge the Tasmanian, Gaye Rutherford, for the role that she played with the Australian Paralympic team. She was part of the nutrition team in Tokyo. We always know there is a team of people who stand behind and beside all our athletes, whether they are trainers or coaches, nutritionists, volunteers, family and friends. So today it is really important that we acknowledge them as well. Thank you.

[8.19 p.m.]

Mr WILLIE (Elwick) - I thank the member for putting forward this motion, to follow up my suggestion that the member amend her previous motion celebrating our Olympians to include Paralympians. I suggested that at the time because I consider these athletes need to be recognised and celebrated more widely. Not only are they highly skilled in their individual or team sports, but they have not let their disabilities prevent them from fulfilling their dreams and goals. They display great determination and courage to overcome mental and physical obstacles. They are truly inspirational, because they prove that few things are impossible.

The Paralympics is important because it raises awareness and it gives us all hope. It is important we continue to change the public perception of disabilities and develop more inclusive communities. I rise tonight to extend my thanks to Todd "The Hulk" Hodgetts, a shot-putter who competed in the F20 shot-put for athletes with intellectual impairment. Todd, OAM, has previously won gold at the London Olympics, bronze at the Rio Olympics and whilst he may have missed out this time, he captured the attention of the nation with his interview with the Prime Minister. He seems like quite the character, and I hope to meet him one day.

I also extend my congratulations to Alexandra Viney. Alex has an amazing story. She was a promising young rower throughout her high school and at 18 she survived a serious, high-speed car accident caused by a drunk driver. That left Alex with impairments. In 2018 Alex decided to continue her rowing and a second chance at her dream. Alex is courageous and hopes to continue to raise awareness around road safety, mental health, women in sport and opportunities for those with impairments. At the 2020 Summer Paralympics she was a member of the PR3 mixed four that finished fourth.

And lastly, Mr President, hailing from the Tasmanian village of Forth, Deon Kenzie has been running since the age of 12. What began as laps around the paddock and late night sprints in the middle of winter with his dad following behind in the car, is now international races in some of the world's premier sporting arenas. At the 2020 Tokyo Paralympics he won a bronze medal in the men's 1500 T38. I rise tonight to express my congratulations to Deon, Alexandra and Todd, and congratulate all of the Australian representatives at the Paralympics. I commend the minister for bringing forth the motion, after my suggestion.

[8.23 p.m.]

Mr VALENTINE (Hobart) - Thank you, Mr President. I do not mind who brought it up or indeed, whose responsibility it was but as everyone has said, it is amazing to watch Paralympic athletes do their thing. How inspirational. When you look at some of these athletes and the particular disability they may have, you think to yourself, 'You have to get up and get dressed, you have to bathe. You have to do all these things that we take for granted as being easy; but have to do that before you even think about going out and training; before you even look at competing with other people. You have to go through all of this process'.

I have previously said, I find the Paralympics a set of competitions that are better than the able-bodied Olympics, if I can put it that way. It has such a diversity of people and they are all overcoming some particular disability to be able to compete and to be able to say that they did it. It is quite clear that regardless of whether they win medals, they are winners because they are out there doing it. We today are celebrating the three Tasmanian Paralympians - Alex Viney, Todd Hodgetts and Deon Kenzie - but I think of the whole plethora of athletes that are out there doing their thing and overcoming amazing hurdles to be able to perform and perform for their country. We can be proud we have those three paralympians who have performed for this little island of Tasmania out there on the world stage. I congratulate them for even being there. Todd Hodgetts, okay, that happened to him but as he has shown, that is not going to stop him. He will probably go again. It is not going to stop a person like that. Congratulations for putting yourselves through, with all the effort involved, the pain, the agony training day after day to get up there on the world stage to put us on the map as an island.

Thank you very much to each one of them and to those who have helped officiate - I take that point, Gaye Rutherford, nutritionist. There may have been others out there timekeeping. I do not know exactly what the circumstance was there with any Tasmanian personnel that

might have been involved in that way. I do congratulate them all and I am proud of them. I have been a member of the Olympics and Paralympics fundraising since about 1999 in one way or another. Sometimes just the Olympics, sometimes combined. It has been a bit here and there over the years, but it is a pleasure to be there helping to support people who do have a passion for their particular sport. They can stand very proud and congratulations on your efforts.

Motion agreed to.

MOTION

Achievements of Wynyard Yacht Club Members

[8.27 p.m.]

Ms FORREST (Murchison) - I move that the Legislative Council notes -

(1) The achievement of Wynyard Yacht Club members Chris Symonds and his support worker Ela Klinger who will be travelling to Palermo, Sicily, to participate in the Hansa Para World Championships scheduled for 2-9 October 2021;

(2) Chris Symonds:

(a) Has been living with Kennedy's Disease, a rare neuromuscular disorder, for a number of years and is an NDIS participant;

(b) started sailing in the Hansa 303 class in 2014, competing nationally and internationally; and

(c) is the winner of two World Championships and runner-up in five since 2017;

(3) Chris Symonds and Ela Klinger are the only Australians of the 101 entries from 23 nations to compete in the Para World Championships in Palermo, Sicily in 2021; and

(4) An exemption for Chris Symonds and Ela Klinger to depart Australia was granted 'in the National Interest' on 28 July 2021, and that strict COVID safe protocols will be followed for the duration of the competition and on their return to Australia.

This is a good segway for the previous debate we just had and one of the reasons I did not speak on that motion is because in speaking to this motion I note the achievements of all para athletes and those that reach the highest level in their field. This is exactly where my constituents, Chris Symonds and his support worker and coach and good friend, Ela Klinger, fit the bill.

In moving the motion in my name, I am pleased to speak on this motion, a motion I gave notice of and my incredible constituent, Chris Symonds and his coach and training partner, Ela

Klinger, have been selected to participate in the Hansa Para World Championships scheduled for 2-9 October 2021 in Palermo, Sicily.

As stated in the motion, Chris Symonds and Ela Klinger are the only Australians of the 181 athletes from 24 nations to compete in the Hansa Para World Championships, a testament to their ability, determination and skill and courage. I am incredibly proud of Chris' achievements prior to and during this competition. In my view, just being selected is an incredible achievement in itself. I also know a national award-winning Wynyard Yacht Club, the Wynyard community, the north-west coast, all Tasmanians and Australians can be rightly proud of his achievements.

As the motion notes, Chris has been living with Kennedy's Disease, a rare and debilitating neuromuscular disease, for many years. He is an NDIS recipient and relies on others to support him achieving his goals. Chris requires the support of a mobility scooter to assist him on land, but on water he is truly a force to be reckoned with. I cannot do what he does in a small boat. It blows my mind how agile and capable he is. As I said, just getting selected as the only Australians to compete is a win in itself and enormous achievement. Bringing home a world championship in the doubles open competition against 61 other yachts and a third place in the Para Worlds was an amazing and noteworthy achievement. I sincerely congratulate Chris and Ela on this world-leading achievement. Chris has now claimed his third Hansa 303 double World Championship title. Chris narrowly missed out on walking away from the championships with two medals finishing fourth in the Hansa 303 singles race. A fantastic result in such trying conditions.

I do not know if anyone else in the Chamber here has met Chris Symonds. He is quite physically frail, he is not a big man by any stretch because the nature of his debilitating condition means he does not have a lot of muscle bulk. What he misses out on in muscles he has got in courage and heart. He is the most courageous man. For those of you who have met or know Chris you will appreciate that a superhuman effort is required by a person impacted to the extent he is with Kennedy's disease to compete at this level, but even at a lower level. The singles events show his enormous determination and strength of character as he overcomes some of his physical limitations.

Australia's participation in these World Championships was critical to support World Sailing's goal to get sailing back into the Paralympics in Los Angeles in 2028. I am not sure if members here are aware para sailing is not in the Paralympics. It does not make any sense to me either. I know Chris has been actively lobbying to achieve this and he has my full support and I have supported him in lobbying our Premier and other relevant ministers and other people to do that.

Chris has led not just Tasmania's, but Australia's case for inclusion and he has supporting letters from Tasmania's Premier, Mr Gutwein and from the Prime Minister.

Ms Rattray - Who makes the decision? Is it the IOC?

Ms FORREST - I think it is, I am not entirely sure, but Chris is on a mission.

Ms Rattray - They usually add a new sport each time.

Ms FORREST - I am not sure who the final decision-maker is. I urge the Minister for Sport and Recreation who is unfortunately not in the Chamber to be actively involved in this push as it seems ridiculous to me it is currently not in the Paralympics sports. The World Championships were a show of strength for reinclusion at such a difficult time with many having to fund their own way to compete, as many countries, including Australia, are not providing financial support. This was the problem when the Paralympics started and the Prime Minister, finally, after lots of public pressure stepped in to ensure Paralympics were afforded the same prize money received by able bodied Olympians when they receive medals.

This is another matter I urge the Minister for Sport and Recreation and the Minister for Disability Services to actively promote. It seems fundamentally wrong a person with such a disability can get to this level of competition and have no financial support to compete. As noted in the motion and this is no news to anyone, the COVID-19 pandemic has added many additional challenges and complexities to the preparation and planning for this opportunity for Chris and Ela. The COVID-19 protocols were key to ensuring athletes, officials and volunteers' safety, with 450 tests completed, vaccination evidence and daily temperature checks. I know on Chris's Facebook page there is a photo of him sitting on his mobility scooter having his COVID-19 test - looking quite uncomfortable I might add.

His last post I noticed on Facebook a day or two ago was he and Ela back on the plane heading home, so I wish them safe travels. They should be back in Australia by now. Chris and Ela went above the requirements required of them under the code of requirements with advice from one of the Australian Olympic team doctors, Kathy Yu, and these measures included always wearing masks onshore, living away from hotels in an apartment where they were self-contained with food and heavy interaction with others to a bare minimum. These people are very vulnerable, Chris is particularly vulnerable.

Chris and Ela hired a local yacht skipper to drive the support rigid-hulled inflatable boat and assist with any onshore requirements. The weather was extreme with thunderstorms, high winds and rain squalls testing all involved with only nine of the 20 scheduled races able to be completed. There is no controlling the weather making Chris and Ela's achievements even more noteworthy. For him to complain about the conditions when he trains in Bass Strait is saying something. Well, not complain about them, but to comment on them. Although the water temperature is much warmer in Sicily than it is off Wynyard, Chris informed me that Wynyard's ocean training area was perfect preparation. Sailors get to experience almost all weather and sea conditions in and around the Inglis River and Bass Strait, making them well prepared for the uncertain conditions in Spain.

Chris told me after the event in his view just getting there to compete was like preparing for and then competing in four marathons, the first marathon being training for the event, the second marathon the planning and coordination just to get to Spain and to the competition, the third marathon competing, especially in the very challenging conditions, and finally the fourth marathon is currently underway, getting back home safely. That is scheduled for 8 November at this stage, when he is back home in Wynyard safely.

There is little public and media attention with the exception of our local paper, the *Advocate*, but hopefully there will be more coverage of this great success on Chris' return. Unlike other sporting achievements, Chris posted on his Facebook page following the event, 'with all the planning, training, support the results could not have been better than to share it with Ela against the world's best Hansa para sailors'.

I sincerely congratulate Chris and Ela for again putting Wynyard, Tasmania and Australia on the world stage in such a positive and successful way. I urge the state and federal governments to continue to lobby to have para sailing included in the 2028 Paralympics in Los Angeles, and to ensure our Paralympians are afforded and supported and funded to prepare, attend and compete in these events, as well as other international events Chris has and continues to compete in. Whilst Chris has received a lot of support from his local community, for which he is very grateful, I believe athletes such as Chris competing at such elite levels should receive similar financial support to able-bodied elite athletes attending world championships.

I conclude with reiterating my commendation to Chris and Ela and wish them well navigating their return to Wynyard with all the challenges that brings with the ongoing COVID-19 pandemic.

[8.37 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - I thank the member for Murchison for bringing this motion on. The Government fully supports the motion and notes the many achievements of para sailor, Chris Symonds, in his chosen sport, locally, nationally and internationally. I note the member's comments about it not being a Paralympic sport. I will make sure I mention that to the minister and see if there is anything she can do to highlight that. That is the best I can do with that one.

I acknowledge your good self for acknowledging the most recent achievement for Chris and his support worker, Ela Klinger, for winning the 303 double event at the Hansa Para World Sailing Championships early this month. What an incredible effort by two very inspiring Tasmanians to beat some of the best para sailors in the world. Chris is an avid sailor and did not let his diagnosis of Kennedy's disease, a rare neuromuscular disorder, prevent him from doing the sport he loves.

With the support of his home club, the Wynyard Yacht Club and its members, Chris modified a boat so he could start sailing in the Hansa 303 class in 2014. Chris was a Tasmanian Institute of Sport scholarship athlete in 2019 and assisted by his former coach, Michael Darby, competed nationally and internationally. He has continued to sail and to compete at the highest level, travelling earlier this month to Italy and was supported by worker, Ela Klinger, to compete in the Hansa Para World Championships, as you have mentioned earlier. The Department of Communities Tasmania, division of Communities, Sport and Recreation, administers the Tasmanian Government Sporting Competitions Access Fund. It is a program that provides financial support for athletes with disabilities and their coaches or carers. Since SCAS introduction funding of $11 498 has been provided to Chris to assist him in attending four interstate and overseas -

Ms Forrest - Not this one, the other ones I think it was.

Mrs HISCUTT - I said four interstate and overseas events, so it might not particularly be this one. Additional funding will also be provided to reimburse costs associated with this month's Hansa Para World Championships. The Tasmanian Government is committed to a safe fair and inclusive sport and recreational sector, one that provides opportunities for all Tasmanians to participate in activities at the highest possible level. Chris is the current chair of the Premier's Disability Advisory Council, providing valuable input from his experience in addressing barriers for people with disabilities to participate fully in community life. Chris's list of achievements is expansive. They include winning the 2016 and 18 Para World

Championships in Hansa 303 class. He was named Wynyard Citizen of the Year in 2019. Winning the 2019 Australian Para Sailing Championships for Hansa 303 one person; winning the 2019 Australia Hansa Class Open Championships in both one-person and two-person divisions. He has a silver medal at the 2019 World Championships in the Hansa 303 category; 2019 and 2020 Para Sailor of the Year Award, also winning the 2020 Tasmanian Championship Hansa 303 category. It goes on - winning the 2021 Australian Para Sailing Championships for Hansa 303 Open and Para National titles in both the one-person and two-person divisions. In 2021 he won the Tasmanian male and Para Sailor of the Year Award; the gold medal at the 2021 World Championship in the Hansa 303 doubles; and finalist in the MAIB Disability Achievement Award in the 2021 Tasmanian Community Achievement Awards. That is just 11 for noting.

Ms Forrest - Yes, I just saw that on Facebook today, that he was there.

Mrs HISCUTT - Chris is also the three-time Australian Champion in the Hansa 303 singles and three-time runner up in the Australian Championships 303 doubles. The Government does thank Chris and Ela for their contribution to the sport of sailing and we certainly look forward to hearing about their future achievements. So, well done and we certainly note the motion.

Motion agreed to.

MOTION

Consideration and Noting - Government Administration Committee A Inquiry - Horizontal Fiscal Equalisation Report

[8.42 p.m.]

Ms FORREST (Murchison) - Mr President, I move -

> that the presented the Report of the Legislative Council Government Administration Committee A Inquiry into the Impact of the Commonwealth Horizontal Fiscal Equalisation System as assessed by the Commonwealth Grants Commission as it applies to Tasmania's expenses and delivery of services be considered and noted.

It is a bit late in the day to be trying to get your head around this one, for those who were not on the committee I might add. But I do note the presence in the Leader's Reserve there of our Treasury officials, including Fiona Calvert, who gave very good evidence to the committee and helped the committee navigate our way through what horizontal fiscal equalisation is, what it should look like and how it is supposed to work. More recently it has been seriously undermined and I will come back to that.

Ms Rattray - It is a thick report too.

Ms FORREST - Yes, some of it is the attachments, some really helpful information. I do commend the report to members to read through because it is important that we understand how Commonwealth fiscal relationships are supposed to work and the purpose of the horizontal fiscal equalisation, particularly with what we are seeing now. The revised methodology that

has been implemented sees Western Australia as a significant beneficiary to the detriment of every other state and territory in Australia.

In my view that was - and I will come to that a bit more in a minute, but that was really done by the federal government to shore up votes in Western Australia, Liberal votes in Western Australia. The Western Australians seem to have a bit of a short memory because for many years they were recipients of and beneficiaries, if you like, of the ATP system with the mining boom when they ended up with having significant income from their mineral royalties. Because of the delay - it is a three-year delay before it flows through to the payments for that year - they were getting lots of income from the mining royalties plus the tail of the benefit from their recipient bases from an HFE perspective. Then three years later when the mining industry had a bit of a downturn that also coincided with the tail of the - not so much GST going their way because of the mining boom. Meanwhile they had spent a lot of that money already, as I understand it, and then the federal government needed to shore up some votes. So, before Mathias Cormann left for greener pastures he struck a deal. We will get to that.

The purpose of initiating this inquiry was really to seek to understand better the complex nature and application of the principle of horizontal fiscal equalisation or HFE and also the impact of direct Commonwealth payments on Tasmania's GST receipts. Now members would know that Tasmania receives a share of the goods and services tax, the GST receipts. That is untied funding that can be used by the Government for whatever purpose they like. The relativities that are worked out to determine how much we get as a state take into account some of our so-called 'disability' in providing an equal level of service across all areas like health, education, infrastructure, public order and those type of things. That is the HFE principles.

The other one is the direct Commonwealth payments and we have seen this happen in Tasmania too, where direct Commonwealth payments when they are not quarantined, are then taken into consideration in the carve up, if you like, of the GST over the remaining years.

The classic example here - and it is mentioned in the report - is the Royal Hobart Hospital funding where Andrew Wilkie claims he got this extra funding for us. It was not extra money. It came to the state and then it was clawed back over subsequent years by reductions in our GST revenue which meant the money was tied for the Royal Hobart Hospital rebuild. The money could not be used for anything else, which is fine in itself because the hospital was being built, but it meant we had a reduction in GST coming to the state following that and it was that amount that was clawed back. Thus, less money available to spend that is not tied to a particular purpose.

The report focuses on those matters. It focuses on how they impact the state's financial position. I do commend it to you. Now this report started - and I cannot remember it has been such a long time, it is almost ancient history - a long time ago. We were then about to get into the report writing and everything and then COVID-19 happened. So, this was not a priority at the time as you can imagine, there were other things that were of higher priority. Just when we were about to get started again the state government election was called, further delaying it.

So, we finally got back into it. The report has been set out hopefully in a way that members can read and understand. You get a fairly broad and high-level understanding of the HFE system. To assist with that and in responding to the complexity of this area, the committee has provided a summary of history and the glossary of key terms and concepts to assist readers. We throw these terms around - well not so much us but those who work in the space - and it

can be very confusing for those who do not know what you are actually talking about like SESS revenues and even just the HFE itself.

The Commonwealth Grants Commission has a key role to play in this and as noted in the report the Commonwealth Grants Commission utilises a horizontal fiscal equalisation process to assess the relative physical capacities of each of the states. Through this process, the Commonwealth Grants Commission derives an Australian average standard of service for each service sector.

The Commonwealth Grants Commission then considers the fiscal capacity of each state, identifying any funding shortfall that each state has between that fiscal capacity and what it would require to be able to provide that Australian average standard of service. This is what I mentioned about assessing our disability, and the idea of this system is that every state has the capacity to provide their citizens with an equal standard of care. Obviously, we have a lot more disability in servicing a population that is very dispersed, that has higher rates of socio-economic disadvantage and other matters like that.

They are the sort of things that are taken into consideration as well as the revenue raising capacity. With a lower population base we have a lower revenue raising capacity compared to some of the bigger states.

This approach seeks to provide each state with the fiscal capacity through the distribution of GST revenue, as I said, the untied revenue, to provide the same average standard of service as every state. The derived amounts are for the purpose of identifying relativities between categories and between states which is the cornerstone of the HFE system.

Since this report has been done, and we talk about the recommendations related to trying to make it user-friendly information about a very complex area, the Commonwealth Grants Commission has started publishing some more information on their website. They do have a lot of good information on their website as well. Also, I have not seen the paper the Leader tabled this morning in response to this committee. I thought she might read it anyway. On 16 October I received a letter in response from the Premier and Treasurer which I shared with the committee members. It was titled, An Inquiry into the Horizontal Fiscal Equalisation System. I do not remember receiving a letter like this in response to a committee report previously. I normally wait for the debate and then get the Government's response, so I thank the Premier and Treasurer and his officials who no doubt helped him write it. It was much appreciated.

I will not table it again. It is already on the record now, but I do appreciate that response ahead of the debate in terms of the Government's view on the report. It was positive, the Premier and Treasurer appreciated the committee's findings and comments, noting there are challenges and complexities with this area.

One of the reasons this committee was established was at the time, going back a couple of years now, there was some commentary in the public about the Government underspending on areas like health against their assessed expenditure, as assessed by the Commonwealth Grants Commission. The Government disputed that, and said what we get is GST revenue that is untied and can be spent as the Government sees fit. That is true.

The committee notes that the Commonwealth Grants Commission assessments are mathematical constructs that include assessments for each expense and revenue category, but

these assessments are not observable amounts that can be identified by examining government accounts. That was the claim that was made. The Commonwealth Grants Commission's assessment says this is how much Tasmania will need to pay to provide the same level of service as Victoria; that is how much we should be spending. As we went through and had evidence from Treasury officials, it was clear it is not quite as simple and straightforward as that, and one doesn't necessarily equal the other. It is called a mathematical construct which cannot be nailed down; making it all the less complicated I am sure for everybody, including the committee.

Mr Valentine - What you are saying is it is wheels within wheels.

Ms FORREST - Something like that.

Mr PRESIDENT - Smoke and mirrors.

Ms FORREST - The differences between assessed and actual amounts arise for a variety of reasons. This is all in the report. A state may choose not to fund a particular service which is included by the Commonwealth Grants Commission in its assessment, and the state will not be financially penalised if that occurs - if the government of the day makes a decision. As a result, the adoption of different policies across states may explain some differences between actual and assessed amounts. The Government also provided explanations of differences between actual and assessed amounts of some categories, including why assessed amounts were greater than actual expenditure in the case of expense category services to community. We spent more than our assessed expenses in service to communities and less in the category services to industry. They provided some commentary around that. It is all contained in the report.

However, the Treasurer and Treasury officers did not provide an explanation to the difference between actual and assessed expenditure amounts for health. Rather, it reiterated that CGC assessments are mathematical constructs and noted that the state spends above the national per capita average on health and delivering health services. This is where it becomes frustrating and perhaps a bit confusing too, that the two measures about how much is spent on a national per capita basis are not comparable with the assessed expenditure. There is no direct line between any of these to say how much should have been spent. It really comes down to government decisions and the parliament, including committees such as these, holding them to account.

In light of the complexity of this important area and its potential impact on the state's fiscal position, the committee recommends the Government provides user-friendly information to assist Tasmanian's understanding of the relationship between the federal and state government grant funding. To assist in this, the committee recommends the Government publishes an annual summary in response to each Commonwealth Grants Commission (CGC) update. That update should include the main changes from the previous report; details of the state's actual and assessed revenue and expenses for each category alongside national averages for the same; and an explanation of differences between Tasmania's actual expenditure and the CGC assessment for each category; Tasmania's actual expenditure and CGC assessment compared to national average actual expenditure and CGC assessment for each category.

The committee also notes the potential negative and distorting impact of future, untied GST revenue to Tasmania, resulting from granting of significantly more than its per capita

share of national programs or payments for specific purposes that are not quarantined. This is the matter I talked about with regard to the Royal Hobart Hospital funding. That funding was not quarantined. It was not separated out. When it is quarantined, it is set aside and the Commonwealth Grants Commission does not take into account that money that comes into the state when they look at our GST assessment, the relativities and how much we are going to get.

A case where it was appropriate and was quarantined was when we got the $752 million, or thereabouts, to last for 10 to 12 years to fund the Mersey Community Hospital. That was quarantined, because it would have caused all sorts of havoc with the finances if it had not been.

For members' interest, attached to the report is the latest two years reporting of the quarantined payments. There is a long list of them here. You can see some are partially quarantined; some are fully quarantined. Our recommendation was that the quarantining of payments should be very judiciously used, because it does have impacts broadly on Tasmania but it also has impacts right across the country. Whilst it might be convenient - and it would have been particularly handy if the Royal Hobart Hospital had been quarantined - it is not really part of the spirit of our Federation. If every other state does it too, then where does that leave us? They get big swathes of money from pre-election commitments and then when the carve-up of the remaining GST pool is done, those big amounts are not taken into consideration and that is not in the spirit of things. I do not know that Mark McGowan would agree with me on that.

I encourage members to read through the report. We tried to make it as simple as we could. We tried to put in those terms and other matters that make it easier for people to understand, and provided examples at the back of the quarantined payments - partially and in full - and tried to explain how it is intended to work.

I will read part of the Treasurer's response to the Committee, noting our report. He said:

> As is also noted in the Committee's report, GST is provided to the states in accordance with the Intergovernmental Agreement on Federal Financial Relations on the basis that it is untied general purpose revenue.
>
> The report also acknowledges that state governments are ultimately accountable to their communities in relation to how they spend their untied GST.
>
> This is consistent with the occasional paper published on the Department of Treasury and Finance website, entitled GST and the Commonwealth Grants Commission Assessment of Health Expenditure Needs.

There is another resource there for members if they would like to read that.

I will not go through all of this because it is available for all of you to read, and the Leader may well comment on parts of it. The other point that was made in the closing, not so much related to the report, but there was some comment on the change made to the GST carve up. The Premier and Treasurer said:

> As the Committee is no doubt aware, as part of the Productivity Commission's report, horizonal fiscal equalisation, it also recommended that Commonwealth Government in consultation with the states develop clear guidelines detailing the basis on which Commonwealth payments are to be quarantined from the GST distribution by the Commonwealth treasurer so they do not necessarily erode the efficacy of the CGCs relativities and compromise the objective of HFB.

The report also indicated:

> That guidelines should strike a balance between enhancing accountability and transparency while not unduly affecting the Commonwealth treasurer's ability to quarantine payments in the exceptional circumstances that are in the national interest.

That should be the bar and the test. It is exceptional circumstances that are in the national interest, not the political interest of any one particular state, whether it is ours or any others. That is including the treasurer's response.

The other point he made was:

> I appreciate the Committee's interest and engagement on the important issues to the state and welcome further engagement from members ensuring Tasmania continues to receive its fair share of GST revenue.

On this note, the committee may also be interested in the further occasional paper prepared by Treasury and published in September 2021, entitled New GST distribution arrangements.

I commend this paper to you, because this deals with that particular issue of the change to the distribution of GST and the inherently unfair distribution arrangements that now exist. The Labor Party need to read this and sharpen up a bit, because some of their comments suggest that Tasmania and the Premier/Treasurer have not fought for Tasmania's interest in this.

Right from the start, when the Productivity Commission first looked at this - because I have watched this the whole way through - Treasury did put papers in and they continue to maintain that the current system is the best system. Even the Productivity Commission's report that came out with a different mechanism to their recommendation, that still wasn't chosen, but rather this system we now have potentially until 2026-27 is in place. That was selected for purely political reasons. I am stating it as it is in my view and it is a view shared by others.

To read a little bit from this paper, because it is relevant to this and it is also important that we, as Tasmanians, watch this space, we get active in putting the truth out there so that we can all be very aware this needs to change. There is a review going to be done before we get to the cliff, as I have called it in budget Estimates and in my Budget reply. As I said, that is when Tony Farrell will probably retire from secretary of Treasury. It will be all too hard by this stage if we do not get some sort of resolution here. There will be a huge negative impact on Tasmania.

After the Australian Government announced in response to the Productivity Commission inquiry into HFE - it argued, based on a single scenario that all states would be better off under the new model, both now and in the future, the Treasury paper stated:

> At the time, most States and Territories, including the Tasmanian Government, argued that the assumptions and modelling upon which the Australian Government built its new arrangements and arguments were flawed and failed to take into account a number of more realistic alternative scenarios.

You can read these submissions on the Treasury website.

As a result, the Australian Government agreed to a time-limited binding guarantee that no state would be worse off under the new distribution arrangements over the transition period of 2026-27. However, it is becoming increasingly apparent all states, with the exception of Western Australia, will be worse off under the new distribution arrangements.

If anyone watched the budget, the very latest delivered budget from Western Australia, you can see they are rolling in cash over there. Mostly, as the beneficiary of this arrangement and the mining royalties and the mineral prices being what they are.

The Productivity Commission will review the operation of the new arrangements by December 2026 and Treasury considers the review will demonstrate the new arrangements have resulted in entrenched inequality between Western Australia and the other states. Let me just repeat that, entrenched inequality between Western Australia and the other Australian states. That is not what a federation is.

Under the heading, Productivity Commission review of HFE, it said the decision to undertake the review was largely driven by ill-informed debate about the integrity of the HFE system primarily driven by the decline in Western Australia's GST share in 2015-16 and lobbying from the Western Australian state and federal members of parliament.

As I said, a politically driven change.

Further on, throughout the Productivity Commission inquiry, the Tasmanian Government argued that the system of HFE was not broken and that the Productivity Commission did not make a convincing case that the system needed changing. It was also considered that the Productivity Commission did not make a convincing case that the HFE was detrimental to a national productivity efficiency and economic growth. And these conclusions were predicated on assertions not evidence.

So, our Treasury has been very clear and very direct on this. I do commend this paper to you in that it gives very clear indications of the financial impact. There is a chart on page 10 that is quite horrifying - when you think about if nothing is done, what will happen? There are charts on page 9 as well that show Tasmania's annual loss in GST revenue to 2031-32 under the new arrangements and you can see - not that *Hansard* can record it - but there is a graph there that shows, that's the cliff I talked about. There it is; you can see it.

The amount of money that this state will lose will have a significant negative impact. So, all power to the Premier and Treasury officials in continuing this fight, but I think we have an

obligation to inform ourselves as to what this could actually look like and the changes it will bring to Tasmania.

I do commend the report to members and encourage you to read it at your leisure when you have nothing else to read, which is not in this next couple of weeks. It is helpful to understand the system, particularly when Treasury and the Treasurer are arguing for a return to the system that we were examining as a better model. I think you will probably see when you look at that and read the occasional paper and look at what is actually happening around the country, you will see that it really is fundamentally unfair, creating inequality in our country that is unacceptable if it is not addressed.

[9.08 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - I thank the member for Murchison for bringing forward this motion.

In 2018 the Legislative Council Administrative Committee A announced it would undertake an inquiry into the impact of the Commonwealth Grants Commission, the CGC, and the Horizontal Fiscal Equalisation system in Tasmania.

The inquiry aimed to seek a better understanding of the complex nature and application of the principle of HFE and the impact of direct Commonwealth payments on Tasmania's GST receipts.

The Committee tabled its final report in the Legislative Council on 24 August 2021, and a copy was subsequently provided to the Government for response.

The Committee's report recommended that the Government:

(1) Provide user-friendly information to assist in understanding the relationship between Federal and State Government grant funding.

Secondly, it publishes an annual summary in response to each CGC update containing information, including an explanation of any differences between Tasmania's actual expenditure and the Commission's assessment for each category; and

(3) Continues to advocate for the judicious use of quarantined payments for specific purposes by the Australian Government Treasury, utilising strict and principled guidelines.

As part of the draft response, the Government welcomes the findings of the committee and in particular the finding that the CGC assessments are mathematical constructs and are not observable amounts that can be identified by examining government accounts.

The draft response also indicates that the Government welcomes the finding that in developing its revenue and expenditure assessments, the CGC does not have the power to identify an optimal or desirable level of state government spending or revenue raising.

As highlighted in the committee's report, the CGC does not form an assessment on how much states should spend on any particular service provided through the population, nor how much tax a state should raise under the available revenue streams.

The committee's report also acknowledges the state governments are ultimately accountable to their communities in relation to how they spend their untied GST revenue. This is consistent with evidence provided to the inquiry by both the CGC and the Department of Treasury and Finance. This is also consistent with the recent occasional paper prepared by Treasury entitled, GST and the Commonwealth Grant Commission's assessment of health expenditure needs, which is available on its website, as you have said.

The Treasury paper corrects a number of misconcepts put forward by some public commentators who make erroneous comparisons between the CGC's assessment and actual government expenditure in particular areas. Since the committee's inquiry, the CGC has begun to release a number of papers on its website that provide an overview of topical and background issues with the aim of improving public understanding of the system of HSE.

As part of the 2021 update earlier this year, the CGC also published date-specific summaries to provide an overview of the major causes of changes in relativities and the distribution of the GST pool since the 2020 review. The summaries illustrate the financial impact of the CGC's recommended GST revenue-sharing relativity, and outline any changes in data or circumstances which have driven a change in assessed expense requirements or revenue raising capacity. The Government understands the CGC will continue to push these summaries for each update, providing user-friendly information to enable informed discussion on any changes in Tasmania's GST allocation from year to year.

The CGC is best placed to provide a strong mutual voice to inform the public in relation to the complexities of HSE. The draft response also indicates the Government also welcomes the findings of the committee in relation to the judicious use of quarantined Commonwealth payments. As indicated in the committee's report, any Commonwealth payments which support state services and for which expenditure needs are assessed, will impact the state's relativities. This means any Commonwealth payments to the state not quarantined will be equalised away by the CGC's methodology in the form of reduced GST payments over time.

This is particularly problematic with larger payments that have occurred in the past with the Royal Hobart Hospital funding, as mentioned by the member for Murchison. In a sense the state foregoes untied GST revenue in exchange for tied Commonwealth funding. The CGC has recently published a research paper on its website, entitled Why states get different shares of GST. Among other things, this paper addresses the impact on state's GST shares of receiving higher or lower shares of Commonwealth payments. As part of the PC's report on horizontal fiscal equalisation, it was recommended, among other things, the Australian Government, in consultation with the states, develop clear guidelines detailing the basis on which Commonwealth payments are to be quarantined from the GST distribution by the Australian Treasurer so they do not unnecessarily erode the efficiency of the CGC's relativities and compromise the objectives of the HSE.

The report also indicates the guidelines should strike a balance between enhancing accountability and transparency, while not unduly affecting the Australian Treasurer's ability to quarantine payments in exceptional circumstances that are in the national interests. These guidelines are currently being progressed between the Australian Government and the states through relevant officer-level intergovernmental forums prior to being considered by the council on federal financial relations.

I thank the member for Murchison and the committee for considering this important issue for Tasmania. We note the report.

Report considered and noted.

ADJOURNMENT

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

> That its rising, the Council adjourn until 11.00 a.m. on Wednesday, 27 October, 2021.

Mrs HISCUTT - Before I adjourn, may I remind members, committee room 2 tomorrow at nine o'clock we are briefing staff on the Mutual Recognition (Tasmania) Amendment Bill, then onto the TASCAT amendment and the Validation Bill, starting at nine o'clock.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

> That the Council does now adjourn.

The Council adjourned at 9.14 p.m.