

2011

(No. 44)



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PARLIAMENT OF TASMANIA

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**SELECT COMMITTEE ON  
CHILD PROTECTION**

**FINAL REPORT**

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*Brought up by Mr O'Halloran and presented to Mr. Speaker pursuant to  
the Order of the House of Assembly*

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MEMBERS OF THE COMMITTEE

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*  
Mr *Wightman*

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# 1. EXECUTIVE SUMMARY

There has been increased public attention and concern about child abuse in Australia, including here in Tasmania.

There have been several reviews in regard to the Child Protection system in Tasmania in recent years, with 12 reports and over 421 recommendations released since 2005.

Some of the reports include:

- Report on Child Protection Services in Tasmania (Jacob-Fanning report, 2006);
- Out of Home Care Strategic Framework (KPMG report, 2007);
- Inquiry into the circumstances of a 12 year old child under Guardianship of the Secretary (The Mason Report, 2010);
- Report of the Auditor-General, No. 2 of 2011-12, Children in out-of home care.

The 2010 Mason report and the circumstances surrounding the prostitution of a 12 year old girl while under the guardianship of the Secretary was the topic of considerable debate in the Tasmanian House of Assembly. As a consequence of the public concern surrounding this report, a notice of motion to establish a Select Committee of the House of Assembly was moved, debated and resolved with amendment on Thursday 14 October 2010.

The debate in the House on the motion focused on the need to evaluate the adequacy of current child protection systems and practices and recommend improvements, particularly with regard to early intervention strategies, strategies for interagency collaboration, the need for legislative reform and funding, and addressing the contributors to child abuse and neglect.

The committee was set up as a response to a system under serious stress. The Child Protection system operates in highly volatile and unpredictable circumstances.

In summary, the terms of reference of this committee included reporting on:

- Early identification, intervention and prevention strategies in place;
- Interagency collaboration;
- Review of the current Children, Young Persons and Their Families Act 1997;

- Contributors to child abuse and neglect;
- Any need for a Commission of Inquiry.

It is fair to say that all published reports, and many of those from other jurisdictions, clearly highlight that the area of child protection is a very difficult and stressful area. In Tasmania, there is little doubt that the system is under pressure and struggling to cope.

In Tasmania, there were close to 20 000 notifications of abuse in 2010. There were 350 000 notifications nationally in 2010. These figures are increasing. Tasmania has close to 1000 young people in out of home care.

The personal, economic and social costs of child abuse are significant. If the estimates take into account such things as health system expenditure, additional educational assistance, protection programs, productivity losses, government expenditure across jurisdictions and other factors that make up a 'burden of disease' over a lifetime, the costs extend into the billions.

Add to this the costs of mental illness, generational disadvantage, incarceration costs and social isolation, and the costs are overwhelming.

A 2008 Access Economics report, *Access Economics The Cost of Child Abuse in Australia 2008*<sup>1</sup>, estimated that the lifetime costs for children reportedly abused for the first time in 2007 in Australia were \$6b, with associated costs representing a further \$7.7b.

It is important to note that available data on child abuse and neglect does not take into account the non-reported abuse, and therefore does not reveal the true extent of the problem.

We know that child abuse and neglect result in:

- Poor academic performance;
- Greater delinquency and substance abuse;
- Poor labour market outcomes.

Child abuse is also associated with several long term negative outcomes including low self-esteem, high levels of addiction and substance abuse, suicide and self-harm, and many other physical and mental ailments. These negative outcomes especially apply to victims of sexual abuse.

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<sup>1</sup> [http://dpl/Books/2008/AccessEc\\_CostofChildAbuseinAustralia.pdf](http://dpl/Books/2008/AccessEc_CostofChildAbuseinAustralia.pdf)

There was extensive evidence provided to the Select Committee that the child protection system in Tasmania had failed children and families in the past, was currently failing children and families, and would continue to fail children and families into the future if nothing changed. The Committee received evidence –

- that the current service delivery system has become unsustainable and is struggling to meet demand;
- that, despite numerous reviews and reforms, recommendations are not implemented in the daily practices of Child Protection Services in Tasmania;
- that all reviews have had many of the same themes of improving child protection, yet the same issues continue to be a problem.

Evidence was provided that despite reforms, children are falling through the gaps, serious notifications are not acted upon, children are being sent back into an abusive environment, and files are closed prematurely to improve statistics. Lack of consistency in applying procedures, policies, guidelines and understanding of cumulative harm was frustrating to families, foster carers and professionals in the community who are mandatory reporters.

Child Protection Workers do a good job despite their huge workload and the highly stressful and unpredictable environment in which they work. Child Protection workers should not be blamed for problems in the system, as these problems are often as a result of complex political, organisational and structural pressures.

The Committee received evidence of a culture within the Child Protection System which is defensive, risk averse and secretive in its dealings with families, foster carers and other stake holders.

The Committee acknowledges that in many respects these behaviours can be a consequence of the difficult circumstances confronting those working within the Child Protection System on a day to day basis. However the existence of such a culture adversely impacts on the System's capacity to maximise outcomes for children and families and can result in a very negative and intimidating experience for those who interact with the System.

In the Committee's view, the operational culture of Child Protection Services can be improved by increased transparency, adequate resourcing, training and other workload tools including professional development and supervision.



As a priority, the Department must take steps to foster a culture of greater openness and transparency of communication with foster carers, families, children and other stakeholders. In doing so, the Department must recognise the right of families, foster carers and children to interact with the system without a sense of being bullied, intimidated or fear of repercussion.

Issues of low worker morale, uncertainty, excessive workloads and constant change must be addressed as a matter of urgency.

The Committee also received substantial evidence that the child protection system needed a major injection of funds or else the current reform agenda would stall and there would be little improvement without a substantial resource allocation. The Committee believes that resources to child protection must reflect the true level of need and demand, but investment in early intervention offered the best value for families, community and governments.

Additional resourcing of family support services, specialist and universal support services across multiple environments throughout our communities is imperative for early intervention. This includes: child and adolescent mental health services as well as a secure unit; drug and alcohol services for adolescents, as well as adults; child trauma services; sexual assault support services; family violence counselling services for children and adults; community youth justice support; and child health services. The 'public health' model under the National Framework for Protecting Children will only work in Tasmania if such specialist and universal services are adequate and accessible.

Other evidence included:

- the Department closing files prematurely, putting children and families at further risk;
- the lack of timely response to serious notifications, or serious and successive notifications being ignored, and a tendency to not believe children when they self report abuse and neglect;
- a lack of consistency in applying procedures, policies and guidelines is frustrating to families;
- the out of home care system at its current level of resourcing is unable to meet the growing complexity and needs of children and young people who require protection and care;

- there is limited opportunity to always match the skills and styles of carers with the needs of children in care, and placement turnover may be a source of more harm to children; and
- some children in care are not experiencing regular routine supervised or unsupervised access to their parents or siblings, with Child Protection Services failing to recognise the family unit as one of the primary constructs that binds our communities together.

Many foster carers gave evidence of a culture of lack of recognition and respect of foster carers, how concerns are often ignored, that they may be penalised if they made complaints or advocated for children's needs, and basic information was not being provided to carers, like medication needs. Evidence was also provided that the system of reimbursement for legitimate out of pocket expenses was flawed with carers waiting months for payment.

Evidence was also received that cumulative harm for children from multiple placements can lead to aggression, hostility and a sense of abandonment and despair for already traumatised children. Stability is therefore important for children in Out of Home Care and attention needs to be given to consistency in schools, and increased access to intensive therapy services and other support services for children who have suffered trauma. Babies, in particular, should not be placed with a succession of strangers in the first years of life.

The Committee also heard that kinship carers were often not considered by Child Protection even if those relatives had previously assisted with the care of the children and even if it meant the child was placed with a succession of foster carers, and sibling groups would be split.

Further evidence was received that Child Protection returned children to parents' custody despite continual reports of significant concerns of abuse and neglect, siblings separated in out of home care were not permitted to see their brothers or sisters, and some parents are working hard to make changes without support from the Department. Similarly, evidence was received that families and children involved with Child Protection often feel hostile and angry, alienated and excluded and without a voice, and that the mechanism to provide that voice – Family Group Conferencing – was not always used, adhered to or followed up.

The care experience of a child can be improved with regular access visits to parents (if appropriate), grandparents and siblings, and where

reunification is possible, ensuring this determination is made early and a systematic approach is adopted which supports the whole family.

For children leaving State care, the lack of sufficient leaving care programs and transitional care plans was a concern raised.

Evidence was received regarding oversight and complaints mechanisms, including:-

- the Complaints in Care process was flawed and must be reviewed, and that Child Protection Services are not answerable for any decisions made;
- the referral of child protection complaints to the Ombudsman is not working in practice and rarely used;
- children in Out of Home Care need an independent person such as a Children's Visitor to speak with, not their Child Protection Worker, or their carer;

Evidence was received regarding the need for the powers and functions of the Commissioner for Children to be clarified and strengthened.

The Committee considers that the Commissioner for Children has a very important role to play in a properly functioning Child Protection System.

It is of significant concern to the Committee that evidence from both the current and former Commissioner for Children suggested that some elements within government have endeavoured to curtail to some degree the power and functions of the Commissioner.

An example of this was evidence of the Commissioner's power to require information being very narrowly applied with the effect of denying the Commissioner access to information which they considered necessary in the performance of their function.

In this context, the Committee has recommended that section 80 of the Act be amended to ensure that it is clear that the Commissioner for Children has the power to require information from any Government Department or Agency where such information is, in the reasonable opinion of the Commissioner, necessary or convenient in the performance of his or her function.

The Committee is also of the view that the Commissioner for Children should oversee the implementation of all recommendations and reforms relating to the Child Protection System and that the role of the

Commissioner for Children be expanded to enable the undertaking of own-motion inquiries.

The Committee heard evidence that the long-term contributors to child abuse are family violence, parental alcohol and drug abuse, parental mental health problems, poverty and social isolation, unstable family housing and homelessness, poor child and maternal health, childhood disability, young people disconnecting from family, school and community, and parental past experience of trauma.

The most effective way of breaking the generational cycle of abuse and disadvantage is through a more integrated, collaborative approach with a focus on early identification and intervention and with an investment of resources across multiple environments.

In relation to inter-agency collaboration and interaction:-

- there was limited evidence that this was actually occurring; and
- cooperation was often strained due to a culture of risk aversion and blame exacerbated by lack of communication;

Evidence was heard that Gateway family support services are an effective early intervention mechanism for families and children at risk, however the relationship between Gateway and Child Protection must be strengthened and improved to prevent families slipping through gaps, particularly if families are cycling between the two services.

Adequate resourcing of family support services – and the need for intensive support to families with complex risk needs - was also raised as a key factor in early intervention.

A large body of evidence was received in relation to education for children in Out of Home Care, with concerns that many children are not attending school, are being suspended or expelled, or forced to change schools when changing care placement.

The Committee also heard schools are perfectly positioned to be involved with early intervention but that school social workers feel their notifications do not carry sufficient weight. A shortage of school social workers and school-based psychologists makes early intervention more difficult.

The Committee received evidence about the reform agenda, legislative changes and the need for a culture of quality and continuous

improvement with key performance indicators, monitoring and compliance against standards. Specifically that:-

- since the release of the reform agenda, there have been deficiencies identified in the system and gaps in service provision that have the potential to undermine quality of service;
- there has been piecemeal amendments to the Children Young Persons and Their Families Act, and there is a need for a complete overhaul of the legislative framework within which child protection in Tasmania is practiced;
- there is a crisis-driven response to child protection with no consideration of how many prior notifications there have been for a child, and the cumulative harm;
- the Tasmanian legislation lacks rigour in decision-making principles and processes, and there is a need for clarity for the courts on types and durations of Orders available; and
- the Charter of Rights for Children and Young People in Out of Home Care should be built into the principles of the Act.

Court processes, a less adversarial system of child protection, the continuation and expansion of the Specialist Children's Magistrate and Court model, legal aid and parental support were also discussed at length.

The committee recommends that legal aid support for families must be given priority.

The Committee was extremely concerned to received evidence that for a period of about eight months at the end of July 2010, the Government was not providing legal aid to parents in care and protection proceedings because of budgetary pressures.

The Committee considers access to legal representation to be a fundamental right of any parent at risk of having the custody of their child challenged by the State.

In the view of the Committee, there is a demonstrated need to ensure legal aid support for members of the public impacted by child protection decisions to be given greater priority. The Government must ensure that no parent is denied access to legal representation in Child Protection matters involving the custody of their child.

One of the issues considered by the Committee was whether there was a need for a broad ranging Commission of Inquiry into the case involving the 12 year old child prostituted by her mother.

There is no question that the case has given rise to considerable community angst and discomfort. In particular, the Committee received evidence of considerable community disquiet regarding the decision not to prosecute certain people alleged to have had sex with the child. There was also evidence received by the Committee of potential inadequacies in the criminal law as it relates to sexual offences against children.

The Committee acknowledges that public confidence in the proper and fair administration of the criminal law as it relates to young people is fundamental.

Having very carefully considered the matter, the Committee is of the view that on balance the establishment of a broad ranging Commission of Inquiry into the circumstances surrounding the case of the twelve year old child is not the best course for responding to the genuine and legitimate public concern in relation to the case. The Committee acknowledges that the Attorney General as the first law officer of the State is ultimately responsible to the Tasmanian people for the administration of justice. Accordingly, the Committee believes that the Attorney-General must immediately take such steps as required to satisfy himself that the decision of the Director of Public Prosecutions to not prosecute other alleged offenders against the twelve year old child was appropriate.

The Committee also notes that the Government has commissioned the Tasmanian Law Reform Institute to conduct a review of the provisions of the Criminal Code as they relate to offences against children and that the findings of this review are overdue. The Committee is strongly of the view that the review of the Criminal Code commissioned by the Government must be expedited.

The Government must also take immediate steps to respond to any other outstanding recommendations of previous inquiries as soon as possible.

In addition, the Government must give consideration to the implementation of the recommendations contained in the submission to this inquiry of the Sexual Assault Support Service.

Child Protection systems across Australia are facing similar challenges. These include meeting rising demand for services, systems stretched

beyond capacity, reactive models, coordinating inter-agency collaboration and putting in place more robust processes and systems.

There is no quick fix in these unpredictable and volatile areas.

It is the view of the Committee that the key areas which require addressing include:-

- Increased interagency integration, sharing of information and collaboration.
- An increased focus on early identification and intervention. There is an urgent need to break cycles of disadvantage and abuse, as well as keeping our young people out of the Child Protection system if at all possible.
- A stronger prevention focus
- Greater focus on family support
- Investment in increasing system capacity. This includes increased resources for professional learning for those dealing with children with complex needs, including a greater diversity of placement options. This investment must include attracting and retaining the right workforce.
- More responsive communication systems.
- The need for holistic assessments of children entering care – physical, psycho social, developmental, mental, educational, etc.
- The breaking of generational cycles of poverty, hopelessness, social and educational isolation, and disadvantage.

The old adage that “it takes a village to raise a child” is no truer than in the area of Child Protection.

## 2. APPOINTMENT OF THE COMMITTEE

- 2.1 The Honourable Member for Braddon, Basil O'Halloran, the eventual Chair of this Committee, on 12 October 2010 gave notice of a motion in the House of Assembly (the House) that he intended to move for the establishment of a Select Committee of the Assembly to inquire into and report upon child protection issues.
- 2.2 Such motion was moved, debated and resolved with an amendment on Thursday, 14 October 2010. The resolution was as follows:-

*Resolved, That: -*

- (1) *A Select Committee be appointed, with power to send for persons and papers, with leave to sit during any adjournment of the House exceeding fourteen days, with leave to report from time to time and with leave to adjourn from place to place, to inquire into and report upon the adequacy of Tasmania's child protection systems, including:—*
- (a) *early identification, intervention and prevention strategies currently in place within all relevant agencies including the Department of Health and Human Services (including Family Support and Child Protection Services), the Office of the Commissioner for Children, Department of Education, Department of Justice, Tasmania Police, and the non-government sector including Gateway service providers, and including comparison with child protection regimes in other Australian jurisdictions;*
- (b) *mechanisms currently in place, and where improvements can be made to enhance the integration between all relevant agencies to ensure that the welfare of any identified child at risk is paramount and that all agencies work together to provide best practice care and service delivery;*
- (c) *review the Children, Young Persons and Their Families Act 1997, including all proposed amendments to the Act as mentioned in the Tasmanian Government's response to recommendations in the Commissioner for Children's report on his inquiry into the circumstances of a 12 year*



*old child under guardianship of the Secretary, October 2010;*

*(d) other long term contributors to child abuse and neglect, such as poverty, drug and alcohol misuse and mental health issues;*

*(e) the appropriateness, and need for, any further inquiry including but not limited to a Commission of Inquiry as established under the Commissions of Inquiry Act 1995; and*

*(f) other matters incidental thereto.*

*(2) The Committee shall consist of five Members, being: two from the Government nominated by the Leader of the House; two from the Opposition nominated by the Leader of Opposition Business in the House; and one from the Tasmanian Greens nominated by the Leader of the Greens.*

*(3) The Committee report by 31 January 2011.*

2.3 The debate in the House in respect of the motion focused on the need to evaluate current systems and practices and recommend improvements, particularly with regard to early intervention strategies, strategies for integration between services, legislative reform, funding and addressing the contributors to abuse and neglect. In addition to these matters, the House referred for the consideration of the Committee the recommendations contained in the report of the former Commissioner for Children, Mr. Paul Mason, on his inquiry into the circumstances of a 12 year old child under guardianship of the Secretary, October 2010 and the Tasmanian Government's response to such recommendations.<sup>2</sup>

2.4 Matters of concern raised throughout the debate included the out of home care sector, pressures on child protection workers resulting from high case loads, the functions and powers of the Commissioner for Children, the need to protect children from abuse and neglect, and the potential need for a commission of inquiry to be established.<sup>3</sup>

2.5 It was acknowledged that the Committee was established with the intent of putting first and foremost the welfare of children in need

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<sup>2</sup> Hansard, 14 October 2010.

<sup>3</sup> Hansard, 14 October 2010.

- 2.6 The House further resolved on Tuesday, 16 November 2010, to extend the reporting date until the first sitting day of 2011, Tuesday, 8 March 2011.
- 2.7 The House further resolved on 8 March last, to extend the reporting date until Tuesday 18 October next.
- 2.8 The House further resolved on 20 September last, to extend the reporting date until Thursday, 15 December 2011.

### 3 CONDUCT OF THE INQUIRY

- 3.1 The Committee resolved at its first meeting, to invite by way of advertisement on the Parliament of Tasmania Internet page and in the three daily regional newspapers, interested persons and organisations to make a submission to the Committee in relation to the Terms of Reference. In addition to such general invitation, the Committee directly invited a number of persons and organisations to provide the Committee with any information they deemed to be relevant to the inquiry.
- 3.2 Notwithstanding the formal three-week timeframe for invited written submissions, extensions to the deadline were granted upon request. The Committee received 47 submissions and, in addition, many documents have been provided as exhibits.
- 3.3 The Committee has carefully considered the receipt of all submissions. Such deliberations were conducted within the context of both: the determination of the Committee that the inquiry process be conducted openly; and the strong desire to protect, where possible, the identities of individuals, particularly minors, mentioned in proceedings.
- 3.4 All submissions were received and taken into evidence, thus informing the Committee's deliberations.
- 3.5 The submissions received, taken into evidence and ordered by the Committee to be published and reported are listed in Appendix 'A'. Such documents were published by order of the Committee pursuant to Standing Order 363 and tabled with the Progress Report of the Committee (Paper No. 5 of 2011). The submissions received, taken into evidence and ordered by the Committee not to be reported are listed in Appendix 'B'
- 3.6 The Committee met on 22 occasions, such meetings having been conducted in: Hobart; Launceston; and Burnie.
- 3.7 The 'default' position for the Committee hearing evidence is to examine witnesses in public. The Committee has however, resolved on occasion, to hear witnesses *in camera*. The Committee has resolved not to publish or report the transcripts of evidence heard *in camera*.
- 3.8 The Minutes of the meetings of the Committee appear in Appendix 'C'.

3.9 Acronyms utilised within this report should be interpreted as follows:-

- AAGs – Area Advisory Groups
- AASW – Australian Association of Social Workers
- AIHW – Australian Institute of Health and Welfare
- APS – Australian Psychological Society
- ARACY – Australian Research Alliance for Children and Youth
- AYDC – Ashley Youth Detention Centre
- CAAG – Court Action Advisory Group
- CAMHS – Child and Adolescent Mental Health Services
- CAPO – Care and Protection Order
- CAT – Crisis Assessment Team
- CBCPTL – Community Based Child Protection Team Leader
- CDD – Community Development Division
- CfC – Commissioner for Children
- CFCs – Child and Family Centres
- CHAPS – The Child Health and Parenting Service
- CHYPP – Children and Young Persons Program
- CMD – Court Mandated Diversion of Drug Offenders Program
- COPMI – Children of Parents with Mental Illnesses
- CPE – Continuing Professional Education
- CPS – Child Protection Services
- CPSU – Community and Public Sector Union
- CPW – Child Protection Worker
- CRO – Community Respect Order
- CV – Children’s Visitor
- CYFA – Children, Youth and Families Act 2005 (Vic)
- CYPTF Act – Children, Young Persons and Their Families Act 1997 (Tas)
- DCYFS –Department of Disability, Child, Youth and Family Services

- DHHS – Department of Health and Human Services
- DIAC – Department of Immigration and Citizenship
- DOE – Department of Education
- DPAC – Department of Premier and Cabinet
- DPEM – Department of Police and Emergency Management
- EIPP – Early Intervention Pilot Program
- EIYAU – Early Intervention Youth Action Units
- ENI – Educational Needs Index
- ESCA – Eastern Shore Community Association
- FAHCSIA – Department of Families, Housing, Community Services and Indigenous Affairs
- FCAT – Foster Carers Association Tasmania
- FGC – Family Group Conference
- FVCSS – Family Violence Counseling and Support Service
- FVOIP- Family Violence Offender Intervention Program
- IASTs – Inter-Agency Support Teams
- IDDI – Illicit Drug Diversion Initiative
- IFS – Integrated Family Support
- IFSS – Integrated Family Support Service
- ILO - Interstate Liaison Officer
- LiL – Launching into Learning
- MHCT – Mental Health Council of Tasmania
- MOU – Memorandum of Understanding
- NAPCAN - National Association for Prevention of Child Abuse and Neglect
- NGO – Non-Government Organisation
- OOHC – Out of Home Care
- PCYCs – Police and Community Youth Clubs
- PSB – Problem Sexualised Behavior
- RA – Resident’s Advocate
- RIB – Reportable Incident Brief

- RTO – Registered Training Organisation
- SAG – Statewide Advisory Group
- SASS – Sexual Assault Support Service
- SITS – Specialist Intervention Tenancy Service
- SMHS – Statewide and Mental Health Services
- TLRI – Tasmanian Law Reform Institute
- UNCROC – United Nations Convention on the Rights of Children 1989

## 4 NATIONAL FRAMEWORK

- 4.1 On 30 April 2009, the Council of Australian Governments endorsed the first National Framework for Protecting Australia's Children – *Protecting Children is Everyone's Business – National Framework for Protecting Australia's Children 2009 – 2010* ("The National Framework"). The National Framework represents a shared agenda for change, with national leadership and a common goal.<sup>4</sup>
- 4.2 The National Framework aims to achieve the outcome that Australia's children and young people are safe and well, measured by a substantial and sustained reduction in child abuse and neglect in Australia over time.<sup>5</sup>
- 4.3 The National Framework identifies six supporting outcomes and strategies, designed to help focus effort and actions under the National Framework. These are as follows:
1. Children live in safe and supportive families and communities.
  2. Children and families access adequate support to promote safety and intervene early.
  3. Risk factors for child abuse and neglect are addressed.
  4. Children who have been abused or neglected receive the support and care they need for their safety and wellbeing.
  5. Indigenous children are supported and safe in their families and communities.
  6. Child sexual abuse and exploitation is prevented and survivors receive adequate support.<sup>6</sup>
- 4.4 The National Framework notes in respect to Tasmania that:
- A series of recent reviews revealed a system with limited capacity to respond to the needs of children, young people and families. Services were not reflecting current research findings about early brain development and the need for a focus on prevention and early intervention to alleviate the stress on the tertiary system.<sup>7</sup>*

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<sup>4</sup> [http://www.coag.gov.au/coag\\_meeting\\_outcomes/2009-04-30/docs/child\\_protection\\_framework.pdf](http://www.coag.gov.au/coag_meeting_outcomes/2009-04-30/docs/child_protection_framework.pdf)

<sup>5</sup> National Framework, p11.

<sup>6</sup> Ibid., p. 11.

<sup>7</sup> Ibid., p. 57.

- 4.5 It is noted in the Framework that Tasmania wanted to adopt well-researched, outcome-focused service models from other jurisdictions, and major recent and planned reforms including establishing Gateway Services, integrated family support services, child and family services, reforming out-of-home care services and integrating local services.
- 4.6 The National Framework considers what needs to change in order for its six supporting outcomes and strategies to be met. The National Framework states as follows:

*Australia needs to move from seeing 'protecting children' merely as a response to abuse and neglect to one of promoting the safety and wellbeing of children. Leading researchers and practitioners - both in Australia and overseas - have suggested that applying a public health model to care and protection will deliver better outcomes for our children and young people and their families (Holzer 2007; O'Donnell, Scott & Stanley 2008; Scott 2006; ARACY 2007).*

*Under a public health model, priority is placed on having universal supports available for all families (for example, health and education). More intensive (secondary) prevention strategies are provided to those families that need additional assistance with a focus on early intervention. Tertiary child protection services are a last resort, and the least desirable option for families and governments.<sup>8</sup>*

- 4.7 The submission from the Tasmanian Government to the Committee refers to the public health model and states as follows:

*Using this public health model approach, it becomes clear that the majority of services involving vulnerable children will be provided in the primary and secondary tiers. These are the tiers that cover preventative strategies, early identification of at risk families and children, and implementation of appropriate intervention strategies to reduce the risk. This is a 'system for protecting children' ...*

*The establishment of new or enhanced services as part of the Tasmanian reform agenda (such as Gateway Services) has been informed by this public health model approach. So too, the practice of these services is consistent with this model. For example, the Gateway Services and Integrated Family Support Services (secondary services) have a collaborative working relationship with Child Protection Services (tertiary services) and Child Health and Parenting Services (universal service) ...<sup>9</sup>*

- 4.8 The Government also stated:

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<sup>8</sup> Ibid., p. 7.

<sup>9</sup> Tasmanian Government Submission, pp. 14-16.



*... giving children the best start in life requires a sound platform of universal services for all Tasmanian families, the early identification of risk factors and robust and well integrated interventions for children, young people and families where the need is identified.<sup>10</sup>*

- 4.9 A public health model is necessarily predicated on the availability of adequate services across all tiers, primary, secondary and tertiary. For example, Gateway Services takes many referrals from Child Protection if a statutory intervention is not undertaken. If a risk is low, the family is referred to universal services (e.g. housing, child health, mental health). However, the Committee heard extensive evidence about significant gaps in the provision of these services especially in rural areas.

*We need more universal services out there that Family Support workers in the IFS program can actually refer families to. If I look at the north west area there is a real gap for mediation and counselling services for adolescents particularly, and for family mediation there is very little at all in the north-west area. It is about actually having the universal services to refer families to, to get the support that is needed.<sup>11</sup>*

*We are finding, and staff are feeding this back, increasing lack of universal services out there, particularly in the north-west and outside the Burnie-Devonport area, and then in the south-east outside the metropolitan area - the Eastern Shore, Bridgewater, the east coast, the Midlands and the Central Highlands, and certainly the west coast and the far north-west. For issues around drug and alcohol, family counselling, mental health services, our staff would love to be able to refer to some of those other services as well. That would be one key thing that staff are feeding back quite regularly.<sup>12</sup>*

- 4.10 The University of Tasmania also suggested that, given the national framework recognises factors that impinge upon child wellbeing and safety are multiple and complex, investment in resources across multiple environments was required:

*These factors reflect social, cultural, economic and political dimensions of people's lives and therefore each of these domains, and their diverse configurations, needs to be considered in a systematic and thoughtful way to improve the situation of children and families. This requires the investment of resources across the multiple environments that are meaningful to the promotion of children's safety and their wellbeing, such as the provision of appropriate and affordable housing, access to quality education, access to good and plentiful food, a responsive legal system,*

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<sup>10</sup> Tasmanian Government submission, p 60.

<sup>11</sup> Lee, Hansard, 23 November 2010.

<sup>12</sup> Mundy, Hansard, 21 December 2010.

*providing parents' with financial security, access to quality and affordable health and dental care, and providing crisis and long-term support services alongside of other welfare services as needed.*<sup>13</sup>

- 4.11 Professor Sandra Taylor, Head of Social Work at the School of Sociology and Social Work at the University of Tasmania agreed:

*As the National Framework for protecting Australia's Children 2009-2020 states, Australia needs to move from seeing 'protecting children' merely as a response to abuse and neglect to one of promoting the safety and wellbeing of children. To do this we need to support vulnerable children and their families and this requires the investment of more resources in primary, secondary and tertiary services for families. Our experience indicates that these services do not come cheaply and they may be required for long periods of time in order to have maximum benefit. This does not necessarily mean establishing new services but rather identifying and building on existing services which could focus on intensive preventative work with children and families given adequate and continuing resources.*<sup>14</sup>

- 4.12 See also Chapter 8 of this Report "Other Specialist and Universal Services".

## **Findings**

- (1) *The National Framework for Protecting Australia's Children is sound and based largely on prevention rather than the current reactive situation in Tasmania. There is a need for more national consistency with modifications to suit local circumstances, and a need for improved national co-operation to enable States to learn from one another.***
- (2) *Applying a public health model to care and protection will deliver better outcomes for children and young people and their families, however this model will only work if there is appropriate resourcing. In Tasmania there is considerable under-resourcing of support for families and children from the statutory intervention (Child Protection) system as well as family support services, specialist support services and universal services to assist children and families at risk. Rural communities in particular have difficulty in accessing limited specialist services.***

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<sup>13</sup> Dr Sonya Stanford, Social Work Discipline, University of Tasmania, submission, p. 2.

<sup>14</sup> Submission by the Social Work Discipline, University of Tasmania – Professor Sandra Taylor, p. 3.

- (3) *The Committee found that the well being of children is a whole of community responsibility, however the role of Government is important.*
- (4) *Both statutory intervention and community-based support services are required. Community based support is vital for early intervention and to prevent risk escalating, and is far cheaper than statutory intervention.*
- (5) *While the public health model appears workable in theory, Family Support Services are saying the services for referral for families are limited or have long waiting lists. Investment in this area is critical if we are to maximise successful outcomes for families referred to Family Support. Without such investment, we will not see a reduction in the need for statutory intervention.*

### *Recommendations*

*The Committee recommends that:-*

- (1) *Community-based services and supports to children and families, including specialist support services and universal services, must be significantly increased.*
- (2) *Tasmania should adopt a public health model consistent with the National Framework.*

## 5 CHILD PROTECTION SERVICES

### ***Culture of Child Protection Services***

- 5.1 The Committee received a significant amount of evidence in relation to the operational culture of Child Protection Services.
- 5.2 In the main, the evidence presented to the Committee was that child protection workers do an excellent job in a demanding and stressful environment “where there is obviously too much work and too few people on the ground to manage the workload”<sup>15</sup>
- 5.3 The Australian Association of Social Workers (Tasmanian Branch) stated individual workers are not to blame for the problems in child protection:

*... the current problems in child protection in Tasmania and other Australian states ... have come about as a result of complex political, organisational and structural pressures. As such, we believe it is important not to blame individual practitioners, managers or senior executives within the organisations and agencies providing services. In fact, it is regrettable that the efforts of human service professionals in this field often go largely unrecognised. Many have worked for a number of years and in difficult circumstances to improve the lives of children, young people and their families amid much personal criticism.*<sup>16</sup>

- 5.4 The Deputy Secretary (Human Services), Alison Jacob, agreed, commenting on the difficult job of Child Protection Workers and the inevitability that mistakes will sometimes happen:

*It is easy to be critical from the comfortable perspective of someone who never had to make child protection decisions or be involved with families who struggle with complex and intractable issues such as mental illness, drug and alcohol dependency, family breakdown, poverty and intergenerational deprivation ... when things go wrong in the protection of children there are devastating consequences and the community had the right to view such incidents with concern and expect that there are consequences. Every child protection officer knows that the decisions they make every day will be subject to scrutiny and debate. They live with that responsibility and expect to be accountable for their decisions ... however what is not reasonable is the lack of balance in the commentary, the politicisation of events and demonisation of child protection staff and bureaucrats who have responsibility for these services ... the nature of child protection decisions means*

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<sup>15</sup> Tasmanian Catholic Education Office submission, p. 2.

<sup>16</sup> Australian Association of Social Workers (Tasmanian Branch) submission, p 2.

*that people will frequently feel aggrieved, angry and upset by the decisions that are made and want them reviewed or overturned.*

*Mistakes happen in every health and human service in the world, including child protection services ... decisions made in child protection systems that are shown, with the benefit of hindsight, to have not been in the best interests of the child will sometimes happen even within the best practice environment and with competent staff ... child abuse is not an exact science [and] child protection is about assessment of risks based on fallible data and limited understandings ... No child protection system can guarantee that they will never get it wrong. It is inevitable that adverse incidents will occur<sup>17</sup>*

- 5.5 The Committee heard allegations from many families who were critical of Child Protection Workers in relation to bullying and intimidation, lack of communication (failure to return phone calls) and from foster carers who were critical of a perceived lack of respect for the voluntary role they were undertaking:

*When I have stuck up for myself in the past, there has been an indication that they will remove the children who are in my care<sup>18</sup>*

*It took a couple of weeks for me to decide to come here. I was told 18 months ago that if I had any disgruntlement or argument with the department to keep it within the department, not to approach any politician, lawyer, social worker or anything like that or I would not be able to see my grandchildren again. That came from the Department.<sup>19</sup>*

*There are many child protection workers who have been in these positions for many years. From observations it appears to be 'just a job' and the dedication and zeal for obtaining positive outcomes seems to be lacking.<sup>20</sup>*

*The level of expertise of the Child Protection Worker assigned determines the outcome for many children<sup>21</sup>*

*I think we have a culture problem and we need to get past that culture ... everybody needs to be treated with respect ... carers and kids need to be treated with more respect than they are.<sup>22</sup>*

*I think the parents need to be treated with respect ... you will get so much out of the family if you come to them on an equal basis instead of telling them what to do, instead of being adversarial. Basically a lot of the workers look down their noses at the families.<sup>23</sup>*

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<sup>17</sup> Alison Jacob, Statement, pp. 1-2.

<sup>18</sup> Shreeve, Hansard, 8 November 2010.

<sup>19</sup> Gittus, Hansard, 6 December 2010.

<sup>20</sup> Gutwein, Hansard, 26 November 2010.

<sup>21</sup> Australian Psychological Society (Tasmanian Branch) submission, p. 3.

<sup>22</sup> Ken Abery, Hansard, 29 November 2010.

<sup>23</sup> Charlton, Hansard, 10 December 2010.

5.6 The Committee also heard children feared repercussions for raising issues:

*Most young people didn't know how to provide formal feedback and expressed concerns about possible repercussions if they did raise issues ... One of the things that is loud and clear from kids in Tasmania is that they feel a distinct lack of opportunity to have a voice and be heard and to be participating in the process and decisions that affect their lives.<sup>24</sup>*

5.7 Others attributed the operational culture to a "culture of risk aversion and blame", constant restructuring, lack of resources, and a poor working environment.

*Sometimes I think workers feel that they have to protect themselves a little and there can be a culture – a 'them and us' type culture – that develops with the client. It is easier sometimes to see the clients as difficult people who we have to regulate or monitor. It can develop an adversarial type culture rather than a supportive one.<sup>25</sup>*

*When working with children at risk relationships between service/institution stakeholders are often strained due to a culture of risk aversion and blame, rather than a culture of collaboration. This is often exacerbated or facilitated by a lack of communication.<sup>26</sup>*

*Numerous restructures and lack of resources coupled with the demands placed on workers with high case loads and lack of recognition towards workers place inordinate stress and strain on the individual, child and work output.<sup>27</sup>*

*Improve physical working conditions for employees to make this a more attractive workplace – poor facilities for those who currently work in a high stress high workload environment. Create a better CPS image – Woodhouse reception area simply says to clients that CVS does not value them and that this is the standard they deserve.<sup>28</sup>*

*I do not know whether you've been to the office at St John's Park, but that says to me when I walk in the door that these people are really not taken seriously as a profession. It's a dreadful building.<sup>29</sup>*

5.8 The CPSU told the Committee that many Child Protection Workers were at breaking point:

*We are having a large increase in calls and emails to the office from our members who are really at breaking point.*

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<sup>24</sup> Reed, Create Foundation, Hansard, 21 December 2010.

<sup>25</sup> Stanford, Hansard, 26 November 2010.

<sup>26</sup> Australian Association of Social Workers (Tasmanian Branch), p. 4.

<sup>27</sup> CPSU submission, p. 4.

<sup>28</sup> CPSU submission, p. 5.

<sup>29</sup> Lynch Hansard, 29 November 2010.

*I have had Child Protection workers say to me that they are embarrassed about saying they are Child Protection workers. It was once a job that they took great pride in ...<sup>30</sup>*

- 5.9 Many of the themes, however, related to practice rather than practitioners, including file closures, weighting of serious notifications from mandatory reporters, assessment of risk, interaction and collaboration with other agencies and professionals, practices and protocols, all of which are detailed in this report.

### ***Transparency and Openness***

- 5.10 The Committee heard evidence from a number of families as to their experiences with communications with DHHS. The evidence demonstrated the need for greater transparency and openness in the Department's dealings with members of the public who deal with the child protection system. The following evidence from families demonstrates this theme:

**Mr GROOM** - *Were you given any reason from the case worker involved as to why they were not supportive of reunification?*

**Ms GARTH** - *No. Just that first up he may have been a witness but then he wasn't. There was no real reason at all. There was no communication.*

**Mr GROOM** - *So you felt barriers everywhere?*

**Ms GARTH** - *Yes.*

**Mr GROOM** - *Here was someone who was a member of your extended family in horrific circumstances and you were trying to reach out and provide support, as would be the natural instinct of any family, and yet you felt a brick wall in terms of dealing with the system. The system was presenting barriers to that and no-one explained that to you or explained why that was happening, is that what you are saying?*

**Ms GARTH** - *Yes.<sup>31</sup>*

*There has been no respect and communication overall and a failure to act on issues put to the department and the carer about the concerns of my grandchildren.<sup>32</sup>*

- 5.11 The following exchange also demonstrates this theme:

**Ms MAXWELL** - *I sometimes wonder if they ever heard our name and think, 'Oh God, we don't want to talk to them' because we tend to question, we want to be involved, we want to know what is going on and I do not think they know how to handle that kind of thing. They just think, 'This is our job, let us get on and deal with*

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<sup>30</sup> Lynch Hansard, 29 November 2010.

<sup>31</sup> Garth, Hansard, 10 December 2010.

<sup>32</sup> McQueen, Hansard, 26 November 2010.

*it', but I think when you have families that want to know and want to be involved and think, 'Wait a minute, they're part of the family, they are grandchildren and we are not subject to an order' you have the right to know what is happening with those children especially when you have been a primary carer for those children and want to be involved.*

**Mr GROOM** - *Is that a prevailing culture, one which is not really focused on keeping people outside the department informed?*

**Ms MAXWELL** - *Yes, I believe it is.*

**Mr GROOM** - *So you believe it is. It is not an issue with a couple of people here and there; it is a prevailing experience that you think operates?*

**Ms MAXWELL** - *I believe it does. When I attended the court other carers were there doing a refresher course and they had the same problems - communication and not being told what is going on. When they are caring for children and are foster carers themselves it is very hard because they are not being told what is happening, what is going on and they are not being kept up-to-date. I think that's essential. When you're looking after children, whether they're your own children or foster care, you should be involved and you should know what's going on.<sup>33</sup>*

## **Findings**

- (6) *Child Protection Workers deal with some of the most difficult circumstances confronting our community.***
- (7) *Child Protection Workers do a good job despite the huge workload and too few people on the ground to manage the workload. Individual Child Protection Workers should not be blamed for the problems in the child protections system; they work in difficult circumstances to improve the lives of children, and their efforts on a daily basis go largely unrecognised.***
- (8) *No child protection system can guarantee that they will never get it wrong. The Child Protection system is dealing with unpredictable and highly volatile situations. It is inevitable that adverse incidents will occur.***
- (9) *The problems in Child Protection Services are a result of complex, political, organisational and structural pressures, which are exacerbated by a culture of risk aversion, constant restructuring, lack of resources and a poor working environment.***

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<sup>33</sup> Maxwell, Hansard, 6 December 2010.



- (10) *There was evidence from families and foster carers of feeling bullied, intimidated and disempowered in their interaction with the Child Protection system..*
- (11) *The Committee received evidence of a culture within the Child Protection System which is defensive, risk averse and secretive in its dealings with families, foster carers and other stake holders.*
- (12) *The Committee acknowledges that in many respects these behaviours can be a consequence of the difficult circumstances confronting those working within the Child Protection System on a day to day basis.*
- (13) *The operational culture of Child Protection Services can be improved by increased transparency, adequate resourcing, training and other workload tools including professional development and supervision.*

### **Recommendations**

*The Committee recommends that:-*

- (3) *The Department should foster a culture of greater openness and transparency of communication with foster carers, families, children and other stakeholders.*
- (4) *The Department recognise the right of families, foster carers and children to interact with the system without a sense of being bullied, intimidated or fear of repercussion.*

### **File Closures**

5.12 A number of submissions identified as a concern the focus on “closing files” as a measure of success by Child Protection Services.

5.13 This was an issue identified by Paul Mason, a former Commissioner for Children, in his *Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary, October 2010*. This report stated as follows:

*At the end the best interests of the child slipped from being the paramount consideration and took second place to lapsing a 12 month order and closing the file, and disengagement of the protective role of the Secretary.<sup>34</sup>*

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<sup>34</sup> Commissioner for Children, *Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary*, p. 7.

- 5.14 Mr. Mason further elaborated on this issue in his evidence before the Committee as follows:

*The second concern I want to raise with this committee is what I've described as the 'closing files' culture versus the 'model parent' culture. When you are a parent you cannot close the file. When they move out they move back in again. You think they've gone; they go overseas and get jobs, and then a couple of years later, there they are again and you never, ever close the file. I observed in my reading of this individual case - as well as in the reading of some 30 files in detail every year over 20 years, in this State, Queensland, Victoria and New South Wales - that the closure of a file is seen as a mark of success in Tasmania. I suppose that's a function of professional pressure to some extent. The Government doesn't use it as a mark of success in any of those other jurisdictions, and when I advised the minister that that was how I saw it, in this particular case the department was quick to deny it publicly. Mr Byrne went to the press and said, 'There is no such culture'. I disagree with him about that and if I am right it is a bad thing. If there is a risk that I'm right, or more right than he is, that's a bad thing and that's something that a child protection system should address. It should be demonstrable and undeniable that there is no culture of closing files, and that's why I've compared it to the model parent.<sup>35</sup>*

- 5.15 The practice of Child Protection Services in relation to file closures was also raised by the Sexual Assault Support Services (SASS) in the context of cases involving sexual assault. Their submission states as follows:

*...in certain circumstances our communication and capacity to collaborate with Child Protection is reported to be less than positive. These events occur when Child Protection closes their case after referral of the child to Sexual Assault Support Service (SASS) - this leaves SASS solely holding the duty of care and safety monitoring for what may be 'at risk' Child Protection clients. As the Child Protection case is closed, SASS is expected by Child Protection to notify them if a client fails to attend appointments or if there are further identified safety/risk factors. However in a number of cases reporting from SASS and advocacy in relation to the need for further Child Protection safety management interventions has been ignored. Thus SASS reporting regarding safety concerns in relation to a child who is a 'closed case' and the need for forensic investigation are at times assessed by Child Protection as not a priority.<sup>36</sup>*

- 5.16 The following evidence from the Australian Association of Social Workers (Tasmanian Branch) also identifies the closure of files by Child Protection Services without referral to

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<sup>35</sup> Mason, Hansard, 1 December 2010.

<sup>36</sup> Sexual Assault Support Services, Submission, p. 2.

appropriate services as an issue. The submission states as follows:

*It is certainly something that has been reported to us and has been our experience, and that there is again a bit of lack of planning. We have seen too often, 'Right, we are stopping our involvement' and it is almost a full stop. Obviously there are plenty of cases where things do work well but really skilled referral into other more general support services might be needed. All too often things go wrong as people move between services, and we know that happens in all areas. You leave the acute hospital and just never make it into the general community service. I think that it comes out of that risk averse, 'Child Protection does not need to be involved anymore because ...' tick, tick, tick, but the family still has vulnerabilities, there still needs to be community support; do we have a really well-planned case management approach that is going to ensure that they can call on necessary services?<sup>37</sup>*

- 5.17 The Committee received evidence from a group of medical clinicians who also identified the focus on closing files by Child Protection Services as an issue. In evidence before the Committee, Dr. Wagg stated as follows:

*...there has been a culture to close the case, we are overworked, kids should be with their families, rather than really taking on how difficult this is. That is where we need to collaborate because our experience with other services is that we do take on the hard cases and we say we will do this bit if you will do that bit. But what tends to happen with Child and Family Services is that we are doing our bit but they are just not safe to go home, so what are we going to do about that. They do not want know about it. So that collaboration does not work. That happens at times.<sup>38</sup>*

- 5.18 The Committee heard evidence on this matter from a family support worker who wished to remain anonymous:

*The old system the child protection caseworkers introduced the families to NGO workers and together we worked to address those issues that needed attention ... after a period the child protection worker withdrew. The NGO worker continued working with the family for a further period. The case file with the non government agency would be closed when the family was functioning well and the areas of concern raised in the initial referral had been resolved.*

*The new Gateway system is not supporting families in the same manner. Often referrals are taken over the phone and then allocated ... it appears that once referrals to services to address the issues have been put in place cases are closed without waiting to ensure that the clients are attending the appointments on a regular basis to gain their new skills. This distorts the outcomes as it*

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<sup>37</sup> Hughes, Hansard, 21 December 2010.

<sup>38</sup> Williams/Wagg/Easter/Moerd, Hansard, 17 December 2010.

*may appear on the surface to have been resolved however, unless the parents respond and maintain a standard of appropriate care the children continue to be at risk. One family was told their case would be closed if they engaged with an IFSS worker and attended a parenting program. The client agreed to do this. Once the case was closed they failed to attend the parenting course as agreed. They just wanted to get Child Protection off their back.*

*The closure of cases by Child Protection once they are supported by a Gateway service has meant that there is an expectancy by the worker to monitor the family on Child Protection's behalf.<sup>39</sup>*

5.19 The Tasmanian Branch of the Australian Psychological Society also stated that closing cases without providing adequate supports for families is likely to see families struggling soon after, placing the children at further risk of abuse and neglect and leaving families with a sense of failure. The strong focus of the Department on closing cases to ensure favourable statistics puts children and families at further risk unnecessarily.<sup>40</sup>

5.20 In his *Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary, October 2010*, the former Commissioner for Children, Paul Mason, made several recommendations about file closures:

*That DCYFS change its file closure procedures so that when a child is living with family members with whom they were living when the original risk arose the file is closed only when an Area Manager (alternatively a Senior Practice Consultant) from an Area other than the "home area" is satisfied that:*

- *There is documentary evidence from a professional outside DCYFS who has interviewed the child/ren and the adult family that the adults' capacity to protect and provide for the child/ren's health, development, education and wellbeing has changed so as to reduce the risks identified in the most recent substantiated notification.*
- *The child has died or moved out of the jurisdiction; or*
- *The child has attained 18 years.<sup>41</sup>*

5.21 The Tasmanian Government response states as follows:

*Recommendation accepted with qualifications – child protection workers are qualified social workers and should be expected to assess risk in a home situation.*

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<sup>39</sup> Gutwein, Submission, p. 1.

<sup>40</sup> Australian Psychological Society Ltd, Submission, p. 9.

<sup>41</sup> Paul Mason, *Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary – July 2010*, p. 10.

*The Government proposes that any decision to remove court orders (via revocation or lapse) is returned to the Court.<sup>42</sup>*

- 5.22 However, aspects of the Government's response were disputed in evidence by the University of Tasmania's Head of Social Work, Professor Sandra Taylor:

*Not all child protection workers are 'qualified social workers' however, that is, not all child protection workers have an accredited social work degree. This is an erroneous statement and a serious misrepresentation of the profession of social work. We seek to clarify and discuss this statement with relevant government representatives at the earliest opportunity.<sup>43</sup>*

### **Findings**

- (14) Closing cases to ensure favourable statistics puts children and families at further risk unnecessarily. There was some evidence that this may be occurring in Tasmania.**
- (15) There was evidence of a tendency of Child Protection Services to close files after referral to an external provider without assessing whether the family at risk has engaged with services, or the risk for the family still exists. Sometimes families will agree to participate in parenting courses, for example, just to "get Child Protection off their back" and then fail to attend. Closure of files in these circumstances is a dangerous practice that will result in children at risk falling through the gaps.**
- (16) There was evidence that there may be an expectation by Child Protection Services that family support or community sector organisations should be monitoring the family on Child Protection's behalf, once they are supported by that service.**
- (17) Closing cases without providing adequate supports for families is likely to see families struggling soon after, placing the children at further risk of abuse and neglect and leaving families with a sense of failure.**
- (18) Considerable evidence was produced indicating that case closure is used as a measure of success. Cases are obviously very fluid and unpredictable in nature and there needs to be a system of**

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<sup>42</sup> Tasmanian Government Response to recommendations in the Commissioner for Children's report on his inquiry into the circumstances of a 12 year old child under guardianship of the Secretary, p. 7.

<sup>43</sup> Taylor, submission, p. 9.

*accountability with inbuilt checks and balances. It is worth noting that the Child Protection system is clearly under significant pressure to get results, but this raises the question as to whether case closure is the best measure of "success".*

**Recommendations:**

*The Committee recommends that:-*

- (5) Cases must not be closed without first putting in place adequate supports for the family and children.*
- (6) New protocols regarding the closure of files must be determined to avoid children at risk falling through the gaps.*
- (7) Cases referred by Child Protection Services to Gateway for family support through community sector organisations should not be closed until participating organisations have jointly agreed that relevant interventions are completed and there are no ongoing risk or safety issues for the child/children concerned.*
- (8) Child Protection Services and Sexual Assault Support Services have a mutually agreed case management plan for joint clients and that there is a designated 'lead' case manager appointed for each case.*

***Weighting of Serious Notifications***

5.23 The weighting of serious notifications by mandatory reporters was also identified as an issue in evidence before the Committee. A number of submissions identified the perception that some serious reports made to Child Protection were dismissed without sufficient reason.

5.24 A group of medical clinicians identified this issue in their submission to the Committee<sup>44</sup>. In evidence before the Committee, Dr Williams elaborated upon this issue as follows:

*.....we may make a notification as experts and subspecialists in our field and we will have a worker without any specific training in child development, child mental health, attachment theory, saying, 'I don't think this kid is that at risk' and counteracting and*

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<sup>44</sup> Submission 39 - Williams/Wagg/Easther/Moerd

*nullifying our notification without a good technical ground. There are very good Child Protection workers with excellent experience with whom we work collaboratively. However, it is not uniform. There is no uniformity of practice in assessing a notification in deciding what action to take even, as (Dr Wagg) mentions, in applying the act uniformly in the interests of the child and it is that variation which must be so frustrating for the families involved in the system, for foster carers and it certainly is very frustrating for us.*

*... I have been countermanded by somebody with a TAFE qualification without any specific experience or training in child protection. (Dr Wagg) has made assessments of children with mental health problems where the parent has a mental health problem and has recommended that a parenting assessment be undertaken and a junior worker has done a phone interview with the parent and said, 'No, no, it sounds safe at home, I think we should return the child home'.*

*... I think there are a lot of workers who desperately want to have kids back with their families. If a parent says the right things they are quite happy to accept that at face value. It is hard to have a level of cynicism and it is the resources as well.<sup>45</sup>*

*... One of the really clear points we wanted to address was collaboration between agencies: clear and open communication, transparency of processes within Child Protection, with good feedback notifiers about what is happening and acceptance of advice. If there is a discrepancy of opinion then Child Protection's opinion now holds sway over any other. There is no collaboration or consultation at times. We wanted to ensure that Child Protection look at prioritising referrals with a level of knowledge of the referrer and risk. We wanted very much to emphasise the need for training and accountability within Child Protection workers, and our worry about the Gateway. They were the key points we really wanted to get across today.<sup>46</sup>*

5.25 The Committee heard from a family support worker, who wished to remain anonymous on this matter

*There is a family with small children known to the child protection services who are emotionally abused on a daily basis. Parents under the influence of drugs are responsible for caring for these little ones. Their lack of supervision and poor hygiene has resulted in these children becoming unwell with chest infections and skin conditions which are not treated. The parents aren't able to function and neglect their children on a daily basis. These are children who are known to the department and have been referred to a Gateway service. Notifications have not resulted in any departmental action being taken as the children remain at risk of harm. Many workers feel frustrated by the lack of responses from child protection when they make a notification. A small child with a burn injury was not investigated until after the injury had*

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<sup>45</sup> Williams/Wagg/Easther/Moerd, Hansard, 17 December 2010.

<sup>46</sup> Williams/Wagg/Easther/Moerd, Hansard, 17 December 2010.

*healed. There is no feedback from child protection with regard to these notifications.*<sup>47</sup>

- 5.26 Another concerned individual, Cate Clark, raised the difficulties in engaging Child Protection Services when notifying of two separate cases where children were clearly at risk. It took a phone call to a local MP to ensure action was taken by Child Protection Services in one case, which resulted in the children being removed. In the other case, the children were only removed when one of the children subsequently reported bruising and physical violence. Ms Clark stated:

*There were rotten clothes and food on the floor and there was even human excrement on the walls ... their mattresses were damp and upon lifting them, mice started to emerge from holes in the side of the mattress ... a week later the house was back in the same sad state with the mother smoking on the couch and with no food in the cupboards ... Police involved with the issue were disgusted at the state in which the children had been living; to the extent that one officer was sick outside the House.*<sup>48</sup>

*... during the first contact I made with Child Protection Services I was made to feel as if I had done something wrong and there was no effort made to check the situation until a Member of Parliament applied the necessary impetus for the Department to carry out their job effectively.*

*It is a cause of huge concern to me that it appears that only a person of 'influence' is taken seriously when making contact and I question why Child Protection Services did not act when I made the first contact with precisely the same information.*<sup>49</sup>

*While I appreciate that Child Protection Services are dealing with difficult and sensitive matters, it is no less difficult or sensitive for the public to take the decision to contact Child Protection Services and often put themselves at risk in doing so. The least that can be expected is a prompt and reasonable level of investigation and the decency of some feedback to the person(s) concerned with the notification.*<sup>50</sup>

- 5.27 The Australian Association of Social Workers (Tasmanian Branch), making a submission on behalf of its members in the State, also commented on this issue:

*Just this week I contacted CP, as 2 weeks had passed since I made a notification about a 9 year old child, and heard nothing. I was told by the response worker, "Oh, I just got allocated that case today and I have investigated this family previously and that child*

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<sup>47</sup> Gutwein, Submission 6, p. 2.

<sup>48</sup> Clark, Cate, Submission, pp. 3-4.

<sup>49</sup> Ibid. p. 2.

<sup>50</sup> Ibid. p. 4.



*is known to embellish their stories" ... in fact, in over three years I have found the exact opposite to be true of this particular child and have verified their claims with members of the extended family time and time again. But they continue to live in a terrible home situation with IV (intravenous) and prescription drug users and abusers, ongoing domestic violence and their cries for assistance for themselves and their younger siblings fall on deaf ears at Child Protection.<sup>51</sup>*

And from another AASW member:

*I am aware of notifications that I have made regarding a child and aware of further notifications by another worker with regard to the same child and them being advised there is no history, or comments regarding it, could be somewhere else. As a mandatory reporter this compromises my feelings of security regarding following statutory and ethical guidelines.<sup>52</sup>*

- 5.28 The Australian Psychological Society Limited (Tasmanian Branch) also raised this as an issue of concern, as psychologists are mandated reporters of child abuse and neglect. Evidence to the Committee from the Society was that there were:

*Inadequate and inappropriate responses by Child Protection Services when professionals report significant concerns regarding children at risk of maltreatment, even when concerns are reported repeatedly and by multiple professionals.<sup>53</sup>*

- 5.29 However, the CEO of DCYFS gave evidence to the Committee that there is a policy position that if any four notifications aren't responded to, then it has to be reviewed by the Child Protection Manager<sup>54</sup>.
- 5.30 A person who gave evidence to the Committee recommended that assault of a child by an adult, no matter who perpetrates the abuse (parent or another individual) should be fully investigated and referred to Child Protection Services and Tasmania Police, if substantiated.

## **Findings**

- (19) Evidence was received which suggested that there is often an inadequate and inappropriate response by Child Protection Services when professionals (mandatory reporters) report significant concerns regarding children at risk of maltreatment or abuse, even**

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<sup>51</sup> Australian Association of Social Workers (Tasmanian Branch) submission, p. 3.

<sup>52</sup> Ibid. p. 5.

<sup>53</sup> Australian Psychological Society Tasmanian Branch submission, p. 3.

<sup>54</sup> Byrne, Hansard,

*when concerns are reported repeatedly and by multiple professionals.*

- (20) There is a lack of feedback to mandatory reporters making notifications and a lack of a timely response to such notifications. Evidence was presented of a succession of notifications not being recorded at all, although this may have been due to the ongoing changeover to a new system of recording.*
- (21) There is a perception that the response by Child Protection is based on capacity to respond rather than the level of need of the child/children.*
- (22) Evidence was received that notification of serious child abuse from a concerned citizen was ignored, yet when the same concern was relayed to Child Protection Services by a Member of Parliament, the response was immediate.*
- (23) Further evidence was given of successive notifications of serious neglect of children, including children living in squalor, infants left unsupervised and children stealing food; being unheeded by Child Protection until Police were called after the physical abuse of one of the children, some months later.*
- (24) Many people who report child abuse are disappointed with a system that doesn't take their notifications seriously.*

*Recommendations:*

*The Committee recommends that:-*

- (9) Given that child abuse is a community problem, all notifications of serious abuse and neglect should be treated as serious and investigated.*
- (10) Cumulative notifications from mandatory reporters should carry higher weight in relation to the decision whether to initiate an investigation. The Government should investigate whether the Northern Territory's Third Report Rule should be introduced in Tasmania. This gives cause to investigation if there are three reports received in relation to any child living in a household within a 12 month period. It is related to the household, not an individual child. If the Third Report Rule has been invoked once and the reports have found to have no substance or be malicious in nature, the supervisor may override the Third Report Rule from being triggered in subsequent reports.*

- (11) *Mandatory reporters should have access to information on their obligations to protect children, and given the option to undertake additional training if requested.*
- (12) *While serious notifications of abuse should always be investigated and cumulative notifications from mandatory reporters should carry higher weight, general notifications of neglect and abuse from any mandatory reporters should also be given due priority. These people are professionals in our communities and their opinion and concerns about children at risk should be treated accordingly and general feedback should be provided to them by the Child Protection Worker in a timely manner.*
- (13) *A review process should be undertaken in cases if mandatory reporters are dissatisfied with the response by Child Protection Services to serious or multiple notifications. If those mandatory reporters remain dissatisfied with the response, an independent process for resolution between the mandatory reporter and Child Protection Services should be facilitated. This will also provide a check on decision-making by Child Protection Services in relation to serious notifications.*
- (14) *In cases of children at risk who are referred to Gateway family support services and there is a re-notification from a mandatory reporter, the matter should be re-referred to Child Protection Services and the mandatory reporter should be notified accordingly.*
- (15) *In cases where families with children at risk refuse to engage with family support services and significant concerns for the child/children remain, the matter should be re-referred to Child Protection Services. Too many children fall through the gap between Child Protection Services and the Gateway, particularly when Child Protection Services assess the matter as requiring family support and families are able to refuse that support.*
- (16) *Best practice assessment tools, policies and practices must be reviewed to ensure that investigation of notifications, and responsiveness by Child Protection, is based on the need of the child and the risk, rather than the capacity of Child Protection Services to respond at any given time.*
- (17) *All staff, including relief staff, data entry and administration staff, should be well trained on the collection of information including entering notifications from mandatory reporters and collating that data in the right place. If new IT systems are still being put in place,*

*it is imperative all employees are able to access training in the new systems and all information is fully transferred to new systems.*

### ***Risk Assessment***

- 5.31 The Committee received evidence in relation to the risk assessment framework utilised by Child Protection Services. Such evidence suggested that the current risk assessment framework leads to a culture of risk aversion within Child Protection Services.
- 5.32 The Committee received the following evidence in relation to the current 'actuarial model' of risk assessment from Dr Sonya Stanford of the School of Social Work, University of Tasmania:

*The current actuarial model of risk that dominates risk assessment and decision-making processes in child protection obfuscates or ignores that risk is essentially a moral construct that operates within the context of a defensive and essentially conservative political environment. Risk is operationalised within the actuarial model of risk as a calculable object and the assumption is that its calculability enables risk measuring instruments to accurately and objectively predict the probability of risk-events (Webb, 2006), which in turn enables risk assessors to make accurate, objective assessments. Ethical and moral concerns are 'screened out' of risk equations. If one accepts that decisions about risk are necessarily ethical or moral decisions then assessment and decision-making must also be considered as ethical and moral acts. This perspective is lacking in the child protection system within Tasmania.*

*A proceduralised approach to assessing risk does not provide guidance about how to attend to competing ethical and moral principles embedded in child protection work such as confidentiality and privacy, beneficence, protection from harm, self-determination, service to humanity, accountability and advancing human dignity and self worth (AASW Code of Ethics). Ethical dilemmas are common place in child protection work. Ethical dilemmas (such as whether to remove a child from the care of parents) often rest upon the need to make a decision between two equally unwelcome choices (Banks & Williams, 2005). In such instances it isn't clear what is the right choice given, for example, some form of harm could be a consequence of either choice. Such choices subsequently leave their 'residue' (Banks & Williams, 2005) given there is a moral cost involved. The accumulated cost of these dilemmas can, to a certain extent, explain the difficulties in retention of staff within the child protection system particularly for professionally qualified staff (such as social workers) whose professional orientation is grounded within a distinctive ethical code<sup>55</sup>.*

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<sup>55</sup> See the Australian Association of Social Work (AASW) Code of Ethics for an overview.

*Risk needs to be understood broadly as a political, economic, social and cultural construct that operates as a moral discourse. Risk, then, is a moral construct and decisions about risk are therefore matters of ethics and morality. The moral dilemmas of risk in the welfare sector have been recently investigated in Tasmanian research. This research demonstrates that risk troubles practitioners deeply and creates the potential for practitioners to implement morally timid responses to situations that require their tenacity, creativity, compassion and courage. Considering how to support practitioners in the moral enterprise of promoting children's safety and wellbeing in the child protection system requires a model and practice of decision-making that is firmly grounded in an ethical paradigm. The Inclusive Model of Ethical Decision Making is offered as a suggestion of one model for responding to the ethics of risk in child protection practice.<sup>56</sup>*

*Some of the current difficulties experienced within the child protection sector can be explained by how risk acts, formally and informally, as a morally conservative force in practice that supports defensive and morally timid responses. Child safety is not a domain for morally timid approaches: it is a space for moral courage. This paper considers how, in the interests of promoting child safety and wellbeing, there is value in critically considering the moral dimensions of risk and re-visioning decision-making processes within an ethical framework to secure better outcomes for children and families.<sup>57</sup>*

- 5.33 Professor Sandra Taylor of the University of Tasmania gave evidence about risk assessment and risk management:

*The capacity of social workers in child protection services to effectively engage in the 'core business' of working with families and children in order to support and increase their capacity and their potential is being impacted upon by current organisational and procedural requirements regarding risk assessment and risk management. Establishing and maintaining relationships with families and children, which is fundamental to effective intervention, takes time and requires consistency of workers, both of which are jeopardised by current child protection service delivery models ... there is an increasing literature that documents that a persistent focus on risk, or what might go wrong in the future, detracts from the immediate needs of people in the present ... while risk assessment is clearly an important consideration in child protection practice, other aspects of social workers' professional practice appear to be being lost in favour of procedural and actuarial requirements.<sup>58</sup>*

- 5.34 The Committee heard evidence of proficient information management systems which assist in making structured decisions within child protection services:

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<sup>56</sup> Stanford, Submission, p. 7.

<sup>57</sup> Stanford, Submission, p. 2.

<sup>58</sup> Taylor, Submission, p. 3.

*In Queensland, the Structured Decision Making System, developed by the Children's Research Centre (CRC) in the United States of America, is used to guide decisions at critical points along the child protection continuum of work – intake, investigation and assessment, ongoing intervention and closure. The tools assist decision-making but they do not make the decision. There remains an important need for quality professional judgment in using the tools and making decisions. We understand that the same system is being tailored for introduction into New South Wales.<sup>59</sup>*

- 5.35 However, the CEO of DCYFS told the Committee this model was only as good as the practitioner using it:

*We've actually spoken to Queensland about that and it's an actuarial model, so you score the risk. They said the tool is only as good as the people who use it. So you can have an actuarial tool but what if somebody is not applying it correctly? You will find in child protection there is a strong lobby for professional judgment and a strong lobby for non-child protection people to go down the actuarial model.<sup>60</sup>*

- 5.36 Other Departmental staff said the current risk assessment tool was working well:

*I think the tool, yes, is working. In terms of decision-making it is still a professional judgment, so you can certainly come up with a multitude of risk factors and have two safety factors which would actually lead to a decision to not intervene or to direct the issues to somewhere else. For me it's more about making sure that the decision-making points have that level of scrutiny and quality assurance rather than the actual tool. The tool is very much about information gathering and collating the information. The decision-making is something very different.<sup>61</sup>*

- 5.37 The Australian Association of Social Workers (Tasmanian Branch) was of the opinion that risk assessment detracted from what children need to keep them safe:

*There is a growing shifting of attention and resources to surveillance, detection and risk assessment in child protection work, and a decreased attention on what children need to keep them safe and improve their lives.<sup>62</sup>*

- 5.38 The Committee also heard evidence in relation to this issue from Ms. Berry Dunston, a counselor and psychotherapist. When asked by the Committee as to whether a risk avoidance culture characterised by heightened concern about making an error of judgment with consequences

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<sup>59</sup> Bravehearts, Submission, p. 9.

<sup>60</sup> Byrne, Hansard, 2 December 2010.

<sup>61</sup> McCrossen, Hansard, 2 December 2010.

<sup>62</sup> Australian Society of Social Work (Tasmanian Branch), Submission, p. 4.

eliciting action from within the hierarchy or possible media exposure existed, Ms Dunston responded "Absolutely"<sup>63</sup>

- 5.39 Evidence to the Committee raised the need for ongoing risk assessment in cases referred to Gateway services:

*How much input does the co-located child protection worker at each of the Gateway Services have and how much overview are they having of the cases, particularly those that come from a fairly high level nominator or referral? This was a medical referral with a fairly significant risk and yet it was downgraded and there was no overview ... and if the Gateway and alliance services do not have a monitoring function then it is very reliant on the workers working with that family to either raise concerns to the co-located Child Protection Worker or get back to Child Protection themselves unless the case is closed. The ongoing risk assessment is dubious.<sup>64</sup>*

#### **Findings:**

- (25) There was conflicting evidence presented about risk assessment tools in use.***
- (26) Evidence suggested that the current risk assessment framework leads to a culture of risk aversion within Child Protection Services.***

#### **Recommendations:**

***The Committee recommends that:-***

- (18) Senior Practice Consultants should be available to provide peer support to Child Protection Workers in their decision-making on risk assessment, as required. This role, together with peer review and quality audits, should remain the key focus and role of Senior Practice Consultants.***
- (19) A mechanism be established to ensure ongoing risk assessment in the case of re-notification via Gateway Services, and re-referral to Child Protection Services.***
- (20) Support structures be implemented to provide support for Child Protection workers.***
- (21) Child Protection workers should be encouraged to undertake training and collaborate with other agencies and specialists who can help them make informed decisions in relation to risk.***

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<sup>63</sup> Dunston, Hansard, 6 December 2010.

<sup>64</sup> Wagg/Moerd, Hansard,

### ***Systems, practices and protocols***

5.40 The Committee heard evidence in relation to systems, practices and protocols within the child protection system. The key themes in the evidence were:-

- the need for greater clarity around procedures, policies and guidelines;
- the best interests of the child and the relevance of attachment theory and long term placements;
- the need for improved reunification procedures; and
- the need for a greater focus on the rights of families with children in care.

### ***Clarity in Procedures, Policies and Guidelines***

5.41 The Committee received evidence in relation to the need for greater clarity around procedures, policies and guidelines in relation to Child Protection Services. A former child protection worker commented as follows:

*....the biggest thing that I find in Victoria, and I personally believe that they tried to implement it here, is that everything is really clear and concise. You knew the protocol, the procedure, the guidelines - it was really clear. Here, in the two years that I was involved with Child Protection, I couldn't tell you clearly about any of the policies, procedures and guidelines; it was very foggy.<sup>65</sup>*

5.42 A number of submissions to the Committee identified a lack of consistency in the way in which child protection matters are dealt with.

5.43 The submission from the Salvation Army stated:

*(There needs to be) better practice principles in place to guide Child Protection workers so that there is consistency in practice.<sup>66</sup>*

5.44 The submission from the Speak Out Association of Tasmania similarly stated:

*There are significant inconsistencies with the way each worker responds to cases and it is difficult for parents to find out what it is they have to do to remove risk to the child.<sup>67</sup>*

5.45 This issue was also raised in the evidence of a group of medical clinicians who gave evidence before the Committee. Dr. Williams made the following submission:

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<sup>65</sup> Day, Hansard, 22 December 2010

<sup>66</sup> Salvation Army, Submission, p. 5.

<sup>67</sup> Speak Out Association of Tasmania Submission, p. 5.



*There are very good Child Protection workers with excellent experience with whom we work collaboratively. However, it is not uniform. There is no uniformity of practice in assessing a notification in deciding what action to take,...in applying the Act uniformly in the interests of the child and it is that variation which must be so frustrating for families involved in the system, for foster carers and it certainly is very frustrating for us.<sup>68</sup>*

5.46 The Tasmanian Branch of the Australian Association of Social Workers also stated case planning and coordination of children subject to orders was “appalling”. A 2010 case was cited where two teenage girls transferred from one region to another and it took months for the files to be transferred and a case worker allocated. While the regions argued about who should do what, the girls were ignored and were self-selecting placements and engaging in significant risk-taking behaviour.<sup>69</sup>

5.47 A CPSU member stated:

*Intake workers are required to meet KPIs that on the face of it are there to ensure notifications are dealt with in a timely manner. KPIs fail to acknowledge that the information gathering process is reliant on timely feedback from stakeholders who are not constrained by a KPI expectation; notifications keep coming in adding to the already overload of those being dealt with; staff are often overworked when staffing resources are not available; and positive management feedback and an acknowledgement of lack of resources rather than an over emphasis on meeting KPIs regardless of the work environment will assist staff in a difficult working environment.*

*Work can be dictated by the type of notification being dealt with. If a case is assessed as a priority then it must be written up as soon as possible. This does not mean that notifications or phone calls stop coming in! If a worker is online and one of two in the program area then phone calls still have to be dealt with. It is not so bad if there are other staff that can help out, but this is not always possible<sup>70</sup>*

5.48 The Committee also heard evidence about when warrants should be executed:

*Warrants ought not be executed at schools unless the Secretary can demonstrate that it is the only safe manner of proceeding. I have had this occur when in my view it was not necessary. One can only imagine the effect of being taken by Police and Child Protection in front of one’s peers.<sup>71</sup>*

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<sup>68</sup> Williams/Wagg/Easter/Moerd, Hansard, 17 December 2010

<sup>69</sup> Australian Association of Social Workers (Tasmanian Branch), Submission

<sup>70</sup> CPSU, Submission, p. 7.

<sup>71</sup> Kate Mooney, Submission, p. 4.

- 5.49 However, when that is necessary, the response should be swift:

*There are occasions when schools (particularly rural/remote area) are left in very difficult circumstances because a child or young person has made a disclosure which necessitates immediate response but CP are unable to provide the response by the close of the school day. This leaves school staff in the position of having to explain to parents why a student has not caught a bus home or been allowed to leave the school. The young person will then need to be left in the care of staff member until such time as a CP worker can be dispatched. In the past this has meant transporting the young person to the nearest police station and waiting with them until late into the evening when the CP worker eventually arrives. There needs to be greater consideration of the needs of rural/remote school staff around issues to do with confidentiality in these circumstances as there is no hiding the fact that the notification has come from the school and in the past this has placed school staff in a vulnerable position – threats, aggression etc.<sup>72</sup>*

### **Findings**

- (27) *Lack of consistency in applying procedures, policies and guidelines is frustrating for those dealing with the child protection system.***
- (28) *It is essential that uniform and consistent practices and understandings are in place to ensure outcomes are focused around what is in the best interest of the child and to ensure that quality audits are meaningful.***
- (29) *Case planning and coordination of children subject to orders in some cases has been inadequate.***
- (30) *Schools have at times been placed in a difficult situation when Child Protection Services execute a warrant at a school and do not attend prior to the end of school hours.***

### **Recommendations**

***The Committee recommends that:-***

- (22) *To ensure uniformity of practice, all Child Protection Workers must have appropriate minimum levels of qualifications, initial and ongoing training in relation to all procedures, policies and guidelines. Professional development is critical and performance***

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<sup>72</sup> CPSU submission, p. 5.

*management tools must include refresher training in all procedures, policies and guidelines.*

- (23) Quarterly case audits are required to ensure that case management is being followed in accordance with practice manuals.*
- (24) When children on orders transfer between regions, a case worker must be immediately allocated to ensure the ongoing safety of the child or children concerned.*
- (25) Care should be taken in executing warrants at school, and if a school hour response is the only choice available, this should be discreet and sensitive for the child, other students and teachers.*
- (26) Clarity around procedures, policies and guidelines in relation to Child Protection services, as occurs in Victoria, should be considered for implementation in the Tasmanian context.*

### ***Relevance of Attachment Theory and Long Term Placements***

- 5.50 The Committee heard evidence in relation to the importance of attachment theory and long term placements in relation to the best interests of the child.
- 5.51 The Committee heard evidence that children in care were often not placed in long term placements and their placements changed regularly.
- 5.52 The Committee received the following evidence from the Salvation Army on this issue:

*A stability plan is a plan for stable long term out of home care for a child. It should form part of a child's Case and Care plan. In Victoria legislation under Section 170 of the CYFA requires Child Protection to assess whether stable long term out of home care is in the best interests of a child, within maximum timeframes differentiated according to the child's age and length of time in out of home care. These timeframes are calculated from the first date of an interim accommodation order or a protection order that places a child out of home and are differentiated according to the age of the child. Processes are also in place that allow opportunities to review whether the overall plan direction should be to continue working towards reunification or securing stable long term out of home care for the child. The child's care team and other relevant professionals should also be consulted. Where possible, the child's views and wishes should be taken into account.<sup>73</sup>*

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<sup>73</sup> Salvation Army Submission, p. 14.

*We have residents in our care who have endured multiple placement breakdowns prior to being referred to our service with one fourteen year old having experienced over ninety previous placements. The cumulative harm experienced as a result does not place a child in a position to accept the new residence as anything but another of a series of unforgiving events. The level of aggression, hostility, abandonment and despair is reflected in the child's lashing out at property, staff and other residents.<sup>74</sup>*

- 5.53 A barrister who also acts as a Separate Representative for Children in Child Protection matters, gave evidence on the trauma of multiple placements:

*Child Protection is good at many things, but in my experience they are prepared on many occasions to risk compromising the short and long term emotional and psychological wellbeing of a child in order to ensure his or her physical safety, by placing (the child) with a succession of strangers. This grief and trauma can surface years later and be the subject of compensation claims and mangled lives.*

*I have had more than one case of babies being removed from drug-using mothers at birth and placed with several carers in the first months of life.<sup>75</sup>*

- 5.54 The Committee also heard evidence on this theme from Berry Dunston, who commented in relation to the damaging effects of multiple placements on children and the relevance of attachment theory as follows:

*Most children in care have experienced developmental trauma. Behavioural problems can be directly linked to trauma-related brain impacts and the current system does not recognise this or deal with it effectively. It tends to come out of a pathologising system and it's a medical model which talks about oppositional defiance disorder and ADHD and all of these things and the responsive medication. Very often it is seen as naughty; it is fixed into a blame frame of understanding behaviour. The traditional method is an authoritarian clamping down and punishing control, rather than the current thinking which talks about being able to offer therapeutic care to the child so that they can actually learn how to self-soothe, self-regulate and manage their own behaviour from within rather than this idea of imposing from without, which is like trying to keep your finger on mercury.*

*The current system can add to the cumulative harm experienced by a child, and I would suggest the adults within it as well.*

*... Specifically in relation to children being moved from one placement to another. It is also specifically related to what I believe is a misunderstanding and misreading of attachment theory. Recent brain research - and I am talking about the past 10*

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<sup>74</sup> Ibid, p. 7.

<sup>75</sup> Mooney, Submission, p. 3.

*to 15 years but the findings of where the data are pointing are really being put together very recently - shows that therapeutic care is the most healing strategy and is being used in residential care centres in Victoria and other places around the world very effectively. The key to therapeutic care is supporting secure attachment-based relationships. Children can develop more than one secure attachment relationship, which is a really devastating misapprehension on the part of a lot of people who have misinterpreted attachment theory, particularly as it has been interpreted within the courts in family law over many years. The understanding was that children needed to have a secure attachment with their parent or parents, but they didn't understand that you could actually have a number of secure attachments. The misunderstanding was that you could only have one.*

*... With children who are in normal extended families or safe community environments they can have dozens of secure attachment relationships. You can have them with neighbours, the parents of your friends, aunts, uncles, grandparents, great aunts and teachers; you name them. It's a matter of who can provide them.*

- 5.55 The Committee put to Ms Dunston the evidence provided by some witnesses that a prevalent attitude within the child protection system was that the fostering and maintenance of close relationships was undesirable. Ms Dunston responded:

*That's exactly what I'm talking about. Absolutely. It's also strongly informed by a fear-based responsibility to make sure that the children aren't sexually abused. So the anxiety, the reading, the film, the screen of any sense of a close relationship forming is a catastrophic expectation for potential abuse that I have to be answerable for. It will be on the front page of the newspaper. It is anxiety-based, rather than a real understanding of what is in the best interests of the child, which is supporting them to establish and maintain secure attachments. The misunderstanding that they can only have them with their parent, or they should only be encouraged to have one with their parent, means they never learn what one is like. If nobody internalises that experience and that feeling then they don't know how to do it. They don't know how to offer it to their children and that's exactly what has happened. Generation after generation of people haven't internalised what it is to feel secure attachment relationships are trying to have children and they can't offer the children that. They end up in out of home care or something and it just goes on. It's transgenerational. It has a huge impact on society in terms of people who are dysfunctional in their behaviour, who are trying to get their needs met without knowing what their needs even are.*

- 5.56 The Committee pursued this matter by citing evidence received from foster carers who had had long term foster

children (e.g. 10 years) suddenly removed and denied further contact with the subject child even for events such as birthdays. Ms Dunston responded:

*... I believe it is systemic abuse. What it does to everybody is absolutely appalling. I'm not suggesting that it is done with any ill intent whatsoever. I have as much compassion for the workers in the system, right up to ministers and people who effect this system. Everybody is in extremis over this. The damage everywhere and the anxiety that it produces is huge. All you get when things are fear-based are silos being developed and people taking up positions and then having to defend those positions.<sup>76</sup>*

5.57 The Deputy Secretary (Human Services), Alison Jacob, also gave evidence on this matter:

*The worst thing for children – and I know people will support me on this – is multiple placements and multiple changes and that's something we all want to avoid.<sup>77</sup>*

5.58 The relevance of attachment theory was also raised in the evidence of a group of medical clinicians who gave evidence before the Committee. Dr Wagg made the following submission:

*The whole concept is that the kind of relationship you have in the first two years of your life is critical. If you don't get good experience in that period of your life it is very hard to develop brain systems that mean you have good relationships and the capacity to regulate emotions and make decisions well throughout your life. We are really way behind the eight ball if we do not get things right in those first two years.*

*Systems that identify dyads or parents who may have parenting difficulties during pregnancy as early as possible - mum is in a violent relationship, she is drinking alcohol, she is unsupported - identifying that mum and linking her in very directly with services at that point is the kind of thing that we need to be doing. I think we also need to have - and I think we have talked about it - whole systems around your dyads who are at risk so infants and mums or parents who are identified as having high-risk factors and the majority of that is going to be supporting and offering practical support but also therapeutic support and social support to the dyads so that they have good outcomes. There will be a small number where we can identify very early on that this is just never going to work and we need to remove that child from the care of that parent and place them within those first two years in an adoption situation ideally so that they have long-term attachment to a parent who can meet their needs. Obviously it is not what we would do as the first option, we would always try to help and support the dyad but there are well-recognised factors that*

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<sup>76</sup> Dunston, Hansard, 6 December 2010.

<sup>77</sup> Jacob, Hansard, 2 December 2010.

*predict a very poor outcome and what we see is a lot of young kids who are removed from their family and then returned to their family and removed from that family and they are the kids who have the worst outcomes.*

*... (adoption) is a really important thing to consider because I think that foster parents at the moment have very limited rights and also they are always in the situation that the child may be removed from their care at any time. So in terms of their capacity to really engage and form attachments with the kids that is difficult for them and also I think that it impairs their capacity to parent ... because there are a lot of decisions that they are not allowed to make and it is a huge financial burden on them.*

*... Kids need the carer to be attached to them and we need to let these carers become the psychological parent of that child because if we do not, they do not have a psychological parent. So even if you eventually reunite a child, the closeness and the health of that bond with the carer is crucial to the child's good outcomes so even if they were to be placed back with the parent, that good experience would be protective for that child.<sup>78</sup>*

- 5.59 The Committee sought Dr Wagg's opinion as to how the importance of attachment, particularly in the first two years, should be managed by the Department. Dr Wagg responded:

*I think that operates at a number of different levels. Although the best interests of the child are stated in the act, I think in the way the act is applied often the rights of parents, or the sense that they should stay with families, are given priority over what is in the best interests of the child. So I think we need to reverse that and say that the best interests of the child are paramount. Of course we want children to stay with their families but if the best interests of the child are not served by that, that needs to take precedence. I think that understanding of attachment is really important even at the level of the act.*

*I think the education and training of staff is important and making sure that we are employing staff who have the professional background and knowledge. Also they need to be supported. It is a very difficult area of work. We all support each other in dealing with it. It is quite distressing and I think these staff need that as well. I think it needs to be that the knowledge base is fundamental to their practice and, unfortunately, at the moment it does not seem to be.<sup>79</sup>*

- 5.60 The Commissioner for Children gave evidence on permanent care orders and permanency planning for children under 12 years:

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<sup>78</sup> Williams/Wagg/Easther/Moerd, Hansard, 17 December 2010

<sup>79</sup> Williams/Wagg/Eather/Moerd, Hansard, 17 December 2010

*Contemplating and planning for the possibility of permanent out of home care [however described] is not inconsistent with the primary object of keeping children safe in their own families where possible.*

*Indeed it is now widely accepted that permanency planning should begin sooner rather than later to prevent children “falling between the cracks” when parental care is found to be persistently unsafe and yet insufficient attention has been given to preparing the alternative.*

*In NSW for instance s.83 of the Children & Young Persons (Care & Protection) Act 1998 provides for the Director-General to take one of two paths in seeking orders, one where he assess that there is and the other where he assess that there is not “a realistic possibility of the child being restored to his parents”. If there is, he is to prepare a permanency plan involving restoration and if not a permanency plan for “another suitable long-term placement”.*

*Permanency planning is a fundamental part of stability in placement and thus a fundamental right of children taken into State care. It represents an example of the State as “model parent” making prudent long-term plans of which the birth parent is manifestly incapable.*

*It should be available for children of all ages upon first coming into State care. Criteria employed elsewhere include a Court finding that the child has been in out of home care for a set number of months related to their developmental age, and that by a process of structured assessment the birth family is unlikely to be able to provide a safe and stable environment for the child.*

*The CfC submits that in this present set of amendments the Government should give urgent consideration to specific provision for permanency planning and permanent care orders, and not leave those considerations to later. The evidence base for improved outcomes with stable placement and the seriously adverse outcomes of unstable and multiple placements are trite in the child protection industry in Tasmanian, Australia and internationally.*

- 5.61 A foster carer who gave evidence before the Committee commented as follows in relation to this issue:

*I found out afterwards that she had actually been in care several times but because I had made such a fuss, she didn't come back to us. They thought the attachment was too strong. I defy anyone to say to a mother and child pair that their attachment is too strong – I mean, I was her mother for all intents and purposes. So she didn't come back to us, she went to another carer. She went back to her grandmother's care, back to another carer – back and forth. We were not allowed to have anything to do with her during this time and we have had no contact with her since she left our care.*



*Attachment to a primary carer in life is vital for all children and it's that primary attachment that they have, usually with the mother ... which enables a child to actually develop relationships in the future.<sup>80</sup>*

### **Findings**

- (31) Evidence was received that the emotional well being of children was being put at risk as a consequence of being placed with a succession of carers.**
- (32) There was evidence given of children who had endured multiple placements – one 14-year-old had allegedly experienced over 90 placements – and the cumulative harm from this had lead to aggression, hostility, abandonment and despair.**
- (33) Evidence was presented that the first two years of a young person's life are crucial. A whole of community response is required to acknowledge this and invest in this period of a young person's life.**

### **Recommendations**

**The Committee recommends that:-**

- (27) Babies removed at birth should not be placed with a series of carers in the first months of life.**
- (28) Police checks and assessments of kinship placements be prioritised to avoid a child suffering the emotional trauma of being placed with a stranger.**
- (29) A stability plan for ensuring stable long-term placement in out of home care for a child should form part of that child's Case and Care Plan. Consideration should be given to adopting maximum time frames for placement as applies in Victoria.**

### **Reunification Processes**

5.62 The Committee received evidence in relation to procedures for reunification of children in care with their families. The evidence demonstrated the need for improved reunification processes.

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<sup>80</sup> Hackett, Hansard, 29 November 2010

- 5.63 The Committee heard evidence from Mr. Simon Paul, Co-ordinator, Clarendon Vale Neighbourhood Centre. He stated as follows:

*Support for families who are under child protection orders is an issue. People feel that their children may be in care but it would be really good to start providing intense support to the parents while their children are in care. The reunification system as it is at the moment does not really have a long enough process. The theme that I get is that we are putting unnatural constrictions on what has been created largely over generations in terms of parenting, and we are expecting quick fixes. That is not the way we can move ahead.<sup>81</sup>*

- 5.64 Similarly, a barrister often involved as a Separate Representative for children in child protection cases has stated that access by parents to a child in care is vital however funding constraints prevent this, often precluding settlement of a Child Protection matter. Evidence was also presented on other issues that could prevent reunification:

*People who have children removed lose their Centrelink benefits and, in turn, that puts their housing accommodation into jeopardy. If they become homeless this, in turn, prevents the children coming back into their care.<sup>82</sup>*

- 5.65 The Committee heard evidence from the Commissioner for Children in relation to reunification processes. She stated as follows:

*It is my understanding that [a reunification service] is going to be established over the next year but, again, it's very poorly resourced.*

*Having a child removed is really traumatic. Anyone who has children will know how traumatic that would be, and you're labelled 'a bad parent'. I strongly believe that most parents actually want to do the best for their kids, at the end of the day. So what happens is that the child is removed, the parents are told, 'This is what you need to do to get your child back', and no-one is there for them. A reunification service hopefully will be established next year but you would want to see that expanded, and that would be a non-government agency working with Child Protection. The non-government agency works with the parents as soon as the child is removed to start to work with them to skill them up in their parenting, to deal with the drug, alcohol and mental health issues - whatever might be the issues for that parent - but also to be working with Child Protection because I don't believe Child Protection really has the time to understand*

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<sup>81</sup> Paul, Hansard, 21 December 2010

<sup>82</sup> Mooney, Submission, p. 5.

*what improvements that parent has made. That is not their job; their job is to protect the children.*

*What is required is a reunification service with a non-government agency working with Child Protection focused around the family, and the focus is on reunification. You have the non-government agency reporting on the parenting capacity of that family to Child Protection for the decision-making to be made by Child Protection and the non-government agency around the possibility of reunification, and that service continues after the child goes back home for a period of time to make sure that family is stable. That is what is required. That is being trialed at the moment in Victoria in a very small cohort and they have case loads. The non-government agency has two families. So that is the complexity of that service if you want to get outcomes for the kids.<sup>83</sup>*

5.66 The Committee heard evidence from Ms. D'Elia of Bapcare, who stated as follows in relation to reunification:

*I think another area of resourcing and concern would be out-of-home care options, foster care, kinship care and reunification options. For many families if children are removed, what supports are in place to help mum or dad change those issues that need to be changed so that their kids can come back home? There are very few such supports in place. So we need to look at that in terms of the intensity of a family support intervention, the steps into a reunification process, and if indeed we are looking at kinship or out-of-home care intervention, then we need to make sure that we are doing really adequate assessment and giving really good support to those people, particularly in kinship care, where some of the grief and loss issues, with the children being torn between the kinship carer and their biological parent, can be really difficult, so supporting the safety of children and supporting those family units to provide that nurturing environment is really important. Certainly that resourcing is missing in this State.<sup>84</sup>*

5.67 The Committee received a submission from the Salvation Army, which stated as follows in relation to reunification:

*There seems to be no systematic approach to achieve reunification of the family if it is possible. Parents have conditions placed upon them and The Salvation Army has experienced parents that genuinely desire to meet these conditions and have their children returned. On meeting these conditions some parents have further conditions placed upon them. This is a very heartbreaking experience which shatters hope and faith in the system.*

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<sup>83</sup> Ashford, Hansard 29 November 2010.

<sup>84</sup> D'Elia, Hansard, 2 December 2010.

*Parents whose children are removed from their care are usually left without any support or a plan for a way forward. This creates despair, bewilderment and anger.<sup>85</sup>*

- 5.68 Also identifying a lack of support for families to improve their prospects of reunification was the organisation Speak Out Tasmania, which submitted:

*Once a child is removed from care, the system becomes adversarial and focused on removing the child permanently; this does not always result in the best interests of the child. Significant funding is directed at the court process, which is prolonged during which time there are few opportunities for the family to demonstrate their improved competence due to a lack of workers to support access visits.<sup>86</sup>*

- 5.69 The Deputy Secretary (Human Services), Alison Jacob, recommended separate services for reunification of children was required:

*The decision to return children to the care of their parents requires detailed assessment and planning given the high level of risk involved and the capacity for children to be returned to a situation that places them at risk. There is a strong case for this work to be undertaken by specialist staff that have the capacity to work at this intensive level with families over a longer period. It is possible that the work could be effectively outsourced to a specialist agency.<sup>87</sup>*

- 5.70 Evidence was provided from families in relation to access visits that the Department allows foster carers to have the right to refuse access to extended families on the basis that such access would prevent “bonding” between the foster carers and the child, as well as the lack of weekend access:

*Unless the child is in a kinship placement, weekend access does not occur. When one has school age children and working parents, one can see the difficulty in this. I appreciate the funding constraints but access is a major bone of contention which often precludes settlement.<sup>88</sup>*

- 5.71 Reunification should not occur at any cost; that was the warning from the Tasmanian Branch of the Australian Psychological Society who gave evidence that:

*Child Protection Workers return children to parents' custody despite continual reports of significant concern of abuse and neglect.<sup>89</sup>*

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<sup>85</sup> Salvation Army Submission, p. 4.

<sup>86</sup> Speak Out Association of Tasmania Submission, p. 6.

<sup>87</sup> Jacob, Submission, p. 16.

<sup>88</sup> Mooney submission, p. 5.

<sup>89</sup> Australian Psychological Society (Tasmanian Branch) submission, p. 3.

5.72 And access visits can also re-traumatise children:

*Often our members hear reports from Child Protection Workers and carers that the child is 'acting out' and displaying major behavioural issues following access visits to the perpetrator of abuse and neglect. This suggests the child may be re-traumatised with each visit, yet access continues in what appears to be the best interest of the adult, or the child protection service, not the child.<sup>90</sup>*

**Findings**

- (34) Evidence was presented that some children were returned to parents' custody despite continual reports of significant concern of abuse and neglect.*
- (35) Evidence was presented that access visits between parents and children does not occur on weekends, and if parents are working it is difficult during week days. However failure to facilitate access often precludes settlement of Child Protection matters and reunification.*
- (36) Evidence was presented that some fosters carers are denying access to child/children in their care to their family members.*
- (37) People who have children removed lose their Centrelink benefits and, in turn, this can sometimes put their housing accommodation in jeopardy. If they become homeless this, in turn, prevents the children coming back into their care.*
- (38) Despite parents fully committing and engaging in services as requested by Child Protection Workers, parenting capacity assessments may not be conducted within a reasonable timeframe and children are placed in foster care.*
- (39) Support for reunification should be provided where appropriate and support should also be provided for parents to make appropriate changes so they can be reunited with their children.*
- (40) There needs to be a systematic approach to reunification. Supporting parents and preparing them for reunification has to be strategic and ongoing, with a need to mobilise non-government resources and agencies.*
- (41) A determination needs to be made early on as to whether reunification is possible.*

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<sup>90</sup> Australian Psychological Society (Tasmanian Branch) submission, p. 6.

## *Recommendations*

*The Committee recommends that:-*

- (30) Clear protocols should be followed in relation to reunification processes, including when Parenting Capacity Assessments should be conducted with clear timeframes articulated. If a family is working hard to make changes, they should have the support of the Department in doing so.*
- (31) The Government discuss with the Commonwealth a means of ensuring Centrelink benefits are retained at least during the Assessment period. This will ensure parents do not suddenly find themselves with their fortnightly income drastically reduced, putting their housing at risk and, in turn, compromising reunification with children.*
- (32) Parents should be given due notice of the likelihood of Centrelink funds being withdrawn in order to budget accordingly.*
- (33) Steps should be taken to ensure that working parents are not denied access to children as a consequence of weekend access not being available.*
- (34) Access visits should not be determined by foster carers, but by Child Protection Services with regard to the best interests of the child.*

### *Recognition of the Rights of Families with Children in Care*

5.73 The Committee heard evidence from a number of families with children in care. The evidence demonstrated a need for greater recognition for the rights of families with children in care.

5.74 The Committee heard evidence from Mr. Greg Barnes, Barrister, who stated as follows in relation to the rights of families with children in care:

*It is fundamentally important that parents have their rights respected. So often in this jurisdiction the primacy of the child's rights are put first. That is correct. That is right both in political theory, philosophically and in legal theory. However, you should not do so and disregard the rights of parents. We have done the same thing under the Family Violence Laws. We have simply disregarded the rights of one group and elevated the rights of another group. We are doing exactly the same thing in this jurisdiction where parents have very few rights.<sup>91</sup>*

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<sup>91</sup> Barnes, Hansard, 8 November 2010

- 5.75 A number of families commented that they did not have sufficient access visits with the child. Some examples of such evidence are as follows:

*Child Protection is understaffed. I was meant to have four hours access; I got one.*<sup>92</sup>

*I am not allowed to see her. None of the family is allowed. She is barred from seeing any of us...I do not know what the reason is.*<sup>93</sup>

- 5.76 The Committee received a submission from the Salvation Army which states as follows:

*[There needs to be] improved and planned access arrangements for parents with their children who are under orders.*<sup>94</sup>

*None of our residents experience regular routine supervised or unsupervised access. It is often random and generated by the child. This provides insight to the failure of the Department to recognise the family unit as one of the primary constants that binds our communities together. Our residents are not afforded opportunities to rebuild attachment and develop resilience while under the current practice standards afforded to them via child protection services.*<sup>95</sup>

- 5.77 The Committee heard evidence from Ms. Jacqui Reed, CEO of CREATE Foundation. In relation to the results of a survey of children in care, she stated as follows:

*Twenty per cent of children in this survey were not satisfied with the amount of family contact.*<sup>96</sup>

- 5.78 In addition, Ms. Reed referred to insufficient contact between siblings as a major issue. She states as follows:

*The area of sibling contact is one that causes us great concern. At the moment, the cottage-care model needs to be revised as it doesn't seem to be working well and the outcomes for children and young people need to be improved in this particular area. Kennerley Cottage needs to be able to house sibling groups of three-plus where possible. Currently there is massive turnover in carers and frequency in placements, which means that when children and young people have nowhere to go then they often find themselves in Kennerley Cottage, but often there's not room for them to be placed together and the siblings are separated. The children and young people have identified that sibling camps would be very useful to be run in holidays so that, if they are separated by distance or are in different placement settings, they would have an opportunity to meet and spend time with their siblings.*

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<sup>92</sup> Stoward, Hansard, 15 November 2010

<sup>93</sup> Ralph, Hansard, 23 November 2010

<sup>94</sup> Salvation Army, Submission, p. 5.

<sup>95</sup> Ibid., p. 7.

<sup>96</sup> Reed, Hansard, 21 December 2010

*All siblings need to have their rights to sibling access explained. There seems to be a distinct lack of information for children and young people about what their rights are pertaining to visiting their younger brothers and sisters. One young person indicated to us that they wanted to see their younger brother but it became very difficult for them because their carer was part guardian of the child and didn't want him to see his older sister because of perceived issues with the sibling, which is very challenging for young people, given that they ultimately do have a right to maintain family contact.<sup>97</sup>*

- 5.79 The lack of flexibility in access arrangements was also noted in a number of submissions. The following exchange ensued during evidence from a family grandparent:

*They are destroying our family. They have no intention of reunifying the family unit, which is under their charter....we had not seen him for six months. We were not allowed to see him....They were ordered on three occasions by the magistrate to supply Christine and I with access....and they did not do that. On the fourth time, they set it up so badly that I had to take four hours off every week to travel to Smithton to see him for an hour and then come back. My employer is good, but would not come at that. That's four hours a week I would have to take off without pay and they did that deliberately. They knew.*

*... (no reasons were given for not arranging access on a weekend)  
We kept asking for it....<sup>98</sup>.*

- 5.80 The Committee heard evidence from Mr. Brett Galbraith, a foster carer who made the following submission in relation to this issue:

*One of the most disappointing things is when you've got a child who doesn't get many access visits. (We have had a child)... standing at the window, looking out and waiting for the car to come and it's ten past, then it's thirty minutes past the deadline ...we ring the department and they say, 'Oh no, the driver couldn't make it' or something similar. 'Well, why didn't you ring us?' They say, 'Oh, we didn't know until I heard that you had rung, and then I checked.' That happens every now and then; you understand the bureaucracy. One time it happened to me three times in a row so I had a blow up with them; I went to the department and had meetings at a senior level. I said, 'I don't want to hear excuses - I want to find out what you're doing so this doesn't happen again.' They said, 'Well, we're putting a process in place and we're checking it with each other' and all this sort of stuff. The next time was fine but the one straight after that, the same thing happened again. Then we find out that, not only do they not tell us but also the grandparent or the parent or whoever is waiting at the other*

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<sup>97</sup> Reed, Hansard, 21 December 2010

<sup>98</sup> Reynolds, Hansard, 23 November 2010



*end is not told. They're waiting there, frustrated and then peeved off with the department.*

*... apparently they have cut back on that whole system. They used to do weekend and night-time visits but they cut back on that or cut it out which obviously has an impact on working families. So basically, if you want to see your kids, don't work because if you work you won't get to see your kids because they won't come and see you on a weekend or when you finish work.<sup>99</sup>*

### **Findings**

- (42) *There was a significant body of evidence that access visits were irregular, random, and offered at times which were impossible for parents or grandparents to meet due to work commitments.***
- (43) *Siblings have been separated in out of home care and have not been allowed to see their brothers or sisters.***

### **Recommendations:**

***The Committee recommends that:-***

- (35) *Access for parents and grandparents to children in care is imperative unless the safety of the child is at risk. Improved and planned access arrangements for parents with children under orders must occur and be adequately resourced.***
- (36) *While placing sibling groups together in Out of Home Care is preferable, if siblings are split and are residing in different placements, it is critical they are able to maintain relationships and are provided with access to their siblings, consistent with the Charter of Rights for Children and Young People In Out of Home Care. A child's right to visit their siblings should be explained to children on entering Out of Home Care.***

### ***Workforce, training etc – existing/evidence***

5.81 The Committee received a substantial amount of evidence in relation to the child protection workforce. The main themes identified were: qualifications; training; ongoing professional development; supervision for staff; and the recruitment and retention of staff.

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<sup>99</sup> Galbraith, Hansard, 8 November 2010

### ***Initial Training and Qualifications for Child Protection Workers***

- 5.82 A number of submissions stated that it would be desirable for there to be a minimum initial qualification for child protection workers. A sample of the expression of this sentiment in submissions received by the Committee follows:

*Despite the Tasmanian Government response to recommendations in the Commissioner for Children's Report, October 2010, CPS workers are not necessarily qualified social workers. A range of qualifications exist amongst CPS workers, including some with specific qualifications including social work and psychology. Some workers have basic undergraduate degrees and other CPS workers do not have relevant tertiary qualifications at all. This group of clinicians includes social workers experienced in the management of children at risk and promotes the recruitment of experienced and qualified social workers with mandatory entry qualifications. This group would argue that child protection practice requires advanced/specialised training beyond basic undergraduate social work training and opportunities for further education and research should be actively promoted within health and CPS.<sup>100</sup>*

*We would argue that frontline specialist Child Protection staff should have the opportunity for tertiary child protection training and that you would have your experienced and highly qualified Child Protection workers at the point of intake because the standard of the assessments on intake is crucial..... My own view would be 'requirement' but for that consideration to be given.<sup>101</sup>*

*I think there should be minimum levels of qualifications put in so that staff are supported better. If you look at the UK, it is just about to launch a charter of child protection, I think it's called, and what they're saying is that all child protection workers need a minimum postgraduate qualification; all supervisors need a Masters level or higher.<sup>102</sup>*

*[Recommendation that] child protection workers are required to gain relevant professional qualifications.<sup>103</sup>*

- 5.83 In relation to the specific qualifications considered appropriate for child protection workers, the Committee received evidence from the Australian Association of Social Workers (Tasmanian Branch) which stated that social work qualifications should be the preferred entry qualifications for child protection workers. The submission states as follows:

*Whilst we recognise the need for recruitment from a range of disciplines to meet the demand for an increasing number of*

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<sup>100</sup> Williams Submission, p. 5-6.

<sup>101</sup> Moerd, Hansard, 17 December 2010

<sup>102</sup> Tucci, Hansard, 6 December 2010

<sup>103</sup> Salvation Army, Submission, p. 5.

workers, we strongly argue that social work should be the preferred entry qualifications to the child protection system, both in government and in the community sector. Social workers undertake studies in sociology, psychology, social policy, child, adult and family development, mental health, intellectual disability issues and the law as it applies to child protection. The particular strength of social work education is its focus on understanding, assessing and responding to complex social problems such as those reflected in child protection services. Social workers are recognised throughout the world as the core professional group in child protection policy, management and practice. The UTas social work qualifying courses are accredited by the Australian Association of Social Workers which has developed curriculum standards on child protection. All accredited social work programs at Australian Universities will now need to show that their graduates meet these high and uniform standards. Social work students, as part of their training, also complete substantial periods of supervised practice in a range of health and community service settings, and these often include child protection services.<sup>104</sup>

5.84 A former Child Protection Worker stated:

*I have worked in a range of health services in my 20 year employment history but it was in my role as a Child Protection Officer that I had the most responsibility ... it distresses me that this is also the area which is the biggest employer of new graduates without the support structures that they need in place.*<sup>105</sup>

5.85 However, the Committee received contrary evidence from a member of the Tasmanian branch of the Australian Psychological Society who stated:

*The single discipline focus adopted in Child Protection Services in Tasmania ignores the advantages of a multidisciplinary approach to service delivery that is the generally accepted model of "best practice" in other States and countries*<sup>106</sup>.

5.86 The Society argued the number of psychologists in the child protection workforce should be increased. The submission states as follows:

*In Tasmanian Child Protection Services, the role of psychologists, adding scientific rigour and evidence-based knowledge to practice, is ignored and the predominant model appears to be guided by Social Work practice and philosophical values.*<sup>107</sup>

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<sup>104</sup> Taylor Submission, p. 10.

<sup>105</sup> Australian Association of Social Workers (Tasmanian Branch)

<sup>106</sup> Australian Society of Psychologists (Tasmanian Branch), p. 5.

<sup>107</sup> Australian Psychological Society Submission, p. 5.

## *Findings*

- (44) Evidence was varied about what the qualifications should be for Child Protection work; it was generally agreed that minimum levels of qualifications are required.*
- (45) Child Protection workers should have appropriate training but merit should be granted for applicants who have come from other backgrounds. Qualifications alone are no determinant of a person's capability to manage the job. Instead, emphasis should be on Continual Professional Learning, mentoring, engagement with specialists and other agencies.*
- (46) Multi disciplinary teams are important, and there needs to be a mix of professional backgrounds and qualifications. The Department must ensure that senior personnel are not removed from exposure and involvement "at the coal face".*

## *Recommendations*

*The Committee recommends that:-*

- (37) A multi-disciplinary approach to child protection work is generally accepted as best practice in other States and countries and should be adopted. Consideration should be given to broadening the mix of professionals undertaking child protection work to include psychologists and other professionals alongside social workers, or providing the opportunity for such professionals to act in an advisory capacity.*
- (38) Support should be provided for ongoing training, mentoring, liaison with specialists and other agencies and achievement of further qualifications.*

### *Ongoing Training and Professional Development/Supervision and Mentoring*

- 5.87 The Committee received evidence in relation to the importance of ongoing training and professional development for child protection workers, as well as mentoring and supervision of child protection staff.
- 5.88 The importance of ongoing training and professional development as well as adequate levels of supervision and mentoring for child protection workers was detailed in the following submission from Bravehearts:

*Across community services in Australia it is widely recognised that front line child protection staff require regular supervision and professional development opportunities. Supervision should be comprised of three main parts: administration, case review and professional supervision/counselling. This supervision should occur monthly and should enable the caseworker to plan casework and administrative tasks, debrief and receive emotional support. In addition to regular supervisory support, child protection workers need to undergo regular training and professional development. Key areas for professional development that should be considered include: legislative requirements, transfer of formal learning to workplace, skills in engaging and working with children and families, building capacity to respond to child protection issues and specific training based on practice and research. While positive steps can be taken in empowering and building resiliency in our children – lessening their vulnerability to child sexual assault, it is equally as important that these programs are complemented by programs highlighting the responsibility adults play in keeping children safe. Adults should be taking proactive steps to protect children from this significant risk. It is unrealistic to think that a young child can take responsibility for keeping themselves safe. Adults are the ones who need to prevent, recognise and react responsibly to child sexual abuse. Research suggests that many adults are unaware of effective steps they can take to protect their children from sexual assault (NAPCAN, 2010). Most do not know how to recognise signs of sexual assault and many do not know what to do when sexual assault is suspected or discovered. Adults working with children and young people need to have an understanding of the dynamics of child sexual assault, including the indicators and the barriers to speaking out, in order to properly address concerns or disclosures by children in their care. Bravehearts recommends the Tasmanian Government provide resources to ensure that child protection workers and those working with children are educated on the issues of child sexual assault and are able to confidently and effectively respond to concerns or disclosures.<sup>108</sup>*

5.89 This was also raised with the Committee by the Social Work Discipline at the University of Tasmania:

*It appears increasingly difficult for social workers, including those in statutory child protection services, to be given opportunities for having appropriate professional supervision within their workplace contexts. Anecdotal accounts from practitioners suggest that professional supervision is regarded as a responsibility of workers themselves to organise out of work time rather than a responsibility of the employing organisation. Due to workload pressures at all levels, the supervision of social work practitioners including those 'on the front line' in child protection appears often to be task- and management-focused which, while important from an organisational point of view, does not necessarily meet the*

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<sup>108</sup> Bravehearts Submission, pp. 15-16.

*ongoing learning and development needs of professional workers. This is particularly important given that such workers can themselves experience stress, vicarious trauma and burnout as a direct result of the nature of their work and the pressures they experience. The risks to both organisations and the people they serve of having professional workers who are not functioning at their optimal levels are not insignificant. Professional supervision can mistakenly be regarded as a 'luxury' experience for workers although it is well documented to be an important factor in the development of expertise and the satisfaction and retention of professional workers.*

*The retention of the child protection workforce is currently a pressing problem in Tasmania, and throughout Australia; retaining a skilled and experienced workforce is critical for human service organisations and has significant economic benefits for such organisations. The importance for children and families of having professional, well-trained and dedicated workers who remain constant cannot be under-stated.<sup>109</sup>*

- 5.90 The difficulty faced by child protection workers in completing professional development opportunities was noted by Mr. Lynch of the CPSU, who stated as follows:

*There's the professional development stuff. A lot of these guys don't get an opportunity to do much of that at all, and I think in an area that is changing as rapidly as Child Protection they really should. The time that they do get around training tends to be more operational training. There's a new system put in place and it is very onerous for the guys to then get on top of a new system..... If you are a professional social worker and you've got case loads on, you tend to put your own needs as a lower priority, so opportunities to do professional development tend to get pushed aside for the emergency things you've got today. There are 15 calls that have to be responded to and there are other things that have to be done.<sup>110</sup>*

- 5.91 The Committee also heard evidence from a number of sources as to the need for improvement in the supervision and mentoring of child protection workers. The CPSU stated:

*Team leaders in Child Protection should be available to assist workers with peaks and troughs in their caseloads, to provide relief and backup for cases when workers are on leave or resign and to provide professional support and guidance to their team. Child Protection is blessed with many highly skilled and experienced team leaders who try to do all these things but they are hampered by the fact that they are also allocated caseloads – often carrying the highest and most complex cases. Given the stressful environment in which these workers operate it is essential team*

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<sup>109</sup> Taylor, submission, p. 11-12.

<sup>110</sup> Lynch, Hansard, 29 November 2010

*leaders have the time to monitor and support their team rather than being consumed by their own caseload responsibilities.<sup>111</sup>*

- 5.92 The evidence of the University of Tasmania noted that child protection workers were often given too much responsibility too soon. Professor Taylor stated as follows:

*...often the new graduates are given greater responsibility too early. So if they are in a team, all of a sudden they are the team leader because the team leader has left or there is pressure or whatever. So that is a great pressure for them. I think the ongoing problems we have been talking about, lack of opportunity for professional support and growth and development are problematic. The work is stressful and often people feel that they are carrying the can a bit and if they do the wrong thing the organisation just may not be behind them and there will be a sense that they will be responsible.<sup>112</sup>*

- 5.93 And the Australian Psychological Society (Tasmanian Branch) stated:

*Unfortunately it appears the level of expertise of the Child Protection Worker they are assigned determines the outcome for many children. Our experience indicates that many Child Protection Workers are unaware of appropriate services available in the community for children and carers requiring psychological intervention and support. Notably these are limited and require further funding. This suggests the need for more intensive and ongoing training and supervision of Child Protection Workers and for workers in this area to have high levels of training from a range of disciplines and access to professional expertise as required.<sup>113</sup>*

- 5.94 The Catholic Women's League also gave evidence in relation to professional supervision:

*... no matter how bad things are kids rarely want to be removed and love their parents no matter what! There must be grave reason to remove them. A modus operandi must be decided on, kept to and reviewed regularly by the team with particular input from and support for the core person. No worker should have to undertake this arduous task without adequate support from the team.<sup>114</sup>*

- 5.95 When questioned by the Committee as to whether workers themselves understood the policies, Ken Abery stated:-

*Sometimes they do and sometimes they don't. It depends on whether they're established workers or new workers. It used to be the case that when a new worker came on board they were puppy-walked through it with an experienced worker, but that*

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<sup>111</sup> CPSU submission, p. 2.

<sup>112</sup> Taylor, Hansard, 26 November 2010.

<sup>113</sup> Australian Society of Psychologists (Tasmanian Branch) submission, pp. 3-4.

<sup>114</sup> Catholic Women's League Tas Inc. Submission, p. 3.

*doesn't happen anymore. Because our kids are getting more and more complex, I think a lot of our new workers, although they understand lots of things about all these kids, they've never really been at the coalface where we work, so they really don't understand. Then when we say we need to do this, this and this for the child, under the new system it has to go before a full committee before you can get any approval to do it. The general word from workers is, 'Don't bother because you're not going to get it.'*<sup>115</sup>

### **Findings**

- (47) Frontline Child Protection Workers require regular mentoring, supervision and professional development but with workload pressures, this is not always occurring. Lack of supervision and training can lead to mistakes, worker stress, trauma and burnout.**
- (48) The importance for children and families of having professional, well-trained and dedicated workers who deliver continuity of service cannot be over-stated.**
- (49) Evidence was received that new graduates are often given too great a responsibility too early.**
- (50) Team Leaders should be available to assist Child Protection Workers with peaks and troughs in caseloads.**
- (51) The outcomes for many children are determined by the level of expertise of the Child Protection Worker.**
- (52) There is a need for a greater focus on engagement and collaboration with other agencies and specialists.**

### **Recommendations**

**The Committee recommends that:-**

- (39) In order to ensure that the Child Protection system is able to build capacity and provide robustness in responding to the pressure and unpredictable nature of the system, there be a genuine commitment to: mentoring programs; appropriate supervision of less experienced staff; an appropriate graduate program; as well as ongoing relevant professional development.**

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<sup>115</sup> Abery, Hansard, 29 November 2010



## **Recruitment and Retention of Staff**

5.96 The Committee heard evidence as to the difficulty faced in recruiting and retaining staff within child protection.

5.97 This issue was identified in the submission from the CPSU, which stated as follows:

*Excessive caseloads also have significant detrimental effects on workers. CPSU staff have regularly witnessed Child Protection members literally in tears because they are working flat out but still have cases they know should be followed up. We have taken calls from members who report being unable to sleep at night because despite working a 12 hour day they went home knowing there were cases they had not been able to work on.<sup>116</sup>*

*One of the very important issues never addressed is the simple fact that there is a constant change in staff in CPS – retaining and valuing experienced and high quality staff is paramount in ensuring the goals of any organisation.<sup>117</sup>*

*Low worker morale, excessive workloads and constant change has made Child Protection in Tasmania an unattractive place to work. Many experienced workers have left the system because they have found it far too stressful. This situation has created a feedback loop where high numbers of vacancies and continual turnover of staff negatively impacts on morale and so more staff choose to leave and fewer people are encouraged to join.<sup>118</sup>*

5.98 This issue was also identified in the submission of the Australian Association of Social Workers (Tasmanian Branch), which stated as follows:

*A major barrier to enhancing child protection systems in Tasmania has been problems in the recruitment and retention of a skilled workforce. It is important that Departmental policies and procedures are implemented to support a well-trained and highly skilled workforce. The Tasmanian Government must actively develop a strategy to attract, recruit and retain high quality and dedicated human services professionals. Working cooperatively with employers, training providers, unions and professional associations, the strategy must have the aim of supplying and retaining adequate qualified staff to meet the demand for services. As one experienced social worker commented, I have worked in a range of health services in my 20 year employment history but it was in my role as a Child Protection Officer that I had the most responsibility ... it distresses me that this is also the area which is the biggest employer of new graduates without the support structures that they need in place.*

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<sup>116</sup> CPSU Submission, p. 2.

<sup>117</sup> Ibid., p. 3 – 6.

<sup>118</sup> Ibid., p. 1 – 3.

*Measures to attract staff include offering fieldwork opportunities and cadetships. Evidence indicates that the ability to recruit staff is enhanced when agencies participate in field work programs because graduates are likely to seek employment where they have completed placements. Measures to retain staff include better pay and conditions for staff in both the public and community sectors and better pay progression for increased experience and recognised skills improvement through an accredited model of CPE (Continuing Professional Education). Professional staff require effective induction procedures, appropriate accommodation, adequate resources and referral points, manageable workloads which allow more than just a risk management approach, regular professional supervision, continuing professional education and career progression. The Tasmanian Government should work with employers, professional associations (such as the AASW), unions and training providers to develop improved learning pathways for staff in the public and community sectors, with the AASW accredited Child Protection Practice Standards a useful model.<sup>119</sup>*

5.99 The Committee received the following evidence from the University of Tasmania in relation to this issue:

*A major barrier to enhancing child protection systems in Tasmania has been problems in recruitment and retention of a skilled workforce. UTas would welcome the opportunity to work with the Department in developing strategy and training/education programs to train and retain high quality and dedicated human service professionals, including social workers. There are three components to this:*

- *training new social workers and contributing to the training of other human service personnel;*
- *upgrading the qualifications of child protection and other human service workers providing services to children and families who do not have a social work qualification with the AASW accredited Child Protection Practice Standards a useful model.*
- *the ongoing professional development of existing social work and human service practitioners.*

*Increased numbers of field placements for social work students can be an effective mechanism for contributing to workforce shortages in the child protection field. Field education placements provide an important opportunity for students as workforce preparation; the advantage appears to be strongest when graduates are employed within the specific field in which they have substantial placement experience (Healy and Lonne 2010) For example, Healy and Meagher's (2007, cited in Healy & Lonne 2010) study of child protection workers found that workers who*

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<sup>119</sup> Australian Association of Social Workers (Tasmanian Branch) Submission, pp. 6 – 7.

*had completed a substantial placement, of at least 250 hours, in this field of practice during their study program rated themselves as well prepared for child protection practice, whereas workers with the same qualifications but who had not undertaken placement in this field, rated themselves as relatively poorly prepared for this type of work.*

*Fair and equitable salaries for workers are also important. Community based organisations that employ under the Community Services Award generally pay considerably less than the State Awards. This makes recruitment and retention difficult when qualified social workers can earn much more in other agencies. This is not just a question of money but about recognition and respect for education and the knowledge and skills that come with successful completion of a tertiary degree. Some agencies also employ social workers but offer no organisational culture that supports the development of professional identity and skills. This is often cited as a reason for social workers leaving those agencies and seeking employment in social work identified teams.*

*Findings from child protection services in other parts of Australia also indicate that the current overwhelming focus on surveillance, hazard detection and risk assurance will continue to prevent people who have the required knowledge, skills and experience from staying in the child protection workforce, often regardless of workforce strategies. It is the desire to help children and families (even where removal from home is the most appropriate intervention) and to work collaboratively with others who are also important to children, that attracts well balanced, highly skilled, ethically motivated and resilient people to work in human service areas. If they cannot do this, they will look elsewhere for employment that meets their professional needs and orientation. The opportunity for professional social workers to exercise their professional autonomy and discretion in complex areas of decision-making like child protection is an important consideration for practitioners seeking professional development throughout their career and building expertise and research-informed practice.<sup>120</sup>*

5.100 From the perspective of families, the retention and continuity of staff can be problematic. One family stated there was:

*... absolute confusion about who is the case worker at any one time, and having to re-establish relationships with case workers again and again.<sup>121</sup>*

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<sup>120</sup> Taylor, Submission, p9-10

<sup>121</sup> Ashlin, Submission, p 2

## *Findings*

- (53) The Committee received evidence that low worker morale, excessive workloads, high turnover of staff and constant change has made Child Protection in Tasmania a difficult place to work.*
- (54) A major barrier to improving child protection systems in Tasmania has been problems in recruiting and retaining a skilled workforce.*
- (55) Child Protection is an employer of new and very young graduates who require robust support structures.*
- (56) Child Protection workers should have appropriate training but merit should be granted for applicants who have come from other backgrounds and appointments should not be determined by the applicant having a specific qualification in order to be eligible to apply.*

## *Recommendations*

- (40) The Government must develop a workplace strategy to recruit and retain high quality professionals, including attracting new staff through offering fieldwork and cadetships. Retention of staff can be improved by offering better career pathways for increased experience and recognised skills improvement through an accredited model of Continuing Professional Learning, effective induction procedures, appropriate office accommodation and resources, manageable workloads and regular professional feedback and supervision.*

### *Complaints mechanisms*

- 5.101 The evidence to the Committee demonstrated the need for more effective oversight of child protection decision making processes and complaints mechanisms.
- 5.102 A number of submissions identified the importance of adequate complaints mechanisms for the child protection system. The following is one example of such a submission.

*I believe it is entirely appropriate for disputes and complaints to be investigated in an independent way with concerns raised by families, carers and other stakeholders taken seriously. For example, we already have a Complaints in Care Committee that includes the Commissioner for Children to investigate complaints about children in care ... However, caution needs to be applied to make sure that the professional child protection system is not undermined ... if professional child protection judgments are*

*constantly questioned and subjected to non professional intervention, the whole system becomes driven by opportunism and media hype. This is not a good way of driving system improvement.*

*It is essential that adverse incidents are reported, investigated and managed using a consistent and coordinated approach. There must be ways to make sure that child protection practice is constantly reviewed and that actions are taken to minimise risks, learn lessons from mistakes and prevent reoccurrence of incidents. This should be achieved through timely investigation of incidents to identify contributing factors and system errors that may have caused or contributed to the incident. Improvement strategies can then be implemented to minimise the risk from similar events occurring in the future.<sup>122</sup>*

- 5.103 Currently, complaints may be made to DHHS and these are investigated internally within DHHS. The Program Manager investigates the complaint in the first instance. If the complainant is not satisfied with the resolution of the complaint, they can request review of the matter by the Area Director. If the Area Director is unable to resolve the matter, it can be referred to the CEO of Children and Youth Services.<sup>123</sup>
- 5.104 Complaints in relation to child protection services may also be made to the Ombudsman. The Ombudsman is an independent officer answerable to Parliament. The Ombudsman's role under the *Ombudsman Act 1978* (Tas) is to enquire into and investigate complaints about administrative actions of Tasmanian Government Departments, Local Government Councils and a range of public authorities.<sup>124</sup>
- 5.105 Many of the submissions received by the Committee identified the problems with the current complaint mechanisms and the perception that there is a lack of independent complaints mechanisms available.
- 5.106 The submission of the Australian Psychological Society stated as follows:

*There is no transparent complaints process in Child Protection Services. If a professional is concerned about a decision of a Child Protection Worker, reporting these concerns to the next level in the Department is not encouraged and often met with justification for the Child Protection Workers decision. Hence clinicians often feel*

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<sup>122</sup> Jacob, Submission, pp. 4-5.

<sup>123</sup> [http://www.dhhs.tas.gov.au/children/child\\_protection\\_services/complaints\\_procedures](http://www.dhhs.tas.gov.au/children/child_protection_services/complaints_procedures)

<sup>124</sup> [http://www.ombudsman.tas.gov.au/about\\_us/our\\_statutory\\_functions](http://www.ombudsman.tas.gov.au/about_us/our_statutory_functions)

*powerless to effect change and the Department functions as an independent silo without scrutiny.*<sup>125</sup>

- 5.107 A number of families who had dealings with the child protection system also raised the lack of adequate complaints mechanisms. The following evidence from families demonstrates this theme:

*I have put in several complaints about a particular worker and they just kept falling on deaf ears. I just kept asking at meeting after meeting - we have had so many meetings; I have been through nine case workers and we have had five area directors. Every time we get to what we think is a decision that is in the best interest of our niece it gets thrown away because a new area director or a new case worker comes onboard. So I have to start back at the beginning again.*<sup>126</sup>

*.....they are not answerable to any decisions they make, whether they are right or wrong. That is number one - they are just not answerable. They make decisions and, to me, they are God. They do not go any further than that department, whether they are right or wrong.*<sup>127</sup>

*We have found that there is no one to hear our complaints ... the Department decided that no matter whom in the family stepped up to care for the children it is not good enough.*<sup>128</sup>

- 5.108 The current internal complaints procedure was criticised by Mr. Mason the former Commissioner for Children. He stated as follows:

*Since January 2009 there has been in place an internal child protection policy for how complaints in care are to be dealt with, and they range from the very minor, like the porridge being too cold, to the very major, like assaults by carers and sexual assaults by other children in care. The commissioner is a member of a monitoring group which oversees complaints in care and that is again at Her Majesty's whim. The commissioner has no power to be there; the commissioner is given information - is promised information from that group which is not provided; the commissioner does not get every complaint in care that is made, it is only a selective number of complaints.....that policy is currently under review and they want to do two things. One is to have a sort of formal triage where what the Government thinks are less important complaints are dealt with in a different way from the ones it thinks are more important. The gateway, if you like, for using that triage system, if you think about sheep running through a pen, that gate is operated by a Child Protection worker or a team leader or a senior practice consultant, which means it gives the executive the capacity to close down a complaint. Anything that*

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<sup>125</sup> Australian Psychological Society Submission, p7

<sup>126</sup> Shreeve, Hansard, 8 November 2010

<sup>127</sup> Beech, Hansard, 15 November 2010

<sup>128</sup> Ashlin, Submission.

*gives the executive the capacity to close down information, to close down complaints, is a danger to the citizens that they are supposed to be protecting. As far as I can see one of the requirements of the current, or former, policy was the importance of speaking to the child alone, one on one. As I read the review document, that is diluted. When I complained in my report about the 12-year-old that the worker had not been speaking to the child one on one, the department's response was that she did not have to and that although she was using the complaints-in-care form to record her conversations, she was not attending under that policy; she was attending under another policy. More spin. The visiting requirement and the requirement for speaking alone exist entirely because of the complaints-in-care policy. That is where the standards are created and set out in that January 2009 policy. There is another policy about visits for kids in out-of-home care, but the standards, the regularity and the necessity to speak to the child alone exist within the complaints-in-care policy. I warned the Parliament against letting that be diluted. It is very important for children in care that they have individual contact and alone - even young children of five or six - to talk to kids about how it is.....I think that the Commissioner for Children needs to know about every concern..<sup>129</sup>*

- 5.109 Mr. Mason also noted that, while there is the capacity for people to raise their complaints with the Ombudsman as an independent complaints mechanism, this is rarely done. Mr. Mason stated:

*I had a look at the Ombudsman's annual report before I came here and I think in 2009-10 he investigated four complaints from Child Protection. He actually spoke to me personally after Ms Ashford's appointment had been announced. I told him that the Commissioner for Children's office gets complaints that the commissioner cannot deal with, because it is not a complaints office, and maybe five or six a week. We had to refer them on to the Ombudsman, who said, 'That's funny, because I do not get them'. I said that is because it is an obstacle course and brick wall for people who are either poorly educated or have other responsibilities or whatever. You can have a system that looks really good on paper but which is just a brick wall for the people it is supposed to be serving.<sup>130</sup>*

- 5.110 This issue was also mentioned in the evidence of John Flanagan, a foster carer of some fifteen years experience. Mr Flanagan submitted:-

*... one of the main areas that we have as a problem is when allegations are made against carers. It can take two to three days or even two to three weeks before the carers know what the allegations are and that's very daunting for carers. I realise that*

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<sup>129</sup> Mason, Hansard, 1 December 2010

<sup>130</sup> Mason, Hansard, 1 December 2010

*the department are looking after the children's welfare and nobody is making excuses for that because that's what we are all here for. But once the department, or whoever, has picked up the children, I don't see why the carers can't find out what their problem is. They sit at home worrying about it and often want to resign from doing it.*

*(for example) The children may be picked from up school because they may have made an allegation at school, for instance, and then the carers will be notified not to pick the children up because there has been an allegation made and they will get back to them. So until someone comes out and does the interview, you don't know what the allegation is and, as I say, it could be three weeks...*

*Not knowing what's been said. If they are still with the foster carer, then usually it's only a minor thing. But you don't know and it's daunting.*

*... Let's not make excuses, we have to look after these children, but the carers should have rights as well. That is one of the things that is a major issue.<sup>131</sup>*

## **Findings**

- (57) *The Committee received evidence that the Complaints in Care process has inadequacies and must be reviewed.***
- (58) *The referral of child protection complaints from families and children to the Ombudsman is not working in practice and is rarely used.***
- (59) *The complaints process requires better communication to affected families so that they are aware of their rights should they wish to make a complaint to either the Department or the Ombudsman.***

## **Recommendations**

***The Committee recommends that:-***

- (41) *It is essential that adverse incidents and complaints are fully investigated and managed in a model that is responsive and transparent, similar to the Complaints Management Unit in Western Australian.***
- (42) *If the complaint is not resolved satisfactorily, complainants should be advised that they can take their complaint outside of the Department to the Ombudsman's office, and that this office be resourced with an investigating officer experienced in child***

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<sup>131</sup> Flanagan, Hansard, 21 December 2010



*protection to independently undertake complaints in relation to child protection matters from adults.*

### ***External Consultation and Oversight Mechanisms***

- 5.111 Many of the submissions received by the Committee identified the lack of external consultation and oversight in relation to child protection decisions. The evidence demonstrated a need for more effective oversight of child protection decision making processes.
- 5.112 A number of submissions noted the fact that child protection decisions are made without sufficient external consultation with relevant experts.
- 5.113 This issue was raised in a submission received from a group of medical clinicians. The submission states as follows:

*There is major concern about internal decision making within CPS and lack of external consultation about children at risk. There is no formal system (as far as we are aware) to involve external experts to assist in decision making of the Court Action Advisory Group (CAAG). Despite this, the CAAG for the SE has demonstrated a much more collaborative approach in this regard which has the obvious benefit of mutual information sharing and cooperative decision making for children at risk. A senior staff representative from women's and children's services in health regularly attends the SE CAAG by invitation. No such relationship exists in the SW. This group of experienced clinicians would like to see participation of relevant agencies and contribution to decision making in such meetings formalised. Long discussed amongst this group of clinicians are the obvious and tangible benefits that an external panel of experts would provide for CPS. The expert panel's role would be to contribute to decision making on difficult cases, advise on intervention options, advise on evidence for submissions to Court and to provide a resource to support or replace the current CAAG system. Such a model has the potential to be very supportive of CPS workers, improve accountability for decision making and ideally provide access to resources for cases requiring specialist assessment or intervention. Similar frameworks existed prior to the 1997 Act and currently exist within mental health services, juvenile justice systems and child protection practice worldwide. Best practice indicates that this type of collaboration supports the protection and assessment of children in need.<sup>132</sup>*

- 5.114 This issue was also raised in the submission of the Australian Psychological Society, which stated as follows:

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<sup>132</sup> Williams, Submission, pp. 4-5.

*APS representatives met with staff from the Department in August this year and proposed the formation of a Ministerial Advisory Group and or Professional Working Groups/Clinical Networks. This would provide an avenue for bi-directional discussions regarding the implementation of reforms in the daily practice of Child Protection between the Department and a range of professionals (Paediatricians, Psychologists, Teachers, Nurses, Social Workers etc.) who work with children and families on a daily basis. The purpose of an advisory group as we proposed would be to:*

- 1. Enhance two-way communication and education between professionals working with children and families in both government and non-government organisations with Child Protection workers.*
- 2. Provide clinical expertise in regard to current research and evidence-based interventions regarding infant and child development, attachment issues, the effect of exposure to drug and alcohol in utero and the effect of abuse, neglect and witnessing violence on brain development.*
- 3. Provide advice and guidance on matters pertaining to the planning, delivery and reform of Child Protection and Child and Family Services.*
- 4. Provide an avenue for issues and concerns of professionals regarding day-to-day practices of Child Protection Services to be relayed to the Department and the Minister's Office to guide practice and provide ongoing reviews of how the system is working.*
- 5. Promote education in Child Protection policies, procedures and practices for relevant professions through tertiary course units and placements for post-graduate students. An alternative or additional role could be to assist in the development of a Child Protection Centre at the University of Tasmania to facilitate education for relevant professionals in child protection issues, conduct research and provide mandatory reporters with ongoing professional development through seminars, workshops etc.*
- 6. Increase engagement of professionals working with children and families in Child Protection practices and collaborative processes.*
- 7. Contribute to education programs and campaigns for the community regarding preventative strategies for protecting children, i.e. education on the effects of drug and alcohol on the developing foetus, parenting strategies and where to access supports.*
- 8. Assist in the development of collaborative research between the Department of Human Services and University of Tasmania into Child Protection issues in the Tasmanian context.*

*The Department indicated that there were many advisory committees and they did not see the value in another. However,*

*we believe advisory groups as outlined above would fill a current void in helping to address some of the practical issues outlined in this submission.*<sup>133</sup>

- 5.115 Several submissions to the Committee suggested that there needs to be more mechanisms overseeing child protection decisions.
- 5.116 The Committee received a submission from Bravehearts which suggested that further general external oversight of child protection is required. The submission states as follows:

*There must be clear accountability and transparency at all levels, from decision-making to how complaints are dealt with, to ensure not only that the system is being run effectively and in line with child protection goals (including the best interests of the child) but also to assure public confidence in the system. A child protection department that is underpinned by a culture of quality and continuous improvement should include the establishment of key performance indicators and the monitoring and compliance against these standards to ensure that the department is accountable and effective. Annual self-assessments and external reviews would help to aid in not only the improvement of the service but the confidence the community has that the department is responding to needs. External oversight of the department should be clearly articulated as a responsibility of the Commissioner for Children and information about this role articulated clearly to the public to ensure confidence in the independence and separation of the Commissioner in assuring the accountability and effectiveness of the child protection authority and addressing complaints and concerns. Bravehearts recommends ensuring the independence of the Commissioner for Children as a body separate to and responsible for the oversight of the statutory child protection body. The roles of the Office should be clearly articulated to the public.*<sup>134</sup>

*External oversight is another potential initiative that would provide increased systemic transparency and accountability within Government. Increased transparency and accountability are necessary within the child protection regime particularly those that would expose system failures at the first sign of harm. Bravehearts believe a potential way to achieve this is by the introduction of a Child Protection Review Committee, convened by the Commissioner for Children and made up of NGO stakeholders including child protection agencies, police, therapeutic specialists and legal representatives. Bravehearts recommend consideration be given to the establishment of an External Child Protection Review Committee, chaired by the Children's Commissioner. The Committee would provide external oversight and thus increased*

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<sup>133</sup> Australian Psychological Society Submission, pp. 7-8.

<sup>134</sup> Bravehearts Submission, p. 8.

*transparency and accountability to government decisions and processes.*<sup>135</sup>

5.117 The Committee heard evidence from Mr. Steven Bishop, a legal practitioner, who was also of the opinion that there should be greater external oversight of child protection decisions, and that there should be an avenue for an independent review where child protection makes the decision not to intervene in a particular case. He stated as follows:

*I think it really comes down to this: if they decide not to intervene then there should be some independent review of that, because it is so anomalous. If they do intervene, well, they have to go and justify it before a magistrate, but if they don't, which is possibly the worst decision - take as an analogy the police interrogation system. You are taken before an independent senior police officer. There are other systems. I think the Tax Department have a system. You just go to somebody else who is independent and have a second look at it, because all our systems are human and mistakes are bound to happen. You are never going to eliminate them.*<sup>136</sup>

5.118 The Committee heard evidence there is a case for improving quality assurance and auditing processes:

*... there is a need to constantly review child protection processes and audit decision making as well as ensure that any adverse incidents are appropriately investigated and followed up. While there is presently a central practice consultant and senior practice consultants in each area service, this quality assurance system could be further strengthened and expanded. An expanded central audit team operating independently from the area management structure would be useful to audit practice against quality standards and implement processes to improve practices such as targeted professional development.*

*At the end of the day, the quality of child protection decisions will be determined by the quality of workforce and capacity to deliver professional learning programs linked to issues identified through regular auditing would drive substantial improvements to practice.*<sup>137</sup>

## **Findings**

**(60) There were major concerns about internal decision making within Child Protection Services and the lack of external consultation about children at risk, with no formal system to involve external experts.**

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<sup>135</sup> Bravehearts, Submission, pp. 10 – 11.

<sup>136</sup> Bishop, Hansard, 10 December 2010

<sup>137</sup> Jacob, Submission, p. 17.

- (61) *A child protection department that is underpinned by a culture of quality and continuous improvement should include the establishment of key performance indicators and monitoring and compliance against these standards.*
- (62) *Child Protection workers should engage with other agencies and specialists to ensure they make informed decisions about child protection matters.*

**Recommendations:**

**The Committee recommends that:-**

- (43) *An external Professional Working Advisory Group be established to provide clinical expertise to Child Protection Workers and advice and guidance to workers on a day to day basis comprising a range of professionals including paediatricians, psychologists, teachers, nurses, social workers and the Senior Practice Consultant.*
- (44) *The Professional Working Advisory Group could also provide an avenue for regular discussion regarding implementation of reforms, policies, procedures and practices, for the purpose of continuous improvement.*
- (45) *Key performance indicators be introduced which are transparent, monitored and reported publicly.*

**Out of home care**

5.119 A number of submissions identified a need for improvements to be made to the out of home care system in Tasmania. The main themes were the adequacy and quality of the out of home care system including carer numbers, training, support and recognition:

*While it is easy to be critical of the current Child Protection system it is harder to understand why many systemic failures have occurred and even more difficult to provide sustainable solutions to enhance opportunities for the ongoing safety and well being of children and young people who require Out of Home Care<sup>138</sup>*

5.120 The submission from the Australian Childhood Foundation stated:

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<sup>138</sup> Salvation Army, Submission, p. 8.

*The Tasmanian child protection and out of home care system faces serious challenges. It is very unlikely that the system at its current level of resourcing and conceptualisation will be able to meet the growing complexity and needs of children and young people who require protection and care ...*

*There is clear evidence that the out of home care system in Tasmania has been neglected over decades. The number of placements available for children and young people are inadequate. Children and young people are placed in households that are sometimes over crowded. Some placement environments are stressful and indeed cause additional harm to already traumatised children and young people. Carers are under increasing stress to manage and meet the needs of an increasingly complex and significantly traumatised population of children and young people in care ... there is little attention to matching the skills and styles of carers to the needs of children and young people placed in care.<sup>139</sup>*

5.121 The Tasmanian Branch of the Australian Psychological Society stated:

*There is a belief that children from late childhood through to adolescence are able to make safe, competent decisions about their safety.<sup>140</sup>*

5.122 The CPSU stated the problem of inadequate resourcing and high caseloads is exacerbated by the 'very limited options open to workers when they need to intervene':

*Over the past decade there has been a reduction in the availability of foster care and other out of home options. In some situations workers spend days trying to find a suitable placement for a child and this is time that is not available for them to manage their other caseload.<sup>141</sup>*

5.123 The Eastern Shore Community Association stated:

*... it has been suggested by recent international research that bringing children into systems with very high levels of foster placement turnover has serious long term psychological effects. Coupled with insufficient numbers of foster carers to cope with system demands, it may reasonably be argued that current approaches to child abuse and neglect may be the source of more harm rather than good; the effects of which are likely to be intergenerational.<sup>142</sup>*

5.124 The Tasmanian Government summarised the challenges faced by the out of home care sector as follows:

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<sup>139</sup> ACF, Submission, p. 3.

<sup>140</sup> Australian Psychological Society (Tasmanian Branch), p 3.

<sup>141</sup> CPSU submission, p 2.

<sup>142</sup> Eastern Shore Community Association submission, pp. 4-5.

*Tasmania has experienced rapid growth in demand for OOHC services. This is also the experience of all other Australian states and territories. Importantly, the increase can be attributed to the successful identification of those children and young people at significant risk of harm from their parents or care giver. However, it also is indicative of children and young people staying in care for longer periods due to their parent's incapability to address the underlying risk factors.*

*The Tasmanian OOHC system is under considerable pressure. It is characterised with:*

- *difficulties in attracting new foster carers;*
- *an ageing population of foster carers;*
- *unrelated children being placed together;*
- *a limited number of indigenous carers;*
- *a small range of placement types available across the system; and*
- *a small number of carers willing to care for adolescents.*<sup>143</sup>

5.125 The Committee heard evidence in relation to the need to outsource the out of home care sector.

5.126 The submission of the Australian Childhood Foundation states as follows:

*Currently, DHHS is both funder and provider of the majority of family based care for children and young people in Tasmania. There is a very real conflict in one government department undertaking both of these functions. As employer of the out of home carers, the Department has a duty of care to its employees who perform this role. DHHS also has a duty of care to the children for whom it is responsible under the Act. These roles are incompatible. It is recommended that major reform in out of home care be pursued with the specific aim to outsource the management and support of carers to non-government providers. This will more clearly define the Department's role to benchmark, monitor and improve the quality of care provided to children in state care and supervision. It will enable them to work in partnership with carers but maintain their focus on the needs and entitlements of children and young people.*<sup>144</sup>

5.127 Mr. Tucci of the Australian Childhood Foundation further elaborated as follows:

*I think fundamentally the out-of-home care system in Tassie suffers from both lack of resources over the years but also a lack of an appropriate structure. The department still provides a lot of foster care and therefore it has a dual responsibility which creates tension because it is almost impossible, I think, at times to meet*

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<sup>143</sup> Tasmanian Government Submission, p. 26.

<sup>144</sup> Australian Childhood Foundation Submission, p. 3.

*those dual responsibilities. One is that as an employer of foster carers they have a duty of care to them. Those two obligations need to be structurally separate and the only way I can see that happening in Tasmania is for foster care to be outsourced to community organisations with enough resources for it to be able to be supported properly and for there to be a range of options made available to children to match their level of need, all the way through from your more general foster care to very intense therapeutic-type foster care that we run.<sup>145</sup>*

*The Government should take on the responsibility of monitoring and quality assurance of the care because their responsibility ultimately is to provide the best quality care to the kids who are in their care, and the community sector or whoever it is runs the foster care and the care and they're accountable through contractual relationships to provide that. It has already started to do that with residential care; it has already outsourced residential care in all of the four regions, and that is the model being applied. It also needs to be applied to foster care but you don't want to just transfer the lack of funding for foster care that is currently run out of the department out into the community; it will just be a recipe for disaster..... Victoria has outsourced all of it for about 30 years now. New South Wales has outsourced quite a bit of it, and some of the other States are moving to outsourcing and have a foot in both camps whilst they are trying to outsource all of it, so I think it is not an unusual model.... it's applied in other forms of care like aged care and disability quite successfully, so that's what's required in out-of-home care for children.<sup>146</sup>*

- 5.128 The Salvation Army, who was contracted to provide a therapeutic youth residential service in September 2010 (16 places in four houses) stated:

*The Therapeutic model funded by DHHS is more than provision of accommodation for its residents. Each worker involved in the program is either trained or in training as a youth worker. The service's aim is to support the resident in a holistic manner in order to give the child the best opportunity to succeed in life.*

*Information provided by Child Protection Services was provided in the following forms – a case and care plan, an individual placement plan, a copy of the child protection order, a copy of the child's birth certification. Our service requested further information in the form of a Crisis Plan. This request was initially refused and then, through further negotiation, agreement was reached and a Crisis Plan was provided after all residents had been placed into our Units. While quality and quantity of information provided by Child Protection Services in the Case and Care Plans and the Individual Placement Plans was diverse and varied greatly, the fundamental problem was that much information is not child focused therefore did not provide vital*

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<sup>145</sup> Tucci, Hansard, 1 December 2010

<sup>146</sup> Tucci, Hansard, 6 December 2010



*data around the life domains of the child. In many cases the information was out of date or vital pieces of information were not included that may have been of great assistance in managing the child. The most valuable document received from Child Protection Services was the Crisis Plans.*<sup>147</sup>

5.129 The Commissioner for Children recommended case management of children in residential services should also be outsourced:

*Consideration should be given to contracting case management of the out of home care provider. This would require the establishment of a case management coordination unit within child protection that would provide both a placement coordination and contract case management function in partnership with the NGO provider. This in turn would allow child protection to focus on case planning and statutory obligations regarding the child or young person. It would also provide greater stability and better outcomes for children and young people by having the organisation that cares for them on a daily basis also case manage them. Intensive case management for high needs clients would need to be incorporated into this model.*

*I RECOMMEND that contract case management is explored by DHHS and trialled in the first instance with current NGOs providing residential services to children and young people and that those NGOs are adequately resourced so as to permit them to undertake this function.*<sup>148</sup>

## **Findings**

**(63) The Committee heard evidence that:-**

- the Tasmanian Out of Home Care system is under pressure from difficulties in attracting new carers, the ageing population of carers, and the small range of placement types across the system;**
- the out of home care system in Tasmania has been neglected over decades, with inadequate numbers of placements available for children, overcrowding in some placements, placement environments that are stressful and which can cause additional harm to a traumatised child, carers under increasing stress to meet the complex needs of those children and given limited training and access to specialist support to stabilise behaviours;**

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<sup>147</sup> The Salvation Army Child Protection, Submission, p. 7.

<sup>148</sup> Commissioner for Children submission, pp. 14-15.

- *there is limited capacity to matching the skills and styles of carers with needs of children in care;*
  - *it is unlikely the out of home care system at its current level of resourcing will be able to meet the growing complexity and needs of children and young people who require protection and care;*
  - *without increased investment by Government there will be little improvement in the problems of the child protection system in Tasmania;*
  - *the Child Protection workload is exacerbated by the limited options open to workers when they need to intervene; some workers spend days trying to find a suitable placement for a child;*
  - *where children are subject to high levels of placement turnover, it may be the source of more harm to the children.*
- (64) *There appears to be a conflict of interest between the Government being both funder and provider of the majority of family based care for children and young people in Tasmania.*
- (65) *The need to expand the range of options was identified by the KPMG review of Out of Home Care and it would be appropriate to work towards increasing the options that are available in Tasmania, as funding is available.*

### *Recommendations*

*The Committee recommends that:-*

- (46) *The recommendations of the 2008 Report (New Directions for Child Protection in Tasmania) which provides a policy blueprint for a tiered out of home care system be put in place. The funding and outsourcing of the Therapeutic Residential system is only the first component of this framework.*
- (47) *Each child in out of home care in therapeutic residential settings has a Crisis Plan.*
- (48) *The Government should continue to work toward outsourcing the management and support of carers to non government providers to avoid conflicting role of DHHS as both funder and provider of out of home care in Tasmania. The Department's role can then be confined to benchmarking, monitoring, complaints investigation and improving quality of care by these providers, and focus on the safety, protection and wellbeing of children.*

- (49) *The Government should investigate the feasibility of contracting out case management for children in out of home residential care settings.*
- (50) *The skills and styles of carers are matched with the needs of children in care.*
- (51) *There is an acknowledgement by Child Protection Services that children in early adolescence are not capable of making their own safe and competent decisions about their safety, but should participate in the decision-making processes.*
- (52) *The need for specially trained therapeutic foster carers for children who are unable to be placed in therapeutic residential care settings be investigated.*

### ***Training and Recognition for Carers***

5.130 Recognition for carers was an issue raised in a number of submissions to the Committee. The Committee heard evidence from a number of carers that they felt a lack of recognition for their role. The following are some examples of the evidence given by foster carers:

*It's assumed by lots of new workers that we are only carers and therefore we don't know what we're doing. We're professionals in our own right even though we're volunteers and it becomes quite often a case of, 'You will do what I tell you to do', without having a meeting, which is what everything is supposed to be about so there is the best outcome for the child at the end of it. People need to understand that carers have lots of experience, they're there 24/7. They're the guys who have to be up all night.<sup>149</sup>*

*Carers are the lowest of the low. Our concerns are not listened to. What can I say? They are not listened to at all, maybe because many carers do not have the degrees and the qualifications that social workers have. We do not come from the same background and we do not talk the same language, so a lot is ignored. When we say we do have an intimate knowledge of the children and their needs, it is ignored. We are not part of the team and we should be part of the team, and carers being part of the team has been talked about for a long time.<sup>150</sup>*

5.131 The lack of consultation with carers by the Department was noted in the following evidence from a carer:

*The other situation is that they have a team that makes these decisions about whether guardianship is approved or not. The*

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<sup>149</sup> Abery, Hansard, 29 November 2010.

<sup>150</sup> Hackett, Hansard, 29 November 2010.

*team gets information from maybe the case worker or maybe the parents or the team manager or whoever but nothing from us [the carers]. Then they make a decision without our having any involvement as to whether we agree, disagree or whether there are problems of fact.*

*I have a letter which talks about the guardianship stuff and a lot of it is rubbish. I said, why do you treat carers so badly? Why wouldn't you have a system where you say to carers, 'This is what we're thinking, these are the reasons for the decision' and ask them whether they are happy with that or whether they have anything else to say or whatever.....why on earth wouldn't you give carers an opportunity to have a say in a decision as important as, basically, the adoption of a child in their care for the rest of their lives? They make this decision and don't involve you; I just could not believe that.<sup>151</sup>*

5.132 A number of submissions received by the Committee discussed the potential for foster carers to be recognised as professionals, thereby addressing the need for greater recognition, support and training. The Committee heard evidence from a group of medical clinicians in relation to this issue. The following exchange ensued:

***Dr WILLIAMS** - And we are not providing specific training for the foster parents. So if a parent presented to health services a child who had been through a traumatic experience, saying, 'What can I do to help my child?', we would be able, particularly within the private sector, to refer them for specific help and get ongoing support for their parenting in a difficult situation. Foster parents are often taking multiple non-related foster children who have had varying experiences of trauma. Some of them are amazing people and they do a great job, but there isn't a parenting forum or support network with professionals informing their parenting practice.*

***Ms PETRUSMA** - So it exacerbates the detachment and everything else?*

***Dr WAGG** - And greater support to foster parents - the opportunity to adopt would be part of that - financial support, professional support and recognition that foster carers are professionals. They should be professionals because they are dealing with our most unwell young people. They need to be recognised, trained, treated and paid as professionals.*

***CHAIR** - That theme is coming through.*

***Ms WHITE** - Or a tier system where you have professional foster carers.<sup>152</sup>*

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<sup>151</sup> Galbraith, Hansard, 8 November 2010.

<sup>152</sup> Williams/Wagg/Eather/Moerd, Hansard, 17 December 2010.

5.133 A similar view was raised by Ms. Berry Dunston, a counsellor and psychotherapist. The following exchange ensued in relation to this issue:

**Ms DUNSTON** - *We need to put a huge amount of effort and energy into supporting the existing carers so we sustain and nourish secure attachment relationships that are already developed or in the process of developing. That means that if a carer does not have a very good level of education and cannot fill out forms or read very well, we provide them with the supports they need to do that. If necessary, we put the information onto a DVD or tape recorder or whatever equipment they have, and help them where they are at, because these people have such good hearts. There is a great loss to the system of good-hearted people because of the dysfunctionality of the system and the demonising of carers by people who are in that system and need to defend their own position within departments. It is not their fault. It is not about fault. The idea of fault and blame belongs to the child. It is about recognising where the problems are and doing something which is a functional intervention.*

**CHAIR** - *That demonising of the whole system is of course making it more difficult to recruit.*

**Ms DUNSTON** - *Of course - both workers in the system, and to keep them, and foster carers, but foster carers need to be acknowledged as professional and therefore they need to have some training. A lot of the issue is with our current power system, seeing the assessments and judgments that come out of a more medical model and a psychology model as being the measure for what is wrong with somebody, whereas a therapeutic understanding is much more informed by somebody like Carl Rogers, for instance, the famous American therapist, who said what we need to offer is unconditional, positive regard. People in our culture don't understand what that means and how to do that, and a lot of parents - and that means a lot of the carers who have been parents - are bringing up children with this unconscious attitude of 'You have to be what I need you to be in order for me to feel like a good person'. Does that make sense?*

**Ms PETRUSMA** - *Very much so.*

**Ms DUNSTON** - *I think it is a whole-of-society thing but we start chipping away at it somewhere that will be useful for the children.....What I would really like to say is that the child protection policy and practice needs to incorporate this current thinking that is brain research-informed on developmental trauma and understand that the brain and behaviour is negatively impacted on by all these abusive, neglectful abandonment issues. Moving children from one place to another is also disruptive and profoundly damaging. The carers need to be trained and seen as professionals and the position title of the person in the system who coordinates the care for this child needs to be designated and informed because at the moment the carers are doing this work.*

*They are running hither and yon trying to get things done and are paying for it and then trying to get money afterwards. There is nobody who actually has said 'This is the person'.*

*The other thing that I think is really important to get across is that I think the care and the management of care of these children needs to be team-based and the carers need to be included in the team. That may be difficult if the parent is there or if there have been several carers, but their input from a trusted - and I mean trusted by the foster carer - advocate for them needs to be at the table.*

**Ms PETRUSMA** - *Berry, one of the solutions that has been presented to us is that we need to take the department out of providing the care, that if it goes to NGOs that way we might have more professional carers trained and everything else. Have you had any experience of any of those models?*

**Ms DUNSTON** - *When I was in Sweden last year they were just going from a residential care situation which they had outsourced to people like the Waldorf education schools and they had a whole lot of staff rostered on with the children staying in this house with the parents having access to the child sometimes with a supervisor contact. They were moving from that model to looking at really putting as much as they could into resourcing the family and when I told a lot of the foster carers in Australia about this model they said they liked this idea and would rather support the family and help the child to stay with the family if that was at all possible than the child be taken away. Sweden was looking at the potential of really supporting the family and throwing everything at that to see if it could be possible to help the parent learn a different way of parenting, and if they decided after certain period of time at an assessment that it was not possible the child would be put up for adoption.*

**Ms PETRUSMA** - *We have seen some cases where it seems that the outcome for the child has worsened when they came into care than if they had stayed with the -*

**Ms DUNSTON** - *Absolutely, that is the cumulative care factor.*

**Ms WHITE** - *The model that they were looking at there, what sort of programs were they going to support for that early intervention?*

**Ms DUNSTON** - *Look, it was really just been mooted when I was there and I have tried to make contact with people to get more information, but you people might be able to do more on that and follow up and see what you can do. I'm not sure that the legislation even went through but it certainly was being factored in because people understood this new brain-based understanding of developmental trauma and the need for secure attachment for healing. That adoption model is one that I know is used in Japan and other places because it supports secure attachment.*

**Ms WHITE** - *Right, rather than fostering.*

**Ms DUNSTON** - *Rather than fostering, which is not quite a volunteer and not quite a professional babysitter with no authority and no power. A lot of people in the system who are having a direct impact on the child and the carer's lives don't have this essential knowledge, because a lot of the degrees that people are coming out of, such as social work and education, for this job this information has not yet really fed into the academic domain.*<sup>153</sup>

5.134 The following case study was offered in illustration of this issue by Dr Annette Hackett:-

*After I had been caring for about a year we had a little girl six weeks old come into our care. I cared for her for two and a half years. During that time she was supposed to go back to her grandma several times but at the last minute grandma pulled out all the time. But when she was coming up to two years old grandma decided that was what she wanted and there was a big push in out-of-home care at that time to do kinship care so there was a real push for kin to start caring. You can imagine that that was really difficult for us because we'd looked after her from six weeks old to two and a half. I have a son of my own and another child who'd been in care for all that time so they had grown up with a little sister.*

*We had major, major problems because this little girl was totally stressed. She started screaming in the middle of the night - she would just wake up and scream, 'No, nanny! No, Dallas!' - that was someone who's not employed by the department anymore, the worker who took her to and from her visits. So she would be screaming, she would be doing this in childcare, she would be doing it any time a car came up the street, anyone with a lanyard around their neck - she would be screaming and running away. She was very fearful.*

*I was obviously worried about this so I took my concerns to the department and the Child Protection worker just told me it wasn't a problem and not to worry about it. So I went up the ladder to the team leader and she told me the same thing so I went higher and they said don't worry about it. It ended up going as far as Lara Giddings who was the Minister for Human Services at the time. Basically I was told it wasn't my problem and not to worry about it, she was fine. I ended up taking my concerns to a couple of child psychologists who were the only ones who offered any help with this little girl at the time.*

*Since she left our care I have actually done a lot of work and reading about attachment and reunification and they were not following best practice at the time - and this was in 2008 - in terms of reunification. I kept on saying this as well but they kept on saying, 'No, this is our problem, we'll deal with it'.*

*I want to talk a little bit about attachment because there is a large body of evidence. Attachment to a primary carer in life is vital for*

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<sup>153</sup> Dunston, Hansard, 6 December 2010.

*all children and it's that primary attachment that they have, usually with the mother but it can be with the father or any other figure in their lives, which enables a child to actually develop relationships in the future. Of course I was her primary carer and that attachment was really, really strong.*

*She also grew up in the community. I live in a small country town, and the attachment was to all the people there - her family day-carer, our family, our extended friends - and was very strong. The way the reunification went was that basically she went on two trips a week for two hours each to see nanna, then she went for a couple of overnight trips and then she was gone. When she went to her nanna she took no clothes, no books, no toys, nothing; nanna wanted to have nothing to do with us, so this little girl was ripped out basically from her community and primary attachment and taken to grandma. She had concerns about the grandma too which I told Child Protection but I was told that wasn't my problem, 'Don't worry about it, she'll be fine'. Well, what happened?*

**Ms PETRUSMA** - *So the reunification happened over a couple of weeks, then?*

**Ms HACKETT** - *No, it happened over about six months because nanna in the meantime had a heart attack, she had already had another one - I did say this might be a problem but they said, 'No, it won't be a problem' - so it was stopped for two months and then it was restarted and then nanna didn't turn up for some visits, so it stopped and started. It wasn't nice, smooth sailing either. I found out some time later that she did not actually stay with grandma for very long, which I had predicted. I was asked that if she came back into care within 12 months, would I be prepared to take her back. Of course I said 'yes', and her bedroom was there for 12 months in case she came back into care.*

*I found out afterwards that she had actually been back in care several times but because I had made such a fuss, she didn't come back to us. They thought the attachment was too strong. I defy anyone say to a mother and child pair that their attachment is too strong - I mean, I was her mother, for all intents and purposes. So she didn't come back to us, she went to another carer. She went back to her grandmother's care, back to another carer - back and forth. We were not allowed to have anything to do with her during this time and we have had no contact with her since she left our care.*

*I recently found out that she is now going to see a psychologist. She turns five tomorrow and I think that that is such an indictment on the system which is supposed to have taken over the care.*

*There is information stuck in the act about the primary carer when the child comes into care that the State is supposed to take on that role as carer and I think there is such a breakdown of that. I could have predicted it, but the fact that it happened doesn't give me any joy. It is just tragic that this little kid who could have*



*had a good outcome - and outcomes, as you probably know, for children in foster care are not good - in fact they are not much better than if the children had stayed with their family in the first place. This is due to a variety of reasons, but certainly that lack of attachment. The 11-year-old I have certainly has major problems with attachment. The two little kids I have been looking after for the last couple of weeks, you can see their attachment problems. They will go to anyone. They would come in here and give anyone a hug because they have never had those boundaries, they have never had a really good strong attachment to their primary carer.*

**Ms PETRUSMA** - *Do you feel like it is a lack of departmental understanding or the social workers in the department? Where do you see the issue lies?*

**Ms HACKETT** - *The departmental psychologist actually resigned over this. She said it was a major stuff-up that should never have happened, and she left.*

**Ms PETRUSMA** - *So do you think things have improved as a result of it?*

**Ms HACKETT** - *No. I wish I could say they have. I was banned from caring for two years after that. I didn't know until a few months ago that there was a note made in my file that I should not have any children because if you make a fuss - if you stand up - you are punished. This was punishment, and the fact that she didn't come back to us, I think, was punishment on me. But it wasn't punishment on me; it was punishment on the child.*

## **Findings**

- (66)** *The Committee received evidence that there is a lack of recognition and respect for the role of foster carers, concerns are not listened to and advocacy on the part of carers in relation to the needs of children are often ignored.*
- (67)** *Carers felt that if they made complaints and advocacy to the Department on behalf of a child they might be penalised and end up losing children in their care; they felt they were in a no-win situation.*
- (68)** *Foster parents are often taking multiple non-related foster children who have had varying experiences of trauma without specific training to deal with complex behaviours.*
- (69)** *Children are being placed with foster carers without basic information, such as care needs, being provided.*

## **Recommendations**

**The Committee recommends that:-**

- (53) Foster carers need a system of support, including financial and professional support, to retain existing carers and encourage new carers.**
- (54) New foster carers should be mentored.**
- (55) Child Protection Workers and foster carers must work together on Case and Care Plans and strategies to improve the lives of children in Out of Home Care.**
- (56) Foster carers need a Care Plan in place as soon practicable but critical information like medications, the trauma the child has suffered, should be provided on placement.**
- (57) Ongoing training of foster carers needs to be offered in hours that suit foster carers, given their responsibilities to children before and after school.**
- (58) The Department investigate a tiered system of foster carers from volunteers to paid professionals for children with complex care needs, with training and support provided for all tiers.**

### **Financial and Other Supports for Foster and Kinship Carers**

5.135 The Committee received evidence in relation to the financial support provided to carers.

5.136 The Committee heard evidence from a number of carers who felt that they were not provided with appropriate financial support to enable them to care for the children in their care. The following evidence are examples of this theme:

*[carers can be] Seriously out of pocket - I suppose if you're not a wealthy carer that becomes a different issue again, because \$30 or \$40 can mean a lot of money to you and that can happen and it can happen for six or seven weeks. I mean, a child comes to us now and yes, you get a new allowance which didn't start until August, and if you have a child without any great problems then that's fine, but if you have a child that has lots of challenges you really have no yardstick that you can put it against to prove it, so you've got to go ahead and do that sort of stuff and hopefully down the track it can get through the system and you can get your money back. But it costs you money to be a carer anyway.<sup>154</sup>*

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<sup>154</sup> Abery, Hansard, 29 November 2010.

*...if a child needs something, under the new system it has to go before a panel who have never met the child, I might tell you, to give approval or not, and by the time the worker has put everything together and it gets to the panel it could be a month so it could be six weeks before you hear, and like the one I quoted you just now from last May, it can take even longer. The case plan used to be that you would sit down with your worker and a coordinator and work out what that child needed for a year, so x amount of buckets would be x amount of money, and if the child needed something you would ring the worker up and say, 'Listen, what we've planned for this child is now due - can we do it?', 'Yes, you can'. You can't do that now.<sup>155</sup>*

*We usually have to pay for things upfront and then wait for reimbursement. It can take up to 18 months for reimbursement. I had to pay for two car seats the other day and I was told we might get funding for that - \$550. I might get payment. I have a good job and I can get money so I can actually pay for these things, so it does not matter for me so much waiting for the reimbursement, but a lot of people cannot do that.<sup>156</sup>*

- 5.137 The Committee heard evidence from a number of foster carers who spoke of the difficulty dealing with the current payment system. The following are examples of such evidence:

*...They took away our rent assistance payments. They did that without telling us and now we are working with a new system. So this is from July this year at around \$200 a week, so we are up around whatever that is, that \$2500 they owe us. In our situation we have had to go into credit card debt because the department aren't paying us. This is not just the money sitting there and our doing nothing about it and waiting, this is week in, week out making phone calls saying 'What is going on, what is happening?' That is just the tip of the iceberg as far as reimbursement stuff is concerned.<sup>157</sup>*

*...If you need something specific, you have to apply to a panel and that can take however long and then it's a yes or a no. I believe if they got another \$50 or \$100 a week reimbursement then we shouldn't have to have a panel. Let's look after the children and do what we want to do.<sup>158</sup>*

- 5.138 The Tasmanian Branch of the Australian Psychological Society stated foster and kinship carers need greater access to supports:

*Foster/kinship carers are left without supports despite desperate pleas for assistance when a child displays trauma responses and behavioural problems and learning difficulties.*

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<sup>155</sup> Abery, Hansard, 29 November 2010.

<sup>156</sup> Hackett, Hansard, 29 November 2010.

<sup>157</sup> Galbraith, Hansard, 8 November 2010.

<sup>158</sup> Flanagan, Hansard, 21 December 2010.

## **Findings**

- (70) *The system of reimbursement for legitimate out of pocket expenses for foster carers appears inadequate with carers waiting months for reimbursement on critical items such as car seats.*

## **Recommendations**

*The Committee recommends that:-*

- (59) *Decision-making by the Area Funding Panel on reimbursement of legitimate out-of-pocket expenses for foster carers must be consistent and in accordance with policies.*
- (60) *A review be conducted into: the way costs incurred by foster carers are reimbursed and what guidelines are issued in relation to timeliness of reimbursement; the types of out of pocket expenses that are appropriate for reimbursement; expenses that might be considered for reimbursement, but subject to case by case assessment; and expenses that will not be considered for reimbursement.*

## **Accreditation, Registration and Standards**

- 5.139 A number of submissions received by the Committee referred to the need for standards regulating the out of home care sector, as well as accreditation and registration for carers and other community organisations.
- 5.140 The submission from the Australian Childhood Foundation states as follows:

*There is currently limited emphasis placed on standardising the capacity of organisations/services to protect children and young from abuse by employees or volunteers whilst they access a service or activity. The Working with Children Check system is not yet operational in Tasmania. Even after its implementation, it is only one of a suite of policies and practices that are required by organisations to ensure that they are able to safeguard children for whom they have a duty of care. It is recommended that the Tasmanian Government fund and implement an accreditation scheme for organisations/companies that provide any service or activity to children and families. The Australian Childhood Foundation's Safeguarding Children accreditation program is an example of the way in which such schemes operate to share*

*responsibility for child protection to broader neighborhoods and communities.*<sup>159</sup>

5.141 The Deputy Secretary (Human Services), Alison Jacob stated:

*National Standards for Out of Home Care: This Framework was based on extensive consultation across Australia over a twelve month period. The agreed Standards and Principles for Out of Home Care ... provide an excellent 'stretch' framework for Tasmania to use as the benchmark for its out of home care system. Progress towards achieving an out of home care system that meets all of these national standards will be able to be monitored through the measurement and reporting framework ... I suggest it should be used by this Committee as the foundation for recommendations related to out of home care.*<sup>160</sup>

5.142 The Committee received a submission from the current Commissioner for Children, which stated as follows:

*In June 2008 DHHS issued Action Plans for Family Services and for Children in Care. These documents set out the goals to be achieved during the reform process envisaged following KPMG's review of the child protection and family services systems.*

*Both Action Plans acknowledge that before implementation of the reforms detailed in the June 2008 New Directions for Child Protection, DHHS would need to undertake a range of tasks to:*

- Build capacity in the NGO sector to provide a range of services to vulnerable and at risk children, youth and their families*
- Support service delivery through the development of appropriate practice standards and guidance, protocols and training*
- Ensure that monitoring and reporting mechanisms are in place and reflected in adequate funding and service agreements.*

*In relation to out of home care, it was acknowledged that no common standards existed for placements and those standards for carers and staff were inconsistent or not well implemented. National Standards for out of home care are being developed and it is likely they will be adopted for use in the Tasmanian out of care system; however until they are, there are no standards by which out of home care providers can be measured.*

*Additionally, the current capacity to ensure that services will comply with these or any other standards and can be monitored against compliance is severely restricted. This deficiency can be remedied by adoption of independent monitoring against the*

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<sup>159</sup> Australian Childhood Foundation Submission, p. 3.

<sup>160</sup> Jacob, Submission, p. 13.

*Charter of Rights for children and young people in out of home care and a Children's Visitors Program....*

*...In relation to family services, it was acknowledged that there were ad hoc and ineffective funding arrangements between DHHS and NGO service providers and that services generally worked in isolation from each other.*

*If contracted services are to work in partnership with government to ensure consistent and high quality practice, I RECOMMEND that common standards be adopted and that the performance of contracted services against them should be capable of independent monitoring.*

*In Victoria, s58 of the Children, Youth and Families Act 2005 (Vic) provides as follows:*

- *The Minister may from time to time determine performance standards to be met by community service including, but not limited to –*
  - (a) governance;*
  - (b) probity;*
  - (c) information management;*
  - (d) financial viability;*
  - (e) client care, including cultural standards applicable to client care;*
  - (f) pre-employment checks and pre-employment placement checks;*
  - (g) service delivery and case management;*
  - (h) privacy and confidentiality;*
  - (i) complaints management;*
  - (j) human resource management;*
  - (k) compliance with this Act and the regulations.*

*Community services must comply with the relevant performance standards applicable to that community service.<sup>161</sup>*

*I RECOMMEND that there be a legislatively enshrined obligation on relevant community services/NGO providers, particularly in out of home care, in Tasmania to comply with standards determined by the Minister.*

*I RECOMMEND that consideration be given to introduction of a legislative scheme similar to the Victorian model providing for registration of community services that provide out of home care and/or child and family services and for registration of individuals providing out of home care in Tasmania.<sup>162</sup>*

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<sup>161</sup> Section 60 of the *Children, Youth and Families Act 2005* (Vic)

<sup>162</sup> Commissioner for Children Submission, p. 22.

## **Registration**

5.143 The submission of the Commissioner for Children states as follows:

*I RECOMMEND FURTHER that consideration be given to requiring registration of NGO service providers, particularly in out of home care and for there to be periodic review of that registration status.<sup>163</sup>*

*Part 3.3 of Chapter 3 of the Children, Youth and Their Families Act 2005 (Vic) provides for the establishment of, registration and monitoring of community services.*

*The Secretary may register a body as a community service if, inter alia, it is established to provide services to meet the needs of children requiring care, support, protection or accommodation and of families requiring support and that body can meet relevant performance standards.<sup>164</sup> Generally registration has effect for 3 years.*

*There are three categories of registration:*

- (a) out of home care service*
- (b) community based child and family service*
- (c) a prescribed category of service*

*Once registered, a community service provider must:*

- (a) provide its services in relation to a child in a manner that is in the best interests of the child; and*
- (b) ensure that the services provided by the service are accessible to and made widely known to the public, recognising that prioritisation of provision of services will occur based on need; and*
- (c) participate collaboratively with local service networks to promote the best interests of children.<sup>165</sup>*

*The Secretary is empowered to conduct inquiries relating to any matter arising from the manner in which a community service performs its functions.<sup>166</sup>*

*I RECOMMEND that consideration be given to introducing a legislative scheme similar to the Victorian model providing for registration of community services that provide out of home care and/or child and family services and for registration of individuals providing out of home care in Tasmania.<sup>167</sup>*

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<sup>163</sup> Ibid., p 10 - 11

<sup>164</sup> Section 46 *Children, Youth and Families Act 2005* (Vic)

<sup>165</sup> Section 61, *Children, Youth and Families Act 2005* (Vic)

<sup>166</sup> Section 62 *Children, Youth and Families Act 2005* (Vic)

<sup>167</sup> Commissioner for Children Submission, pp. 20 – 21.

## *Findings*

- (71) *That common standards should exist for carers and staff in out of home and residential care facilities and by which providers can be measured.*

## *Recommendations*

*The Committee recommends that:-*

- (61) *That National Standards and Principles for Out Of Home Care be adopted.*
- (62) *That there be a statutory obligation on community sector organisations who deliver out of home care residential services to comply with key standards and reporting criteria.*

### *Working with Children Check*

5.144 A number of the submissions identified the absence of a Working with Children Check program in Tasmania.

5.145 The Commissioner for Children commented as follows:

*Queensland is a good jurisdiction. However, Queensland's Office of the Commissioner has a 'working with children check', which we do not have in this State but we should have. We are not part of a national register and that is a major issue. That actually takes up a lot of time of that office. It would be my preference not to have that in the commissioner's office here. I think that should be a separate independent office that looks at the 'working with children check' across all community agencies.<sup>168</sup>*

5.146 The submission of the Australian Childhood Foundation states as follows:

*The Working with Children Check system is not yet operational in Tasmania. Even after its implementation, it is only one of a suite of policies and practices that are required by organisations to ensure that they are able to safeguard children for whom they have a duty of care.<sup>169</sup>*

5.147 The former Commissioner for Children states as follows:

*[It is recommended].... That DCYFS implement a Working With Children Check that, subject to procedural fairness and review processes, screens residential care workers providing personal care for children not only for criminal convictions, but also for charges for specified offences that have not proceeded to*

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<sup>168</sup> Ashford, Hansard, 29 November 2010

<sup>169</sup> Australian Childhood Foundation Submission, p. 3.



*conviction, for family violence or restraint orders and for previous employment discipline or discipline-related terminations relevant to their capacity to provide emotional support and behavioural management programs to children with disabilities.*<sup>170</sup>

## **Findings**

**(72) Tasmania does not have a Working with Children check in place.**

## **Recommendations**

**The Committee recommends that:-**

**(63) The Working with Children check in Tasmania be implemented as a priority.**

### ***Kinship care***

5.148 The evidence to the Committee demonstrated a need for greater recognition of the importance of kinship placements in a child's life.

5.149 The Committee heard evidence from Ms. Jacqui Reed, CEO of CREATE Foundation. In relation to kinship care, she stated as follows:

*One of the things we'd like to see is that kinship placements need to be the first priority and increasing community awareness that kinship placement does not need to be a blood relative of the child; it can sit within the broader community. We think that the cottage carers need to be better trained in assessments to understand, when children coming into them from their foster care placements, and be fully appreciative of the issues that were facing the young person within that setting. Often children and young people find themselves in group homes or 'resies' and the workers are not fully apprised of the situation.*<sup>171</sup>

5.150 Ms. Reed further stated as follows:

*I think that they need to look at alternative types of care and using the NGO sector to look at increasing their pool of foster carers. Many States are faced with ageing populations and the fact that foster carers are doing such a tough job means that elderly carers are not often the best way forward. However we need to explore different types of models so it might be kinship models using extended family members, not necessarily blood relations; in indigenous communities it might be members of the community;*

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<sup>170</sup> Mason Submission, Summary of Recs, p.10.

<sup>171</sup> Reed, Hansard, 21 December 2010.

*and it might be exploring different types of group homes as teenagers are often quite difficult to place but the overreliance on foster care is not a great way forward given that we know internationally that foster carers are becoming harder and harder to find.<sup>172</sup>*

5.151 The Committee received a submission from Kate Mooney, a Barrister practicing in the child protection jurisdiction. Her submission states as follows in relation to kinship care:

*It is my perception based on my experience over the years that kinship placements are best. They keep the child in a family that already loves that child and with whom the child is attached. The kinship carer usually has a bigger investment in the child than a foster carer. The alarming issues of attachment disruption and grief and mental damage through loss that invariably accompanies foster care placements arise less often and less significantly. Parents also are less traumatised and more reasonable when children are with their family. They are far less likely to complain about the standard of care the child is receiving. It is also consistent with the objects of the Act.*

*Child Protection is good at many things, but in my experience they are prepared on many occasions to risk compromising the short and long term emotional and psychological wellbeing of a child in order to ensure his or her physical safety, by placing (the child) with a succession of strangers. This grief and trauma can surface years later and be the subject of compensation claims and mangled lives.*

*In some but not all cases, identifying appropriate kinship placements is left to the parents, by which time the children have been in foster care for weeks or months. The usual police checks and assessments can take days or can take weeks...*

*The Secretary's check list should force workers to identify and assess any kinship placements prior to taking children unless it is an absolute emergency and even then, an assessment and police check can be done in hours. It is simply not good enough to use foster carers because they are easier. If this were done more often, I believe many applications would progress far less contentiously. The other point is that possible kinship placements tend to pop up during the life of the application so it needs to be an ongoing commitment and process.<sup>173</sup>*

5.152 The Committee heard evidence from families on the kinship placements:

*We have had to fight tooth and nail to have any contact with our grandchildren ... we want our grandchildren to be with family, within our family circle. There are 4 members who run home day care centres. But the department decided that no matter who in*

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<sup>172</sup> Reed, Hansard, 21 December 2010.

<sup>173</sup> Mooney Submission, pp. 3-4.

*the family stepped up to care for the children (they were) not good enough...<sup>174</sup>*

5.153 Others disagreed:

*Kinship care is used too loosely and in some circumstances leads to more complex issues including children entering the youth justice system.<sup>175</sup>*

### **Findings**

- (73) *The Committee received evidence that kinship placements are preferred as the kinship carer has a bigger investment in the child than a foster carer. However, police checks on kinship carers can take days or weeks.***
- (74) *Kinship carers were often not considered by Child Protection Services, even if they had previously assisted with the care of the children, and even if it meant a succession of foster carers for children, and that sibling groups would be split.***

### **Recommendations**

***The Committee recommends that:-***

- (64) *Kinship placements should be exhausted before consideration of a foster care placement.***
- (65) *Kinship carers need the same level of financial and other supports as foster carers.***
- (66) *If kinship carers step in to care for a child before statutory intervention, they should not be penalised in receiving financial support, and should be assessed as though statutory intervention had occurred.***
- (67) *Police checks for potential kinship carers should be expedited.***
- (68) *Information be provided to ensure that the wider community understands that kinship carers do not have to be blood relatives of the child.***

### ***Leaving care (transitional support)***

5.154 A number of the submissions received by the Committee identified the absence of sufficient leaving care programs

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<sup>174</sup> Ashlin, submission, p. 2-3.

<sup>175</sup> Gutwein, Submission.

as a significant issue. The evidence demonstrated the need for improved leaving care plans for children and the possible increase of responsibility for children on long term orders past 18 years of age.

### ***Leaving Care Plans***

5.155 The Committee received a submission from the Salvation Army which stated:

*The Department needs to consider as an urgent priority opportunities to develop a range of programs aimed at preparing young people for leaving care. Policy and guidelines, living skills self assessment tools, training for carers, transition planning, living skills manuals and transition units all need to be considered as major components for a successful leaving care program. The Department and Non Government Organisations that provide Out of Home Care Services need to develop a collaborative partnership with Housing Tasmania to establish initiatives and develop responses to improve leaving care preparation and provide adequate after care support. Access to housing and financial support for care leavers should not be subject to discretionary judgments by departmental and/or organisational workers. A transition and post care model must be established that encompasses acknowledgement that leaving care should be based on the young person's readiness, opportunities to maintain and respect links that the young person has made with carers and other significant adults, encourage the leaving care process to reflect normal developmental milestones and ensure the young person and their family's involvement is paramount in the post care planning. The care system must increase its capacity and skills to adequately prepare young people for leaving care including specific service standards that covers the preparation for leaving care and post care support. Investigation and exploration of housing and accommodation models for care leavers and participation from care leavers into the development of leaving care responses are also vital components for a successful transition and post care model.<sup>176</sup>*

5.156 The Committee received a submission from CREATE Foundation which identified the areas that need to be addressed in transitioning to independence programs. The submission states as follows:

*The specific areas of action to be addressed in relation to young people transitioning from out-of-home care to independence are:*

- *Increasing support through non-government organisations to assist young people leaving care to better establish their independence;*

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<sup>176</sup> Salvation Army Submission, pp. 14-15.

- *Providing better support for young people as they leave care through State and Territory government initiatives.*

*Through recent and current research work relating to key priorities for young people transitioning from out-of-home care to independence, CREATE has captured the voices of 720 young people with a care experience. As such, it is CREATE's informed opinion that inaction in providing adequate initial support for care leavers will result in significant financial costs to government, and critical life-impacting costs to those young people concerned. Those considered to have specific relevance to the Terms of Reference are:*

- *Where housing and accommodation options are not explored early enough in transition planning, young people are at an increased risk of homelessness.*
- *Young people in care have a higher rate of suspension or expulsion from school than the general population and their academic results are lower than those in the general public. Poor academic opportunities directly relate to limitations in employment options.*
- *Instability of placement with frequent movement reduces opportunities for positive life-skill development and emotional and social well-being.*
- *Homelessness, poverty and mental health issues are all linked as long-term contributors to child abuse and neglect and all have been identified as transition from care issues which governments, at both Commonwealth and State levels, can address through a suite of both targeted and integrated service responses.*

*CREATE acknowledges and commends the work of Disability, Children, Youth and Family Services (DCYFS) and Housing Tasmania in the development of a Transition Program which seeks to transition young people leaving care with an additional level of support and preferential access to public housing as a counterbalance to their inherent lack of family and community support resource.*

*This support, preferential in nature, empowers the young person leaving care by requiring their active participation and commitment to engaging with DCYFS, Housing Tasmania and an external support organisation.*

*CREATE would suggest that a comprehensive evaluation and review of this initiative should occur with translation of learnings contributing to informed evidence-based, cross-sectoral program development and implementation in the areas of Child Protection, Health and Education.<sup>177</sup>*

5.157 The Committee heard the discussion paper (Transitioning from Out of Home Care to Independence) had been

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<sup>177</sup> CREATE Submission, pp. 5-6.

completed and would be provided to all national Ministers in December 2010 for their endorsement for public release.

*It is expected that Ministers will also support some key actions such as a nationally consistent approach to leaving care plans and a review of the Transition to Independent Living Allowance (TILA). In addition, a report from the CREATE Foundation ... summarises consultations with young people about their care experiences and the specific actions that young people have identified to improve the effectiveness of their transition from out of home care ... I believe these resources will again provide an excellent foundation for this Committee's recommendations in relation to transition to care arrangements.<sup>178</sup>*

### **Findings**

- (75) *The lack of sufficient leaving care programs is a significant issue in preparing young people for transition from the Out of Home Care system.***
- (76) *Fewer than one-third of the young people aged 15-17 had participated in any preparation for leaving care.***

### **Recommendations**

***The Committee recommends that:-***

- (69) *That the recommendations in the report "Transitioning from Out of Home Care to Independence" – a national priority under the National Framework for Protecting Australia's Children 2009-2020 – be adopted and implemented in Tasmania.***
- (70) *The Government should assess the best programs to support young people leaving care.***

### **Children Over 18 Years**

5.158 A number of submissions suggested a possible increase of responsibility for children on long term orders past 18 years of age.

5.159 The Committee heard evidence from the former Commissioner for Children, Mr. Paul Mason, who stated as follows in relation to children over 18:

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<sup>178</sup> Jacob, Submission, p. 13.

*The model parent - the State, the Executive Government, the Sovereign - cannot and should not close files. It leads to all sorts of little things like, as a child in care approaches their eighteenth birthday, it's not that the interest drops off, it's just that other more pressing babies, infants and children are on the horizon and when a kid is 15, 16 or 17 you think, 'Well, they're going to get on with their own lives; they're becoming adults and becoming more and more autonomous'. You hope they're going to be able to segue neatly into adult life in a safe environment. The statistics are clear that children who have been in care perform less well in adulthood than those who have not, so if your children are returning to your home after they've left that's because they need that support and, to some extent, the services that the Executive provides to those children should not close off on a particular date.*

*Now the Executive will say, 'We do provide services after the child is 18', but I would invite you to talk to the - I can't remember the title they use - the kids who have left care who are now working for the CREATE Foundation. They spoke downstairs in the Gallery last year and their point was that they did feel they'd been abandoned when they left care and that they didn't get the kind of support they needed when they left. When my stepdaughter left me and my wife's care, we were driving back and forth getting cupboards, beds and lifting furniture and so forth. The department endeavours to do that but it's limited in what it can do. But it does relate to the pressure to close files...<sup>179</sup>*

5.160 The Committee heard evidence from a group of medical clinicians. The following exchange ensued in relation to extending the age of responsibility beyond 18:

**Ms PETRUSMA** - *I'm very interested in the points on page 1 of your submission where you're talking about the young people leaving care. That is something that has come up, that when young people leave care they are 18 and all of a sudden they are seen as adults and that's where the problem is. As you say in here, they are over-represented in hospital emergency departments, they are homeless, have complex mental health and social issues et cetera. What do you think best practice should be for kids leaving care? What needs to be put in place?*

**Dr WILLIAMS** - *I think foster care should be providing everything parents would be providing for these young people. These are far more at-risk young people than the kids most of us have in our homes, therefore the planning that one does with older adolescents is even more important. Yet, in our experience, placements frequently break down in older teenage years and Child Protection does not work with a sense of urgency to re-place those children in a structured environment. They say, 'Well, they're almost 18,' or 'They're almost 16, they can self-protect'. That is a very problematic issue.*

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<sup>179</sup> Mason, Hansard, 1 December 2010

**Ms PETRUSMA** - Can you explain 'self-protect' to us?

**Dr WILLIAMS** - It's a phrase they use to say that the young person is making decisions to keep themselves safe. For example, if a child leaves an abusive household and seeks help and is placed at Mara House, Child Protection Services will often say, 'She acted in the interests of her own safety'. They don't look at the things that we would normally expect a 15-year-old to be doing, such as attending school and being supported by adults that they can run decisions past. Child Protection often expects these young people, who have really traumatic backgrounds, to be making adult decisions at a far-too-young age. Conversely, when a child is placed early and has a stable placement over a prolonged period of time and forms a good attachment to those care gives the outcome is far more positive. I have a number of young people who, as young adults, continue that child and parent role with their foster carers using them as support. I think the quality of placement early on really predicts long-term outcomes.

**Ms PETRUSMA** - What are the options that need to be put in place for these young people leaving care?

**Dr WILLIAMS** - I think it would be fabulous if we had a supportive package for young adults who are going through training, university or career placement. The mentor system Child Protection has mooted sounds great but in practice I have no young people who have been linked with a mentor.

**Ms PETRUSMA** - There's only 22 throughout the State, so 22 out of 900.

**Dr WILLIAMS** - Exactly, and none of mine is linked. I think that potentially is a scheme that could have value if it were well-resourced and they were well-trained mentors with extra resources at their disposal to ensure that children stay engaged with training, education or job placement, to ensure that their housing needs are well met and that they have somebody to run things past. (Dr Wagg) may wish to speak on this.

**Dr WAGG** - A lot of models of care of young people actually extend the notion of adolescents up to 25, recognising that family-based care up to that age gives the best outcomes, not just for serious mental illness but for kids with all kinds of difficulties. I know that in other States they're looking at extending care and protection up to the age of 25. I think in this State, where the notion that independence starts very early in the teenage years, it's not only at 18 where they're not accessing services, it is often older teenagers who are not.

**Ms PETRUSMA** - So we should have things in place up until they're 25 - should the State have a hotline or some sort of service available for these people to ring up about basic things such as getting a credit card or how to get a job et cetera?

**Dr WAGG** - Absolutely. Maybe even foster placements that extend that period of care up to that age.



**Mr GROOM** - Which other States do that?

**Dr WAGG** - It's been discussed in Victoria and New South Wales but it's not been in place. In terms of mental health services, Victoria has already extended its care of young people up to the age of 25 and there is a good evidence base to demonstrate the better outcomes you see in young people if they have that degree of care.<sup>180</sup>

5.161 Similarly, the Committee heard evidence from the CREATE Foundation which indicated that the 18 year old cut off is not best practice. Ms. Reed stated as follows:

*Tasmania is the only State that has 18 as a cut-off. Other states have moved to 21 or 25. I think that there is a definite need for that to happen as it is certainly international best practice. If we do the transition process poorly, research really indicates very strongly that the cost to society is astronomical.*<sup>181</sup>

5.162 Ms Corrie Bartle gave an account of the difficulties associated with the lack of a 'Leaving care Plan'. The following exchange provides a case study:-

**Ms BARTLE** .... Things went on and he now is still in Ashley. I had a phone call yesterday and he said, 'I have got 15 days, Nan, before I get out,' and in that 15 days I want him to have a house to go to and I believe he has got a job to go to. The Child and Family Services need to have - and should have had when he was 15 - a Leaving Care Plan so that when he turned 18, he had somewhere to go to.

**Ms PETRUSMA** - So he did not have a Leaving Care Plan in place?

**Ms BARTLE** - No.

**Ms PETRUSMA** - When the time came for him to leave care, was he with you or was he back in rostered care?

**Ms BARTLE** - No, he has stayed in rostered care.

**Ms PETRUSMA** - So they still did not have a Leaving Care Plan in place for him then? So the day he turned 18, they just said, 'Off you go now'?

**Ms BARTLE** - They did, they kicked him out, virtually.

**Ms PETRUSMA** - They just kicked him out and he didn't have a plan. So they did not give him access to the money - the Leaving Care Plan money - or anything else?

**Ms BARTLE** - We had an eighteenth birthday party for him. We went, a few rostered carers, my husband and I. He should not have been put into where he was because he was almost 18. He had three weeks to go. He should have had a house. He should have had somewhere to go when he turned 18, but he didn't.

**Ms PETRUSMA** - So he had no accommodation?

**Ms BARTLE** - No. He went to court. They rang me from the rostered care house and asked one night could I come and pick him up

<sup>180</sup> Williams/Wagg/Easter/Moerd, Hansard, 17 December 2010

<sup>181</sup> Reed, Hansard, 21 December 2010

because he was drunk and disorderly and they could not control him. I said, 'So you think I can bring him back here, a 74-year-old woman? You want me to bring him back here and I have got another boy here, and I'm going to handle him?' 'Well, if you don't come and pick him up we are going to have to have him arrested.' So they had him arrested and then he went into court, and then they sent him back to Ashley.

**CHAIR** - Corrie, so he is coming out in 15 days is he from Ashley?

**Ms BARTLE** - This is what he was telling me last night. He rang me last night and he said, 'Nan, I've got 15 days before I get out.' I said, 'That's good.' I think - according to his worker - they will have a house available for him, and I am hoping this is what will happen.

**CHAIR** - So do you know whether there is a Leaving Care Plan in place or not?

**Ms BARTLE** - Not that I know of, no. I have spoken to Greg and unless this Leaving Care Plan includes this house - because the day he went to court I was very concerned that, because he had already turned 18 and these charges had been swinging over for 18 months, he may have gone to Risdon.

## **Findings**

- (77) *The cost benefit analyses of investing in the 15 to 25 year age group points to a need to provide appropriate, accessible support to care leavers to achieve social and economic participation which, over time, will facilitate a positive return to the community on this investment.*

## **Recommendations**

*The Committee recommends that:-*

- (71) *Linking each child in care with a Child Visitor will ensure that a child leaving State care has a significant adult in their lives and mentor beyond the age of 18. The Children's Visitor Program should be extended to all children in State care.*
- (72) *The Government should undertake a review of best practice to determine whether care and protection orders should be extended beyond 18 years of age.*

## **Family Group Conferencing – existing/evidence**

5.163 The framework for family group conferences is set out in the *Children, Young Persons and Their Families Act 1997 (Tas)* ("The Act").

5.164 The Act provides that:

*The Secretary may cause a family group conference to be convened in respect of the child if the Secretary is of the opinion-*

*(a) that the child is at risk; and*

*(b) that arrangements should be made to secure the child's care and protection; and*

*(c) after considering any report of an advisory panel relating to the child, that a family group conference is a suitable means of determining what those arrangements should be.<sup>182</sup>*

5.165 The Act further provides as follows:

*The Secretary must cause a family group conference to be convened if the court has adjourned proceedings and referred a matter to a family group conference for consideration and report.<sup>183</sup>*

5.166 The evidence to the Committee demonstrated the need to enhance the use of family group conferencing as an early intervention tool, as:

*No child, young person or family exists as a single isolated person or unit and is surrounded by a network of relationships ... Family group conferences are an antidote to the pathologisation to which many parents and families have been frequently subjected, and which results only in further ostracisation, hostility and powerlessness on the part of these parents and families which in turn can put the child or children at greater risk.*

5.167 The submission from Mr. Vince McCormack, a therapeutic counsellor at the Narrative Centre states as follows:

*When Conferencing was first enshrined in legislation, under the Children, Young Persons and Their Families Act 1997, it was strongly promoted within the Department state-wide as a powerfully effective way of working with families whose children were variously involved with Child Protection Services. It now appears that family group conferencing does not always enjoy the same status within Child Protection as an effective intervention with families, despite current research and literature, both nationally and internationally, indicating otherwise....I believe the recent lack of promotion of FGCs in Tasmania as an effective early and regular intervention is quite tragic and alarming and especially given the concerns highlighted more recently around Child Protection Services.... I believe that Family Group Conferences can be an effective early intervention when children and their families first come to the attention of Child Protection and before*

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<sup>182</sup> Children, Young Persons and Their Families Act 1997 (Tas), s30(1)

<sup>183</sup> Children, Young Persons and Their Families Act 1997 (Tas), s30(3)

*both child and family become deeply entrenched within the Child Protection system.<sup>184</sup>*

*Too frequently I believe FGCs are invoked only when they are absolutely legislatively required and then at the very last moment before an immediate return to court at the expiration of current orders. This I believe is a minimalist approach and too often is not satisfactory.<sup>185</sup>*

5.168 Mr. McCormack further elaborated in his evidence before the Committee as follows:

*I think the conferences are still proceeding but, as I mentioned, more as a requirement when the law stipulates that they have to be held, but there is a whole opportunity, which I am aiming for, of early intervention when a child or a family first come under the notice of Child Protection, at that early intervention or assessment stage to gather the whole family together, and the extended family, and sit down and talk through what is happening in a collaborative way. One of the things that happens I think at the very beginning, often when Child Protection becomes involved, is that invariably they set up an adversarial sort of a relationship with the family and it is conflictual and it is not positional, so you have family in one corner and you have the department in the other and they are almost at loggerheads fighting each other. So if we can avert that as soon as possible so that we all come together in a more collaborative way with an independent person working through some of the issues, it sets the whole direction in a different way.<sup>186</sup>*

*When families and children first become involved with Child Protection services, parents and the extended family members of these children can frequently feel hostile and angry, alienated and excluded, and without a voice. When, on the other hand, Conferencing is invoked, parents and extended family members, as well as support services, are invited to meet together with Child Protection in a spirit of collaboration whereby relationships are often restored and nurtured. A co-operative spirit of shared responsibility and shared decision-making in regard to the children can take over and often does.<sup>187</sup>*

5.169 A family support worker agreed:

*Family group conferencing should be utilised before a Child Protection intervention, where possible to consider the family unit holistically, including unemployment, literacy/numeracy, budgeting, parenting, physical/mental health, drug/alcohol abuse, housing, support for children.<sup>188</sup>*

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<sup>184</sup> Vince McCormack Submission, pp. 2 – 3.

<sup>185</sup> Vince McCormack Submission, p. 2.

<sup>186</sup> McCormack, Hansard, 1 December 2010

<sup>187</sup> McCormack Submission, p. 3.

<sup>188</sup> Gutwein, Submission.

- 5.170 The importance of involving the family of the child in the decision making process was also identified in the evidence of the Australian Association of Social Workers (Tasmanian Branch). This submission states as follows:

*While efforts to prevent the occurrence of child abuse and neglect are important, it is also important that children who are experiencing abuse and neglect are provided with high-quality services and interventions, as they are among the most vulnerable in our community. Importantly, these services need to be focused on working in partnership with families. A community social worker has contributed the following... power in decision making around the children is often shifted from families to institutions set out to protect and care for children. This can result in families feeling powerless, without processes to appeal, grievance or complain, in a system that is complex and timely. When ownership is removed, responsibility generally shifts, often resulting in the 'finger' being pointed towards the institutions/services, and powerless families using the media, which is often eager to give a voice. When we intervene on risk, the intervention itself carries risk and often shifts responsibility. Any intervention should support the family's capacity for responsibility, rather than take it away.<sup>189</sup>*

- 5.171 However one shortcoming with the current conference model was noted by Mr. McCormack. He stated as follows:

*One of the shortcomings of conferences can be that you develop an outcome throughout from the conference, then it is up to the departmental workers to implement that. Often, because they are overburdened, they are overworked, they do not have the time for the details, those outcomes can fall by the wayside. I frequently receive complaints from families, 'This was decided at the conference, but it has not happened'..... They are overloaded. Probably the majority of times the outcomes we get are a negotiated agreement that the family and the department agree, they sign off on it and that is the agreement that goes to court. I would say that happens most times. Sometimes there is a diversion so the department can say, 'This is our position, this is what we believe should happen,' and the family say, 'This is what we want to happen.' The family document will still go to court and can be defended in court by their lawyer. So you can have two documents in court, or two positions - the family's position and the department's position. Then the child also has a separate independent legal rep so there can be a third position when the child's rep recommends a third position. But more often than not there is an agreement. I had a conference in Burnie yesterday with a mum and her dad and two grandmothers and two maternal aunts and a couple of others and what not. Over a three-hour period they gradually negotiated an agreement which I think will stand up, whereas at the beginning there was no way they were going to do that....I think we need some sort of*

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<sup>189</sup> Australian Association of Social Workers (Tasmanian Branch) Submission, p. 3.

*watchdog within the department to say, 'Okay, these are the conference decisions; are they being followed through? If not, why not.' Otherwise those decisions can sit there on a bit of paper and all of a sudden you get a crisis call. As we know, the Child Protection workers often have a huge caseload. So if a family is going along and there are no ructions, they are ignored. I think it is as simple as that.<sup>190</sup>*

### **Findings**

- (78) The Committee received evidence that families and children involved with Child Protection often feel angry, alienated, excluded and without a voice.***
- (79) Child Protection is not always as enthusiastic as families to convene and participate in family group conferencing.***
- (80) Decisions made at Family Group Conferences have not always been adhered to or followed up by Child Protection Services.***

### **Recommendations**

***The Committee recommends that:-***

- (73) Family Group Conferencing should be used more pro-actively as a best practice early intervention measure.***
- (74) Family Group Conferences and outcomes should regularly be reviewed as part of care plan review processes.***

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<sup>190</sup> McCormack, Hansard, 1 December 2010.

## 6. COMMISSIONER FOR CHILDREN

### *Children Visitor Program – existing pilot/evidence to Committee*

- 6.1 In August 2009, Disability, Child, Health, Youth and Family Services agreed to fund the then Commissioner for Children, to undertake a twelve month Children’s Visitors Pilot Program in Tasmania for children in out of home care.<sup>191</sup>
- 6.2 The Pilot aimed to give a number of children in out of home care the opportunity to voice their opinions, desires, and concerns on what is happening in their lives to an independent person. The selected Children’s Visitors are volunteers who are trained, supervised and supported by the office of the Commissioner for Children.
- 6.3 The main objectives of the program included:
- Provide opportunity for children to voice their opinions, wishes and concerns.
  - Maximise the wellbeing of children in care.
  - Provide continuity of contact and relationship with an independent person.<sup>192</sup>
- 6.4 The 12 month evaluation of the program has recently been completed and provided to the Minister for Children. The Commissioners office is currently further developing the model with a working group of out of home care service providers, Foster Care Association Tasmania, Ombudsman’s Office and Department of Health and Human Services. The final model and associated resources will be provided to the Minister for Children in late 2011.
- 6.5 A person available for each child in State care was also raised by the Catholic Women’s League:

*We suggest that Child Protection have a person of discernment at the core of each case management team. A person that has a ‘real relationship’ with the child and access to nominated persons acquainted with the child’s story located in other agencies and with the power to act ... every child under supervision or in care should have a trained ‘best friend’ appointed to them. This volunteer should visit fortnightly or monthly and have the*

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<sup>191</sup> Office of the Commissioner for Children, *Children’s Visitor Pilot Program – Six Month Evaluation Report*, October 2010, p. 4.

<sup>192</sup> Ibid.

*department listen to and respect his/her insights into the situation ... I would like the 'best friend' remain constant in the child's life.<sup>193</sup>*

### **Findings**

- (81) Children in out of home care need an independent person to speak with, who is not their Child Protection Worker, or their carer, about what is happening in their lives, good or bad and who can promote their wellbeing.**

### **Recommendations**

**The Committee recommends that:-**

- (75) All recommendations on the recently released report on the Children Visitor Program be adopted.**

#### ***Role of Commissioner for Children – existing/evidence, legislative powers, etc.***

- 6.6 The Committee received a substantial amount of evidence in relation to the role of the Commissioner for Children. The main issues raised were ensuring the independence of the Commissioner for Children and the need to strengthen the legislative powers of the Commissioner for Children in relation to requiring information, own motion inquiries and intervention in court proceedings.

#### ***General***

- 6.7 The Commissioner for Children is appointed by the Governor and responsible to Parliament. The functions of the Commissioner for Children are as follows:

*(a) on the request of the Minister, to investigate a decision or recommendation made, or an act done or omitted, under this Act in respect of a child, other than a decision or recommendation made by the Court;*

*(b) to encourage the development, within the Department, of policies and services designed to promote the health, welfare, care, protection and development of children;*

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<sup>193</sup> Catholic Women's League Tas Inc submission, p. 1.



(c) on the request of the Minister, to inquire generally into and report on any matter, including any enactment, practice and procedure, relating to the health, welfare, care, protection and development of children;

(d) to increase public awareness of matters relating to the health, welfare, care, protection and development of children;

(e) on the Commissioner's own initiative or on the request of the Minister, to advise the Minister on any matter relating to the administration of this Act and the policies and practices of the Department, another Government department or any other person which affect the health, welfare, care, protection and development of children;

(f) on the Commissioner's own initiative or on the request of the Minister, to advise the Minister on any matter relating to the health, welfare, education, care, protection and development of children placed in the custody, or under the guardianship, of the Secretary under this or any other Act;

(g) any other functions imposed by this or any other Act.

(2) If the Commissioner advises the Minister on any matter relating to the policies and practices of another Government department, the Commissioner must provide that advice also to the Minister to whom that Government department is responsible in relation to the administration of those policies and practices.

(3) In performing his or her functions, the Commissioner must act independently, impartially and in the public interest.<sup>194</sup>

6.8 Section 80 of the Children Young Persons and Their Families Act provides that the powers of the Commissioner for Children are as follows:

(1) The Commissioner has power to do all things necessary or convenient to be done in connection with the performance and exercise of his or her functions and powers under this or any other Act.

(2) Without limiting the powers of the Commissioner under subsection (1), the Commissioner may require any person to answer questions or to produce documents so far as may be relevant to the administration of this Act.<sup>195</sup>

### ***Independence of the Commissioner for Children***

6.9 A number of submissions to the Committee identified the importance of ensuring the independence of the Commissioner for Children.

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<sup>194</sup> Children Young Persons and Their Families Act 1997 (Tas), s79.

<sup>195</sup> Children, Young Persons and Their Families Act 1997 (Tas), s80

6.10 The Committee heard evidence from Mr. Tucci of the Australian Childhood Foundation, who stated as follows in relation to this issue:

*....the Commissioner for Children should report through the Parliament and not through to a minister. That would give them the ultimate in independence. They should have a policy oversight, they should be able to look at all government policy and make some commentary on whether that policy will adversely or even beneficially affect children. I also think that they need to probably be in charge of the systems of review - for example, child death reviews, serious incident reviews of children who are known to Child Protection or are currently in out-of-home care. I think that allows them to provide a greater independent scrutiny over the decision-making of that government body but ultimately it is the independence that is given to them through being answerable to Parliament rather than to the minister that is the most important part of it. Having said that, I do not think there is a jurisdiction in Australia that has that role. I appreciate the complexity of it but ultimately as a principle, I think that you could find a model somewhere in between there that perhaps allows the commissioner to report through to a minister but gives them a very clear set of terms of reference and they would act independently all the time.<sup>196</sup>*

6.11 The Committee also heard evidence from the former Commissioner for Children, Mr. Mason in relation to this issue. He stated as follows:

*...there are other ways of structuring these positions. For instance, many of these positions can only be removed on a decision by both Houses of Parliament. That is a common provision you find in legislation and that would answer the problem you have raised. It may be discretionary, it may be that the Parliament is sick of the existing commissioner and wants to get rid of them, but if the Parliament gets rid of them then no-one is going to argue with that. I agree with you that it is a lower order of discretion than it should be to establish proper independence. I would be much happier if the commissioner could be removed by a motion from both Houses of Parliament rather than within the Cabinet.<sup>197</sup>*

6.12 The Committee noted the Auditor-General's Special Report No. 96 on the Appointment of the Commissioner for Children in which it was recommended that:-

- The Children, Young Persons and Their Families Act be amended to provide for a longer term appointment for the Commissioner for Children; and

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<sup>196</sup> Tucci, Hansard, 6 December 2010.

<sup>197</sup> Mason, Hansard, 1 December 2010.

- The Government initiate an independent analysis of the roles and functions of the State's independent officers with a view to minimising differences in their appointment, reporting and removal processes.

### *Findings*

**(82) *That the Auditor-General has recommended a review be undertaken to ensure minimisation of differences in the appointment, reporting and removal of the State's independent officers.***

### *Recommendations*

*The Committee recommends that:-*

**(76) *The term, process of appointment and process of removal of the Commissioner for Children be reviewed in light of the recommendation of the Auditor-General.***

#### ***Power to Require Information***

6.13 Another issue raised in submissions to the Committee was the power of the Commissioner for Children to request information. Both the current Commissioner for Children and the former Commissioner for Children identified circumstances where they had not been provided information they considered necessary in the performance of their function.

6.14 The Commissioner for Children in both her written submission and in her verbal evidence to the Committee recommended that:-

*... the Minister for Children provide regular updates to the Commissioner for Children on progress implementing those recommendations made by the former Commissioner for Children in his report of his inquiry into the circumstances of a 12-year-old child under guardianship of the Secretary and they are accepted by Government and that DHHS agree to the provision of additional information upon a request being made by me for a briefing regarding progress.<sup>198</sup>*

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<sup>198</sup> Ashford, Hansard, 29 November 2010.

6.15 When questioned by the Committee as to why such a recommendation was necessary, given what appears to be an unqualified power to require information under section 80 of the Act, the Commissioner submitted by way of example that she had written to the Minister to enquire as to the timeframe proposed for the implementation of the accepted recommendations of the report (Inquiry into the circumstances of a 12-year-old child under guardianship of the Secretary) some five weeks before her appearance and had not been responded to.<sup>199</sup>

6.16 The Committee heard from the former Commissioner for Children, Paul Mason, in relation to his attempts to exercise the power apparently available pursuant to section 80. Mr Mason submitted:-

*I asked the Department of Health for a copy of clinical notes from the drug and alcohol counselling ... The department refused my request and produced an advice from the Solicitor-General ... (which said) that the Commissioner for Children lacked the power to require.<sup>200</sup>*

6.17 When questioned by the Committee as to what basis such decision was made, Mr Mason responded:-

*You had better ask the Solicitor-General. I disagree with that opinion but the Solicitor-General said that the inquiry had been instituted under a paragraph of sub-section (1) of section 79, which related to children generally and did not empower the commissioner to require information about an individual in particular.*

*... I was very concerned. I had promised the minister that I would do my best to produce an advice to her by a certain date. That date had already passed. To resolve that issue I would have had to seek a declaration in the Supreme Court as to the meaning of section 80 as it relates to that particular question. That would have taken a considerable time.*

*... I required (a copy of the opinion) under section 80 and a copy was provided to me by grace, not in a response to my requirement. That was an interesting thing, Mr Groom, that I met in a number of other areas. I would use the word 'require' and the respondents would provide information not in response to a requirement but, as they clearly said, out of the goodness of their hearts.*

*... The long and the short of it is that if you want spell out the power then you can turn to other acts - the*

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<sup>199</sup> Ibid.

<sup>200</sup> Mason, Hansard, 1 December 2010.

*Ombudsman's power, the Auditor-General's power. You can look at those powers and you will see that they set out not only statements like that but also how to enforce that requirement and how to follow through. Because that section is so short, so blank, there is an argument that by comparison with the powers of other statutory officers, those officers have powers that the commissioner does not have. I do not agree with the refusal to comply with my requirement.<sup>201</sup>*

### **Findings**

- (83) That in practice the power of the Commissioner for Children to require information under section 80 is being applied narrowly with the effect of rendering it highly qualified.**

### **Recommendation**

**The Committee recommends that:-**

- (77) That Section 80 of the Act be amended to ensure that it is clear that the Commissioner for Children has the power to require information from any Government Department or Agency where such information is, in the reasonable opinion of the Commissioner, necessary or convenient in the performance of his or her function. Such amendment should make it clear that in requiring information, it is not necessary for the Commissioner to identify the specific head of power being exercised for the purposes of the inquiry. The Commissioner should also be able to specify a reasonable time frame for the satisfaction of the information request.**

### **Oversight of Reform Implementation**

- 6.18 The current Commissioner for Children also recommended that the Commissioner for Children should have power to oversee the implementation of recommendations. Her submission states as follows:

*In October 2010 the Government announced its response to recommendations made by my predecessor in his report of his Inquiry into the circumstances of a 12 year old child under guardianship of the Secretary. Of the previous CfC's 45 recommendations, 15 were accepted by the Government, 19 were accepted with qualifications and 11 were not accepted.*

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<sup>201</sup> Mason, Hansard, 1 December 2010.

*I agree with the accepted Recommendations however I note there is no indication within the Government response of a timetable for implementation or of a mechanism for monitoring progress.*

*I RECOMMEND that the Minister for Children provide regular updates to the CFC on progress implementing those recommendations made by Paul Mason, the former Commissioner for Children, in his report of his Inquiry into the circumstances of a 12 year old child under guardianship of the Secretary and that were accepted by the Government and that DHHS agree to the provision of additional information upon a request being made by me for briefing regards progress.<sup>202</sup>*

6.19 The Australian Psychological Society (Tasmanian Branch) agreed:

*Despite numerous reviews and reforms, recommendations are currently not implemented in the daily practices of Child Protection Services in Tasmania ... our concern is that if the implementation of recommendations is not closely monitored with ongoing community consultations ... then the appropriateness and usefulness of such inquiries is questioned.*

*Despite the same themes reflected across numerous reports and departmental documents these same issues continue to be problematic on a daily basis as reported by our members.<sup>203</sup>*

### **Findings**

**(84) *Despite numerous reviews and reforms, recommendations have not been implemented and there is no monitoring or oversight of the implementation of those recommendations and reforms. As a result, the same problems are arising in subsequent inquiries.***

### **Recommendation**

***The Committee recommends that:-***

**(78) *The Commissioner for Children should oversee the implementation of all recommendations and reforms, and the Minister for Children must provide regular updates on progress to the Commissioner.***

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<sup>202</sup> Commissioner for Children Submission, pp. 25-26.

<sup>203</sup> Australian Psychological Society Tas Branch

***Expansion of Commissioner's role to include "own motion" monitoring and advocacy***

- 6.20 Several submissions suggested that the Commissioner for Children should be given greater "own motion" powers in relation to monitoring and advocacy.
- 6.21 The former Commissioner for Children, Mr. Paul Mason, stated as follows:

*The primary thing.... in my view, is the importance for children of having someone who is completely outside the Child Protection executive who is responsible directly to this Parliament whose term is longer than the term of this Parliament and who has powers of oversight, monitoring and advocacy. When I say powers, particularly in relation to advocacy, it is in my view a necessary element of independent advocacy that the advocate has a statutory right of access to premises, a statutory right to inspect documents, and a statutory right to speak to individuals alone - and I cannot overemphasise that last word, 'alone'. One of the things about talking to children and disempowered people of all kinds, including people with disabilities, prisoners and refugees in refugee camps, is that they will tend to try to give you the answer that they think you want to hear. Children are particularly good at that and I'm a father and those of you who are parents know how that game works. If you speak to a child in the presence of someone to whom they owe strong ties of loyalty, or conflicted ties of loyalty, their answers will be influenced by the presence of that other person. So that's the primary point that I want to make to this committee. If you want to find out what it's like for kids in care or kids at risk or kids in the Gateway system or kids in the schools, you have to talk to them in an environment where they know that they are safe and able to tell you what they really think - just as I am here in 'cowards' castle' where I am able to say whatever I think. That doesn't mean I'm not nervous but, like a child, I would speak differently to you if I were outside this room.<sup>204</sup>*

*This inquiry is here because this is how this executive runs their child protection system, with respect. They believe they have at heart the best interests of all the children in their responsibility. They go to bed at night believing what they have done what they can for the children in their responsibility. However, they need a reality check from time to time and there is no-one within the system, and there is no method within the system, that ensures they get that reality check. If you look at the history of child protection in this State, in every other State and in every other jurisdiction in the world it is a common problem. It is not a criticism that I level against this Executive any more than any other. In every jurisdiction that I am aware of there have been parliamentary and judicial inquiries, often following a death of a child through neglect or abuse, in this case following neglect of a child, and it is a responsive crisis-driven*

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<sup>204</sup> Mason, Hansard, 1 December 2010.

*model. It is expensive and it is ineffective because what happens, with great respect to you six people, is that you will produce recommendations and which I expect will be very similar, if not identical, to recommendations that have been made all over the world..... What you need is a system which is not just responsive. The Commissioner for Children at the moment has two powers essentially of her own motion. One is to raise public awareness about the welfare, education, health and development of children, and the other is to advise the minister. Now, how do you know what to advise the minister about if you do not have an oversight and a monitoring function? As the four commissioners who currently serve this State have done, they have picked and chosen the things that interest them and personally, I am as guilty as anybody of that, as no doubt you may know, but it's still a crisis-driven model.<sup>205</sup>*

6.22 Mr. Mason further recommended:

*That s.79 of the CYPTF Act be amended to give the Commissioner for Children such additional functions as will enable that Officer to fulfill the promise of 'preventing problems before they arise' including but not limited to:*

- *Conducting audits both individually and generally of the circumstances of children and young people in the guardianship or custody of the Secretary.*
- *Conducting investigations of his own motion into the matters in existing paragraph 79(1)(f).*
- *Intervening in Court proceedings at the invitation of a Court and subject to rules of Court.<sup>206</sup>*

6.23 The Tasmanian Government Response stated as follows:

*Recommendation not accepted, noting:*

- *The Commissioner undertakes annual audits of a random sample of children in care.*
- *The Commissioner has limited existing 'own initiative' powers to advise the Minister.*
- *Similar positions in other jurisdictions (even those with broader powers) do not intervene in court processes*
- *The role of the Commissioner for Children in Tasmania relates to all children, not just those in care.<sup>207</sup>*

6.24 The current Commissioner for Children's submission also refers to the potential for the Commissioner's role to be

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<sup>205</sup> Mason, Hansard, 1 December 2010.

<sup>206</sup> Commissioner for Children, Inquiry into the Circumstances of a 12 year old Child under the Guardianship of the Secretary, p. 13.

<sup>207</sup> Tasmanian Government Response to recommendations in the Commissioner for Children's report on his inquiry into the circumstances of a 12 year old child under guardianship of the Secretary, p. 14.



expanded to include own motion and advocacy functions. Her submission states as follows:

*There has been some discussion recently about the CFC's functions and powers which are set out in s79 and s80 of the Children, Young Persons and Their Families Act 1997.*

*It has been suggested that the CFC have a function of "advocating for children under the guardianship and custody of the Secretary"<sup>208</sup> and that the circumstances in which the CFC's could initiate an "own motion" Inquiry should be widened.*

*The Government response<sup>209</sup> to the above Recommendation for an advocacy role suggests it could be considered as part of consultation on planned amendments to the Children, Young Persons and Their Families Act 1997, a position I support, because I believe it is appropriate for this and any other significant changes to the CFC's powers and functions to have the benefit of wide consultation and input by all relevant stakeholders.*

*I RECOMMEND that the Government engage in widespread consultations with relevant stakeholders about the appropriateness or otherwise of widening the CFC's functions and powers to incorporate an "own motion" inquiry function and an advocacy function for children and young people under the guardianship and custody of the Secretary.*

*I RECOMMEND that the Government commit to ongoing and adequate resourcing for the Ashley Resident's Advocate and that adequate resourcing be provided to the CFC for this purpose.<sup>210</sup>*

## **Findings**

- (85) That the Commissioner for Children is limited in his or her capacity to investigate matters related to policy or individual child protection matters without first receiving instruction to do so from the Minister responsible for this portfolio.**
- (86) The Committee noted that a distinction should be drawn between the role of the Commissioner for Children in investigating and monitoring matters that relate to the functioning of the child protection system as a whole versus the potential to expand the role of the Commissioner to include the power to intervene as an advocate on behalf of a child in specific child protection cases. The Committee noted that caution should be exercised in expanding the role of the Commissioner to include advocacy functions in**

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<sup>208</sup> Recommendations made by Paul Mason, Commissioner for Children, in his Report on his Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary, July 2010

<sup>209</sup> [http://www.dhhs.tas.gov.au/news\\_and\\_media/report\\_on\\_case\\_of\\_12-year-old\\_under\\_guardianship](http://www.dhhs.tas.gov.au/news_and_media/report_on_case_of_12-year-old_under_guardianship)  
Accessed 16 November 2010

<sup>210</sup> Commissioner for Children Submission, pp. 26-27.

*individual child protection cases although it noted that there may be a case for strengthening child advocacy services more broadly.*

*Recommendations*

*The Committee recommends that:-*

- (79) The role of the Commissioner for Children be expanded to enable the undertaking of own-motion inquiries within the proper function of the Commissioner for Children.*
- (80) Child advocacy services be strengthened as part of the planned amendments to the Children, Young Persons and Their Families Act 1997.*

## 7. FAMILY SUPPORT SERVICES

7.1. The KPMG Review conducted in 2008 recommended a whole of system reform for the child protection sector. A key aspect of this reform agenda was the development of a responsive and coordinated Family Services System.

7.2. The KPMG Report stated as follows:

*The development of a responsive and coordinated Family Services system is the cornerstone of the reform agenda to the way in which services are provided to vulnerable and at risk children and young people in Tasmania. The Family Services strategic framework introduces earlier support for children and families through service delivery networks established in four areas throughout Tasmania. These child and family service networks will establish community intake points to provide a point of entry for children and families to a range of services including early years and Family Services. An enhanced Family Services system will result in reduced numbers of children and young people being notified to Child Protection.*

*The Family Services strategic framework is characterised by the following:*

- 1. a focus on early intervention and prevention strategies;*
- 2. creating capacity within the service system to respond to those children and families where vulnerability and risk factors are present; and*
- 3. the use of coordinated planning processes to support interventions and integrated responses.<sup>211</sup>*

7.3. The Tasmanian Government Submission details the Gateway and Family Support Systems as follows:

*In an effort to improve the way in which services are delivered to at risk, vulnerable children and people with disabilities, KPMG was commissioned to undertake comprehensive reviews of the Tasmanian Child Protection, Family Services, OOHHC and Disability Services during 2007 and early 2008. The review process highlighted a requirement for significant and sustained reform across all sectors, in order to support high quality services and effective outcomes for children, families and people with disabilities. Following the publication of the findings and models from the KPMG consultancy in *New Directions*, the Reform Implementation Unit was established and was responsible for the management and implementation of the reform in collaboration with community sector organisations. These reforms are based on the public health model of service delivery.*

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<sup>211</sup> KPMG Report, *New Directions for Child Protection in Tasmania: An Integrated Strategic Framework* - January 2008, p. 3.

*As a key outcome of the reform, Gateway and IFSS were established to provide early intervention for children and families at risk. The aim of Gateway and IFSS is to provide:*

- easier access points of entry to government and non government services;*
- appropriately tailored packages of services to suit individual needs; and*
- strengthened integration and coordination between services.*

*The Gateway and Integrated Family Support Service were established initially as an access point to family support services. From July 2010 Gateway Services have also provided access to Disability Services.*

### **Gateway Services**

*Gateway is a central access, information and referral point for families in need. Families or community members can access Gateway by phone, SMS, email or in person by visiting Gateway Services offices in all four regions of the State. Gateway will:*

- receive concerns about risks to children (including mandatory reports);*
- conduct initial assessment of risks by using specially developed tools, known as Common Assessment Framework tools;*
- provide information and advice where required;*
- support referrals to appropriate community organisations;*
- offer brief intervention options to families;*
- refer on to Child Protection where necessary; and*
- make referrals to IFSS.*

### **Integrated Family Support Service**

*IFSS can provide a range of services that promote the wellbeing and safety of children, young people and families through:*

- a flexible approach to meeting the needs of children, young people and families;*
- information;*
- counselling;*
- advocacy;*
- links and supported referral to other services;*
- family meetings;*
- skills development; and*
- strengthening relationships.*

*IFSS has the capacity to work with families for longer periods of time depending on their needs. Gateway and IFSS are voluntary services aiming to provide early intervention strategies to families in need. These service providers are to use best endeavours to engage with clients who may be reluctant and where risk factors are identified. IFSS workers are mandated reporters and are required to make notifications to Child Protection Services when serious risk factors are identified.<sup>212</sup>*

- 7.4 A number of submissions received by the Committee emphasised the success of Gateway as an effective early intervention mechanism. The following are examples of these submissions:

*Prior to the reform, families that did not meet the statutory intervention threshold were often not provided the level of service required to address complex needs. These families could have fallen through this gap in the service net and possibly due to their complex needs escalating, may have progressed into the statutory system. The introduction of Gateway has ensured that Tasmania has a robust referral and assessment system to reduce the likelihood of families slipping through service gaps and improved the integration and coordination of services available to families.<sup>213</sup>*

*The strong feedback - and I am just encapsulating a lot of views - is that I get help but I do not get welfare. I get the help I need but I do not get the welfare response which was happening before, so you would have to go through Child Protection again to secure services when we are looking at a very prosecutorial manner. This is allowing families to get the help they need early and we are definitely seeing a downward trend in Child Protection referrals coming into the State. We are taking it as an early success story. The important thing is that those clients are getting support now. They are getting the support they need. We are not going to get the targeting completely right because....bad things may continue to happen and then Child Protection will re-engage. We do not see that as a negative; that is more support going out.<sup>214</sup>*

- 7.5 One Community Sector Organisation was strongly supportive of the Gateway model and cited a case study of one family assisted with family support where good results were achieved through consistency working with, and supporting the family, over a long period of time.

*This process of change (Gateway) has been proven to be successful in reducing child protection notifications and providing better services to vulnerable children and families in other jurisdictions such as Victoria.*

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<sup>212</sup> Tasmanian Government Submission, pp. 33-34.

<sup>213</sup> Baptcare Submission, p. 3.

<sup>214</sup> Byrne, Hansard, 1 December 2010.

7.6 And the Deputy Secretary (Human Services), Alison Jacob, was also supportive of the change:

*The Gateways service has been very successful in providing an alternative referral process for families of children at risk who do not require statutory child protection intervention, but still require support and advice ... the Integrated Family Support Service is providing a more intensive means of intervention for families ... case management within family services has been improved ... contractual arrangements with existing family support and counselling services have been reviewed and are now more focused on areas of need and the achievement of outcomes.*<sup>215</sup>

7.7 However, the Committee also heard evidence to the contrary:

*The new Gateway system has huge faults, the main one being that families are falling through the gap between CP and Gateway, especially when CP assess it as a family support issue, and families are then free to refuse Family Support services.*<sup>216</sup>

7.8 And:

*The new Gateway system is not supporting families in the same manner. Often referrals are taken over the phone and then allocated. The NGO worker then discovers a myriad of issues that were not known to the person dealing with the client initially. Clients under this new system are referred to the Gateway for case allocation. They are then allocated to a non government service ... it appears that once referrals to services to address issues have been put in place cases are closed without waiting to ensure that the clients are attending the appointments on a regular basis to gain their new skills. This distorts the outcome as it may appear on the surface to have been resolved, however unless the parents respond and maintain a standard of appropriate care the children continue to be at risk.*<sup>217</sup>

7.9 Gateway services agreed that they have no power to require families to accept services:

*Some of the families referred to Gateway and IFSS are subject to interlinking problems of social exclusion and have a history of non-engagement with services. As Gateway and IFSS are voluntary services they have no power to require that families accept services, however, by utilising 'Active Engagement' strategies an opportunity to build a rapport between staff and family members is created. The service providers work to engage families and*

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<sup>215</sup> Jacob, Submission, p. 8.

<sup>216</sup> Australian Association of Social Workers (Tasmanian Branch)

<sup>217</sup> Gutwein, Submission, p 2.

*build a relationship and trust with families that have not historically engaged well with services ...*

*In some cases engagement with families has been difficult. For many families a high level of change is required to achieve a safe and nurturing environment for their children. When IFSS staff begin to challenge some of the behaviours and attributes within families that need to be changed, they will often meet resistance. This is where the key elements of 'active engagement' and 'assertive outreach' become important tools ...*

*Throughout the first year of implementation we have observed that in a small number of cases, families with identified issues or support needs decline involvement with Gateway/IFSS. Where these small number of families do not meet the statutory system service provision criteria, Gateway/IFSS have no capacity to pursue involvement due to the voluntary nature of service provision.<sup>218</sup>*

- 7.10 The Committee heard that when former Commissioner for Children, Mr Mason, recommended Child Protection Services stay engaged with a family referred to Gateway until family support had been engaged and that engagement had been evaluated, DHHS accepted this recommendation. Baptcare told the Committee:

*There are a number of highly developed processes in place to communicate the engagement or otherwise of a family being referred to family support. The (Community Based Child Protection Team Leader) position is one of these mechanisms.<sup>219</sup>*

- 7.11 And in relation to lack of quality control in non-government services such as Gateway:

*Senior Clinicians in health care and mental health have concern regarding potential loss of control of quality of service provision for families in need due to use of non-government organisations through Gateway and alliance. Referred families are being monitored by staff of unknown professional qualifications and training with no clear pathway for feedback to other agencies, supervision, support and accountability for these cases and workers. The Gateway initiative is positive in that there is a link with community based support for low risk cases. Concerned clinicians would like to see an external, open analysis built into the system to indicate that this initiative works and that Gateway are in fact managing families who are clearly within the low risk referral criteria. Gateway must ensure that there are mechanisms in place*

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<sup>218</sup> Baptcare submission, p. 4.

<sup>219</sup> Ibid., p. 6.

*for ongoing risk assessment, escalating concerns and intervening if the child's situation deteriorates. It is the experience of these clinicians that these mechanisms, if present, are not being utilised appropriately.<sup>220</sup>*

7.12 And that the Gateway and Integrated Family Support Services have no power to require families to accept services, or if there is no "capacity" (funding), the Gateway/IFSS utilise "active holding" which means regular contact with the family to maintain engagement.<sup>221</sup>

7.13 The Committee heard from a CPSU member on this issue about the:

*... continued difficulty working with Gateway including complex, time consuming referral processes and continual referral back to child protection "just to check if it's ok". Gateway are also now telling people that they will not take self-referrals if the person has been speaking with CPS (even at intake). This then means the family must be referred by CPS meaning a greater delay in Gateway getting, processing and acting on the referral.*

*While there seems to be generally a good identification of concerns by community/organisations, there is a frequent and ongoing attitude from professionals that it's "not their job" to intervene with a family where lower level issues are present. There seems to be an ongoing perception by some that any risk issue identified must be handled by child protection which leads to a lack of willingness for them to provide basic community interventions in cases where CPS would not be intervening. This being said, there are an increasing number of organisations who are taking a proactive and collaborative approach and these people are making a difference.<sup>222</sup>*

7.14 A CPSU member said it should be ensured that Gateway workers are fully trained and they understand the CPS system and the links. Another stated "many NGOs are reluctant to work with the difficult clients and want CPS to manage them" and yet another stated that the Gateway system had become a cycle of "who is expected to do what":

*When Gateway was first established Child Protection Workers were assured that clients presenting with child protection issues, but not at the higher formal intervention stage, would be told that engagement with Gateway would be an expectation not necessarily a choice. What actually occurs is that if a family*

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<sup>220</sup> Williams Submission, p. 4.

<sup>221</sup> Baptcare submission.

<sup>222</sup> CPSU submission, p. 4.



*declined to engage they are referred back to Child Protection who are then expected to deal with the presenting problems that were referred to Gateway in the first place. In effect, it becomes a cycle of who is expected to do what. Gateway guidelines [should] be reviewed to ensure that referrals by Child Protection are dealt with on the basis that families are referred because the presenting issues require an intervention based on the needs of the children. This will mean that Gateway will engage despite parents not wanting to and services are provided in the interests of the care and protection of the most vulnerable.<sup>223</sup>*

- 7.15 The Committee also heard evidence from former Commissioner for Children, Paul Mason, as to the potential of the presence of organisations such as Gateway to produce misleading statistics, due to the number of notifications to Child Protection being reduced. Mr. Mason stated as follows:

*.....if you don't have external and independent oversight the opportunities for a government - not only this one - to spin the figures and tell the public that things are going well, notifications are down, substantiations are down, we've got the new Gateway system in place and because notifications are down therefore children are safer, that is bad and unsafe logic unless there is someone who can connect the reduced reporting to Child Protection and what's happening in the Gateway not to the figures and the outcomes and the dollars we're spending on the process but to the actual safety of children in the system. The whole purpose of the Gateway was that minor and major complaints were coming in straight through to Child Protection and that system was overloaded. The Gateway is a community-based intake process and is a really good idea. It will save money not necessarily in the immediate future but over the long term, over generations, because hopefully theoretically it enables services to be provided to families and to children a lot sooner. The money that is saved is the money of intensive child protection. The money is also saved in saving police expenditure, ambulance expenditure, hospital bed expenditure, youth justice expenditure and ultimately Ashley and Risdon expenditure, which are incredibly expensive. Child protection is not sitting out here on its own as an expensive thing; it is an expensive thing that creates massive expense in other areas.<sup>224</sup>*

- 7.16 The Committee further heard evidence from a number of sources that the absence of available family support services to refer families impacts on the success of the

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<sup>223</sup> CPSU submission, pp. 7-8.

<sup>224</sup> Mason, Hansard, 1 December 2010.

Gateway/IFSS services. These submissions are summarised below:

*We need more universal services out there that Family Support workers in the IFSS program can actually refer families to. If I look at the north-west area there is a real gap for mediation and counselling services for adolescents particularly, and for family mediation there is very little at all in the north-west area. It is about actually having the universal services to refer families to, to get the support that is needed.<sup>225</sup>*

*We are finding, and staff are feeding this back, increasing lack of universal services out there, particularly in the north-west and outside the Burnie-Devonport area, and then in the south-east outside the metropolitan area - the Eastern Shore, Bridgewater, the east coast, the Midlands and the Central Highlands, and certainly the west coast and the far north-west. For issues around drug and alcohol, family counselling, mental health services, our staff would love to be able to refer to some of those other services as well. That would be one key thing that staff are feeding back quite regularly.<sup>226</sup>*

7.17 A number of submissions identified Gateway as a successful mechanism for achieving greater integration between government and non-government agencies in the child protection sector. Some examples of these submissions are set out below:

*The principal aim of the Gateway is to work collaboratively with all services involved in a family's care, to get a holistic picture of each individual's needs and services being offered to the family; the Gateway Service then coordinates an appropriate service response. In the past, many agencies may have been working with the family, however, the lack of appropriate coordination between services would often lead to poor client outcomes. A key element of the Gateway and IFSS system is to provide a case coordination role to ensure that all services and the family have a clear understanding of expectations and responsibilities.<sup>227</sup>*

*A key role for us is about looking at who is coordinating the services that happen to that family. In Gateway we often find that people will ring through and make a referral about a child or a family, but when we get in there and do our assessment work we actually find, in talking to a number of providers in the school, that there are a lot of people involved with this family but they might not be talking to each other. A key risk in that is that they might be duplicating service or indeed they might be working at cross-purposes. As an example, if there is substance abuse in the home, a drug and alcohol counsellor might be trying to restrict the free money that is available in the house and so they might be trying to*

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<sup>225</sup> Lee, Hansard, 23 November 2010.

<sup>226</sup> Mundy, Hansard, 21 December 2010.

<sup>227</sup> Baptcare Submission, p. 3.

*look at how they manage that. They might not look at the fact that there is no food on the table because of that substance use, or they might be concerned about it but thinking they need to restrict this. In a family services sense, if we were not talking to each other we could potentially be providing food vouchers and therefore an income stream to the substance use. It is really about how we talk and work together so that we can plan. We have to get food on the table but we also have to support the good work that the specialist service is doing. Rather than each of us independently saying that is not working, it is about working together because we want the kids to be looked after well and the family to function well. That is a key part of the work that we do. It is also about working in partnership with other agencies because we know that in working together we can often tailor a different solution for families than what we might be able to do as each agency individually.<sup>228</sup>*

- 7.18 However, the interplay between Gateway and Child Protection Services was identified by the former Commissioner for Children in his Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary, October 2010 as being a factor in the failings of the system in that case. The report states as follows:

*CPW treated referral to Family Support Services as evidence of reduced risk before assessing any change in behaviours giving rise to those risks.<sup>229</sup>*

*The referral to Gateway in September 2009 was not a mistake, but needed establishment and reinforcement in the minds of this family by the continued statutory intervention of the State.<sup>230</sup>*

*[Recommendation] That the fact of acceptance of a referral to Gateway and Government-funded Family Support Service not be an indication of any change in the level of risk until a) the brokered Family Support Service has engaged and b) the engagement has been evaluated and the Family Support Service has reported demonstrated capacity to have reduced risk to an acceptable level.<sup>231</sup>*

- 7.19 The relationship between Child Protection Services and Gateway and Integrated Family Support Services was seen as critical in the success of this program, and Bapcare recommended to the Committee that the relationship be strengthened with joint home visit protocols, documentation

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<sup>228</sup> D'Elia, Hansard, 1 December 2010

<sup>229</sup> Commissioner for Children, Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary, p8

<sup>230</sup> Commissioner for Children, Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary, p3

<sup>231</sup> Ibid.

that is concise and comprehensive and a continual review of the MOU between Gateway/Child Protection/IFSS. Bapctcare states:

*Collaborative family visits have been a highly effective mechanism for addressing disagreement and develop a robust final assessment, where the post intervention review has acknowledged a completely different picture of the family's risk factors ... At times, the responsibility and pressure on a single practitioner are evident.<sup>232</sup>*

7.20 Concerns were also raised at the high rate of re-referral from Gateway to Child Protection Services:

*School social workers, youth shelters, Gateway, keep referring to Child Protection to work with parents over arguments ... I realise that they need to make a notification however none of these services are prepared to work with the parent and child in order to help the peace process. The child wants to leave home and the services want CP to take them. The unrealistic expectations are forcing CP to triple the workload – especially at the intake level. The other service that was formed to assist with services to clients also keeps referring the children back to Intake if the family are too difficult to work with. On the other side of the coin they do not let child protection know about cases that have disengaged from their service when CP refers to them. Thus clients who are in desperate need of the service are falling through the cracks.<sup>233</sup>*

7.21 The Committee also received evidence that responsibility for the protection of children had been shifted to the non-government sector with the establishment of the Gateway, and recommended the Department “shift away from a focus on statistics and toward an extended model of care for children and families at risk”:

*The Gateway Services ... provides a single entry point for individuals, agencies, services and other professionals such as teachers, community agencies and general practitioners to refer clients for services and to obtain information and advice in relation to family support and specialist disability services in each area. This has separated the provision of general services for children and families requiring supports ... from the statutory Child Protection Service, which has some benefits given the associated stigma and fear associated with the Child Protection Agency. However, while the Gateway Services indicate they provide some support for ‘complex cases’ they are generally a referral service*

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<sup>232</sup> Bapctare submission.

<sup>233</sup> CPSU submission, p. 6.

*which effectively means that responsibility for service provision is further removed from the Department, questioning the ability of the Department to monitor staff training and the effectiveness of the service provided.*

*Additionally the Gateway providers indicate they prefer families to contact them directly as opposed to a clinician making a referral and the service contacting the family. Again this is not always the case as the advice and response from the Gateway is dependant on the individual worker answering the call. Gateway Services make it clear that families must be willing, and choose to engage with the service. Given the demographic factors and research on the characteristics of families who are abusive, it would seem that in those cases where the children are most at risk, they are also less likely to receive intervention.<sup>234</sup>*

*There is an urgent need to look into the effectiveness of the Gateway system, to which organisations the Government has outsourced the initial contacts for referral. It is a system introduced to Tasmania from Victoria, staffed mainly by Victorians, who are not familiar with the work culture here, with some resultant tension. Under this system, who is actually responsible for these children?<sup>235</sup>*

7.22 Concerns were also raised about the safety of family support workers in visiting homes on their own without support:

*Single family support worker models are unsafe, especially in remote areas – one family support worker was told there were guns in the house when visiting a family, but the CP worker denied the worker would be at risk. Lone workers are placed at risk.*

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<sup>234</sup> Australian Psychological Society (Tasmanian Branch) submission, p. 8.

<sup>235</sup> National Council of Women, Coalition Tasmania Inc, submission, p. 2.

## 8. OTHER SPECIALIST AND UNIVERSAL SERVICES

- 8.1 The Committee received evidence in relation to the adequacy of specialist support services, including therapeutic counselling services, sexual assault support, family violence counselling, but also heard evidence about the lack of availability of counsellors, psychologists, behavioural therapists to meet the needs of the increasing number of children needing help.<sup>236</sup>
- 8.2 The Committee also heard evidence in relation to the adequacy and availability of universal services for families and children, including child health, mental health and drug and alcohol services,

### *Sexual Assault Services*

- 8.3 The Committee received evidence from the Sexual Assault Support Service (SASS) in relation to the need for a greater focus on the prevention of sexual assault. The submission states as follows:

*By the time a child makes it to SASS for counselling, it is usual that harm has already been done. In mentioning CPS and justice system responses to identifying and intervening in childhood sexual abuse, it should be noted that successful prosecution of perpetrators is part of the much publicised 'whole of community' responsibility for child protection and forms part of the necessary approach to prevention, if only because perpetrators of sexual abuse rarely have only one victim.....SASS believes that it is imperative for government to take the lead in reducing the prevalence of childhood sexual abuse and the subsequent flow on of life opportunity and economic costs to individuals, families, the health care system, the child protection system and beyond. At present SASS engages in prevention work with young people but the scope of our work is severely constrained by lack of funding.*

*Recommendations: A best practice primary and secondary prevention approach to sexual assault should be developed and implemented by government.<sup>237</sup>*

- 8.4 A family support worker giving anonymous evidence via Liberal Member for Bass, Peter Gutwein, suggests:

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<sup>236</sup> Gutwein, Submission.

<sup>237</sup> Sexual Assault Support Service Submission, pp. 4 -5.

Counseling of a child suspected of abuse should be mandatory, not subject to parental agreement. It is often during the counseling process that evidence of abuse will come to light.<sup>238</sup>

### ***Finding***

***(87) The Committee received evidence that:-***

- ***by the time a child is referred to Sexual Assault Support Services for counseling, the harm has already been done; prevention and early intervention work is severely constrained by lack of funding; and***
- ***it is often during the counseling process that evidence of abuse will come to light, therefore counseling of a child suspected of being the victim of sexual abuse should be mandatory, not subject to parental agreement.***

### ***Recommendation***

***The Committee recommends that:-***

- (81) That a best practice primary and secondary preventative approach to sexual assault be developed and implemented by government.***
- (82) Counseling of a child suspected of being the victim of sexual abuse should be mandatory, not subject to parental agreement.***

### ***Family violence services***

8.5 The Committee heard evidence in relation to family violence services.

8.6 The submission of the Commissioner for Children states as follows:

*Safe at Home is an integrated criminal justice response to family violence where the safety of the victim is to be considered paramount. The first point of contact is through the Police. A number of services were established or extended to meet the identified needs of adult and child victims and offenders or to create system linkages including but not limited to:*

- *Family Violence Response and Referral Line*
- *Victim Safety Response Team*
- *Court Support and Liaison Service*

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<sup>238</sup> Gutwein, Submission.

- *Children and Young Persons Program (CHYPP)*
- *Family Violence Counselling and Support Service.*

*Family violence is a major contributor to the abuse and neglect of children and young people.*

*Consequently, family services will come into contact with families experiencing family violence, necessitating coordination and cooperation between programs and services provided under the Safe at Home umbrella and within family services as part of an integrated response to enhancing the safety of children and young people.*

*However, there is no integrated Family Violence strategy across Government and there are gaps in service provision because of policies adopted within the Safe at Home framework.*

*For example, the Family Violence Counselling and Support Service based in DHHS offers therapeutic counselling for children and their caregivers who have experienced trauma as a result of their experience of family violence. However the Service only receives referrals through Safe at Home. Therefore if it is recognised by a service provider that a child has a history of exposure to family violence but no Safe at Home intervention that child has no specialist service such as this to access.*

*Also it is our understanding that if the perpetrator is living in the family home the Family Violence Counselling Service will not provide services to the child.*

*I RECOMMEND that access to Safe at Home children's counselling services be available to all children and young people who have been assessed as being affected by family violence and that adequate resources are made available to permit this to occur. I RECOMMEND FURTHER that no child should be denied counselling for family violence related issues on the basis that the perpetrator is living in the family home.<sup>239</sup>*

8.7 Again, the Committee heard evidence from a family support worker who stated:

*Domestic violence services have a considerable waiting list to help families struggling in this area.<sup>240</sup>*

### **Findings**

**(88) *There are long waiting lists and gaps in service provision in relation to family violence services, with counselling services for children and caregivers only able to receive referrals through Safe at Home after an intervention. This leaves children and caregivers,***

<sup>239</sup> Commissioner for Children Submission, pp. 12 – 13.

<sup>240</sup> Gutwein, Submission.



*recognised to have experienced trauma through family violence, without access to specialist services.*

### **Recommendations**

**The Committee recommends that:-**

**(83) Timely access to family violence adult and children counselling services be available to all who have been affected by family violence, and adequate resourcing be put in place to allow this to occur.**

### **Youth Justice**

8.8 The CPSU gave evidence of the under resourcing of community youth justice workers:

*In Youth Justice we recently had the situation where there were only 5 youth justice workers responsible for managing all cases in the south of the state. Again these workers reported that rather than being able to work with children to keep them out of our justice system they were wholly absorbed supervising court orders and responding to crisis situations. It is little wonder such a high proportion of children known to the criminal justice system go on to careers in this area.<sup>241</sup>*

8.9 A number of submissions raised the absence of bail options for young people leaving Ashley Youth Detention Centre.

8.10 The Committee received a submission from the Salvation Army which states as follows:

*Some of The Salvation Army's residents in placement have arrived facing up to fifty or more charges for criminal offences. There are few diversionary programs in place nor is there any realistic bail options program that can assist these young people to be diverted away from this type of behavior. The Salvation Army is now closing a young women's diversionary program (Breakfree) as funding has ceased from the Commonwealth Attorney General's Department.*

*Our service currently provides placements for young people who exit from Ashley Youth Detention Centre. Several young people in our care are facing the prospect of entering Ashley due to the large number of offences they have committed. We are forced to act as a bail options type program in this scenario. We believe that recognition and financial commitments need to be made by the Department that afford us the opportunity to provide a*

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<sup>241</sup> CPSU submission, pp. 2-3.

*recognised bail options program that includes transitional housing to assist young people to adjust to their change of lifestyle including diversion programs based on restorative justice.<sup>242</sup>*

- 8.11 The submission of the Commissioner for Children states as follows:

*The current lack of options available when making a bail determination for youth has led to a situation where many youths are placed on remand at the Ashley Youth Detention Centre (AYDC), the State's only correctional facility for youth offenders, because there is no alternative option ...*

*During recent consultations with residents of AYDC several of the residents indicated that they actually preferred being placed on remand rather than being bailed in the community as they were provided with stable accommodation, clothing and food and had access to a variety of programs including education that they would not have if they remained in the community. This information provides an excellent starting point when establishing bail options for young offenders and encapsulates exactly what the services must include if they are to be effective for their clientele.*

*I RECOMMEND that a bail options program is established immediately and adequately resourced to ensure that young people on remand have appropriate, secure accommodation and support to assist them. I RECOMMEND FURTHER that the Specialist Intervention Tenancy Service (SITS) and Same House Different Landlord Programs resources are increased by Housing Tasmania to meet the needs of young people exiting Ashley.<sup>243</sup>*

- 8.12 The Committee heard evidence about the benefits of Police and Citizens Youth Clubs as a safe environment and assisting with young people at risk of entering the justice system:

*Police and Citizens Youth Clubs are extremely valuable and reliable but there are nowhere near enough of them. If run by a vocational leader they present a safe environment and a very good role model for fatherless boys.<sup>244</sup>*

### **Findings**

**(89) Police and Citizens Youth Clubs are a valuable support for children.**

**(90) The Committee heard evidence that there is a shortage of youth justice workers.**

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<sup>242</sup> Salvation Army Submission, p. 16.

<sup>243</sup> Commissioner for Children Submission, p. 17.

<sup>244</sup> Catholic Women's League Tas Inc submission, p. 1.

- (91) *There are few diversionary programs in place and no realistic bail option program that can assist young people to be diverted away from offending behaviour, with therapeutic residential services being forced to act as bail option programs.*
- (92) *Lack of bail options leads to youth being placed on remand at the Ashley Youth Detention Centre, with some youth saying they preferred this option as they are provided with stable accommodation, clothing and food, and had access to education.*
- (93) *Alternatives to Ashley need to be found. Detention is costly and probably increases the likelihood of re-offending. A professional carer(s) could be employed to look after a young person for far less cost than for a young person detained in Ashley.*

### **Recommendations**

*The Committee recommends that:-*

- (84) *The Government must commit to finding alternatives to the Ashley Youth Detention Centre. Financial commitment needs to be made to provide a recognised bail options program that includes transitional housing to assist young people, including diversion programs based on restorative justice principles.*
- (85) *The Specialist Intervention Tenancy Service (SITS) and Same House Different Landlord program be increased to meet the needs of young people existing Ashley.*
- (86) *Youth justice workers and community youth justice support must be significantly increased to provide early intervention and deter young people from graduating to Ashley Youth Detention Centre and Risdon Prison as an adult.*

### **Child health services and Parenting help**

8.13 One submission from a family support worker indicated that children were not attending child health checks:

*Children are not attending vital child health checks and immunisation checks with GPs which can lead to developmental delays or physical or intellectual disabilities not being detected and addressed before schooling.<sup>245</sup>*

8.14 The Committee heard evidence about parenting training:

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<sup>245</sup> Gutwein Submission.

*Parents feel intimidated in group parenting training; need one on one instruction.*<sup>246</sup>

### **Findings**

- (94) *Children of families at risk are not attending vital child health checks and immunisation checks which can lead to development delay or disabilities not being detected or addressed before schooling.*
- (95) *Parents feel intimidated by group parenting training programs.*

### **Recommendations**

*The Committee recommends that:-*

- (87) *Monitoring of families/children at risk through child health checks should be undertaken; and where children are not attending crucial early years checks, home visits must be conducted.*
- (88) *Parent training be flexible enough to ensure one on one instruction if determined the family would benefit from individualised support.*
- (89) *A full audit and mapping of community-based family/children resources and support services be conducted to find the gaps in services needed, and the regions where gaps exist.*

### **Child and Family Centres**

8.15 The Tasmanian Government Submission states as follows

*DoE is collaborating with DHHS to establish Child and Family Centres (CFCs) in communities where the need is the greatest.*

*CFCs are being built in the most vulnerable communities across the State in order to give those children the best possible start to life. The goals of the CFCs are to:*

- *improve the health and educational outcomes for children – 0 - 5 years;*
- *provide a range of integrated early years services in the local community to support the development of children birth to five years;*
- *build on the existing strengths of families and communities and assist in their educational needs;*
- *increase participation in early years programs such as those offered through Launching into Learning;*

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<sup>246</sup> Ibid.

- *build community capacity by developing partnerships with parents, carers and the community; and*
- *respond to child and family needs in a seamless and holistic manner.*

8.16 The benefits of Child and Family Centres were discussed in the following evidence:

*The opportunity exists to make sure that the service delivery model changes the way that services are currently delivered and facilitates a truly integrated, collaborative approach across current agencies, rather than simply co-locating services. All of the evidence suggests that intervention in these first five years of a child's life has the best chance of improving future life chances for children. This is a long term investment but potentially one of the most powerful things that could be done to improve parenting and family support and ensure less children require the intervention of statutory child protection services.<sup>247</sup>*

*I think the idea of the early childhood centres really speaks to something that we have mentioned a lot in our document and that is the importance of really good collaboration and communication between services. I think that is something that we do well in some areas but we really struggle with in others and so I think that kind of model - not only physically all being in the same space, but with memoranda of understanding between services and making sure that senior staff are speaking to senior staff so that the message is getting through at an expert level from one service to another - is a very important change that needs to be made for our services to operate more effectively.<sup>248</sup>*

8.17 The Committee notes that the projected number of Child and Family Centres has been reduced due to current budgetary constraints.

### **Findings**

- (96) *Child and Family Centres are evidence-based and designed to give children in the most vulnerable communities the best start in life.***
- (97) *Since the Committee was established, the number of Child and Family Centres being established in Tasmania has been reduced by a third because of budgetary constraints***

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<sup>247</sup> Jacob Submission, pp. 14 - 15.

<sup>248</sup> Wagg, Hansard, 17 December 2010.

## **Recommendations**

**The Committee recommends that:-**

- (90) *Should Child and Family Centres prove successful in improving the health, wellbeing and education outcomes of children in the 0-5 age group, planned Centres that have been delayed through budgetary cuts should be revisited.*
- (91) *As Child and Family Centres are under the responsibility of the Minister for Children, a system needs to be implemented to ensure interagency collaboration and no 'siloing' occurs.*

### **Trauma and Health Assessments for children coming into State Care**

8.18 A theme that arose throughout the evidence was the need for health and trauma assessments for children entering care.

8.19 The Commissioner for Children gave evidence of the difficulties in accessing services unless there are emergency issues:

*A secondary treatment role would provide a preventative and early intervention approach to the assessment and intervention/treatment plan for a young person in out of home care as part of their care plan at the beginning of their placement. This would provide carers with an understanding of the mental health issues and of appropriate interventions and monitoring of the child or young person's mental health status.<sup>249</sup>*

8.20 The Committee heard evidence from Mr. Ken Abery, a foster carer. The Committee questioned Mr. Abery in relation to these issues. The following exchange ensued:

**Ms PETRUSMA** - *So, Ken, would you say, ideally, that every child who comes into care should have a counselling session?*

**Mr ABERY** - *I think it would be ideal. It would be wonderful.*

**Ms PETRUSMA** - *Does there seem to be a big delay to get the child into counselling?*

**Mr ABERY** - *Yes, there is. I don't know why the delay is. Perhaps it is a lack of counsellors or perhaps it is a lack of financial resources - I don't know.*

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<sup>249</sup> Commissioner for Children submission

**Ms PETRUSMA** - Yes, so the ideal would be that every child has a proper counselling session so that they could -

**Mr ABERY** - And also have an appointment with a paediatrician.

**Ms PETRUSMA** - Okay, so have that done upfront.

**Mr ABERY** - Yes, as soon as possible.

**Ms PETRUSMA** - As soon as possible so you get a proper care plan developed, based on what their assessed needs are and then you can move forward.

**Mr ABERY** - You can move forward from there, and you know what you're doing then.

**Ms PETRUSMA** - Yes, so you know what the issues are from the past and everything else, and what you need to put in place to address it.

**Mr ABERY** - Yes.<sup>250</sup>

8.21 The Committee heard evidence from a group of medical clinicians. The following exchange ensued in relation to this area:

**Ms PETRUSMA** - Do you think that every child that comes into care should have a trauma assessment?

**Dr WILLIAMS** - We cannot even get a full medical assessment on every child.

**Ms PETRUSMA** - Or best practice?

**Dr WILLIAMS** - Best practice would be, yes absolutely. A developmental assessment, medical assessment and mental health assessment and ongoing treatment for those young people. Currently we provide that for some children. They get into clinics and we see them and we provide that advice, but they are not necessarily provided with any ongoing therapy. Re-attachment therapy is very important for some of these kids, and security of placement, and that is not necessarily happening.<sup>251</sup>

8.22 This issue was also raised in evidence by Ms. Charlton of the Family Inclusion Network. She stated as follows:

*I want to talk about what happens to the children once they are removed and taken into care. Basically nothing happens. They are left in holding – we have four weeks of assessment, that can stretch into six months of assessment where the children are basically in limbo not knowing when they can see their parents.....the children are not being helped. They need lots of intervention when they first come into care. There was talk of children having medical and psychological testing as soon as they come into care, and it is not happening. Kids have been in care*

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<sup>250</sup> Abery, Hansard, 29 November 2010.

<sup>251</sup> Williams/Wagg/Easter/Moerd, Hansard, 17 December 2010.

*for two and three years and they still have speech problems and psychological problems and nothing is happening for them.<sup>252</sup>*

## **Findings**

**(98) The Committee received evidence that:-**

- Children escaping trauma in the home can be re-traumatised with the removal from their families, yet there is either none, or limited, counseling offered or psychological support offered to the children at that point;*
- Foster carers have difficulty accessing services and support for children in their care, unless there are emergency issues.*
- Children can be in care for two to three years and have ongoing speech difficulties and psychological problems with no support and assistance.*

## **Recommendations**

**The Committee recommends that:-**

**(92) *When a child enters State Care, as part of their Care Plan, there should be a medical assessment, an appointment with a paediatrician, developmental assessment, trauma assessment and/or mental health assessment as part of an intervention/treatment plan with ongoing therapy or treatment as determined in that Plan. Counselling should be made available at the earliest opportunity.***

### ***Mental health services for adults and children***

8.23 This issue of mental health support for adults and children was also raised:

*... the Crisis Assessment Teams (CAT) only operate from 8am to 8pm on weekends. Consequently, families, children and young people, particularly those in care, have to go directly to the hospital. This can be extremely difficult for families and those operating residential settings to manage, particularly if the young person refuses or is incapable of being transported. Often the only option left would be to call the police for assistance. Additionally, because there is no secure adolescent facility within the hospital, children and young people are admitted and discharged within a short time frame or held on another inappropriate ward.*

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<sup>252</sup> Charlton, Hansard, 8 November 2010.



*I RECOMMEND that a review is conducted into the Child and Adolescent Mental Health Service to ensure that this service has an early intervention and preventative focus. I RECOMMEND FURTHER that CAT teams operating hours are extended to 24 hours a day/7 days a week and that a secure adolescent facility is established as a priority within the hospital.<sup>253</sup>*

- 8.24 The ability to access mental health and alcohol and drug abuse interventions was also raised by the Deputy Secretary (Human Services), Alison Jacob:

*It is patently obvious from the statistics provided earlier in this submission that a very high proportion of children enter the child protection system and remain in the system because of parental mental health and drug and alcohol issues ... it is self evident that interventions that address adult mental health and alcohol and drug misuse will have a significant effect on the number of children who enter the child protection system and out of home care. It is also clear that strategies to return children to the care of their parents depend in many cases on effective mental health and drug and alcohol interventions being in place.<sup>254</sup>*

- 8.25 And also by the University of Tasmania:

*Adult treatment or support services – particularly those addressing domestic violence, substance misuse and mental health issues, as well as housing, gambling, disability, employment and income support services – need to be more child-focused, and responsive to the needs of families.<sup>255</sup>*

- 8.26 The Tasmanian Branch of the Australian Association of Social Workers gave evidence that there was an implied assumption in Child Protection Services that people with mental illness did not recover:

*My issue with Child Protection is about an implied assumption that people with mental illness do not recover. From the experiences of some of the participants in our program, they are assumed to be a risk just because they have a mental illness. To me this sounds like discrimination. Mental illness is not seen as something that people get over such as a diabetic coma. A person with diabetes who gets the shakes and can't do the housework is not automatically seen as a risk to children. People understand that diabetes can never recover even though they might need medication all their lives. Sometimes symptoms of a mental illness, such as a disorganised household, are defined as lazy or not caring for a child rather than a symptom of an illness eg depression.<sup>256</sup>*

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<sup>253</sup> Commissioner for Children submission, p. 14.

<sup>254</sup> Jacob, submission pp. 15-16.

<sup>255</sup> Taylor submission, p. 8.

<sup>256</sup> Australian Association of Social Workers (Tasmanian Branch), p. 4.

## *Findings*

- (99) The Crisis Assessment Teams only operate from 8am to 8pm, so families, foster carers, children and young people dealing with mental health issues, have to go to hospital outside these hours. If the young person is in residential care or a Shelter, this is extremely difficult to manage. The only other option is to ring the police.*
- (100) There is no secure adolescent mental health facility in Tasmania, and children and young people are admitted and discharged within a short timeframe, or held in an inappropriate ward.*
- (101) Interventions that assist and support parental mental health and drug and alcohol issues will have significant effect on the number of children who enter the child protection system.*
- (102) Strategies to return children to the care of parents depend in many cases on effective mental health and drug and alcohol interventions being in place.*
- (103) There is an implied assumption in Child Protection that people with mental illness do not recover; that parents are assumed to be a risk because they have a mental illness.*

## *Recommendations*

*The Committee recommends that:-*

- (93) A review be conducted into Child and Adolescent Mental Health Services to ensure this service has an early intervention and preventative focus.*
- (94) The Government review access to community mental health services for adults who are parents, to ensure that services are more responsive to parents and that children in these families are not put at risk.*
- (95) Children who have been removed because of neglect or abuse as a result of drug and alcohol problems, or mental health problems, should only be returned to care of parents where drug and alcohol intervention, or mental health support has been put in place and there should be ongoing monitoring for a period of time..*
- (96) Crisis Assessment Teams should be operating 24 hours a day, 7 days a week.*
- (97) A secure and dedicated child and adolescent mental health facility must be established in Tasmania as a priority.*

**(98) *Discrimination based on mental illness has no place in any 21<sup>st</sup> century child protection system; both Child Protection Workers and Family Support Workers need to be able to access training and professional development to understand that some people with mental illness do not recover but are able to adequately manage their illness to be able to responsibly care for their child/children with support if needed.***

### ***Drug and Alcohol services***

8.27 The submission from the Commissioner for Children states as follows in relation to drug and alcohol services:

*As a community we need to recognise that alcohol and drug problems frequently occur before the age of 18 years. Services for drug and alcohol are patchy and difficult to access particularly for adolescents.*

*Recommendation: That alcohol and drug services and adolescent mental health services are adequately resourced and available state-wide.<sup>257</sup>*

8.28 A Barrister who frequently appears as a Separate Representative for children who are subject to Care and Protection Orders gave evidence that most child protection matters are because of violence, neglect and/or poverty, directly caused by drug use:

*Drug testing is a tremendously good tool for getting good reliable evidence before a Court. And whilst it is often performed, it is performed not nearly enough. So often I am told that funding for drug testing will be sought, and this can take weeks. And if and when some limited testing money does come through, the clients (almost all of whom live north of Creek Road) are told that they must find their own way to Sandy Bay Pathology for testing immediately (as the testing has to be done on the same day). If they do not attend it is assumed they would have failed the test.<sup>258</sup>*

The Salvation Army suggested the establishment of additional services to address issues of children under Orders, such as drug and alcohol, mental health, bail options and transitional housing.<sup>259</sup>

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<sup>257</sup> Williams Submission, pp. 5 – 6.

<sup>258</sup> Mooney submission, p. 3.

<sup>259</sup> The Salvation Army Child Protection Submission.

8.29 The submission from the Salvation Army also gave evidence about the young people coming to their therapeutic residential care services:

*Many residents presented at their new placements with long standing alcohol and drug usage issues. At present we are unable to utilise services as none are established that firstly specifically deal with adolescents and secondly have a clear understanding of the existing cyclical culture that keeps our residents entwined in substance use and abuse.<sup>260</sup>*

### **Findings**

- (104) The Committee received evidence that some children coming into therapeutic residential care services have long-standing alcohol and drug usage issues, but services available for children and adolescents with drug and alcohol issues are patchy or not available.***
- (105) Most child protection referrals are because of violence, neglect and/or poverty directly caused by drug use.***
- (106) Drug testing is not performed nearly enough and funding for drug testing is sought by the courts but could take weeks.***
- (107) Drug testing is offered in limited places which makes it difficult for clients to access, as testing has to be done on the same day as required; if clients do not attend, it is assumed they have failed the test.***

### **Recommendations**

***The Committee recommends that:-***

- (99) Alcohol and drug services for adolescents and young people need to be adequately resourced and available Statewide.***
- (100) Drug testing, when court-mandated, should be more accessible.***
- (101) Integration and collaboration between government and non-government organisations be strengthened..***

### ***Other Support Services, and ongoing Data Collection***

8.30 Ongoing data collection in relation to the health and wellbeing of Tasmanian children was raised by the Commissioner for Children:

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<sup>260</sup> The Salvation Army Child Protection Submission, p. 8.

*In 2008 the State Government initiated the Kids Come First project which aims to develop an outcomes based framework for children and young people 0-17 years in Tasmania looking at key indicators (health, wellbeing, safety, learning and development) that are seen to reflect the influences of child, family and community service systems. If the Kids Come First database is further developed and updated it has the potential to provide the data source for a regular report on the state of Tasmania's children and young people similar to that published in Victoria.*

*I RECOMMEND that there be ongoing support and adequate resourcing for the Kids Come First program, taking account of recommendations contained in the 2009 report.*

*I RECOMMEND FURTHER that the Minister for Children be responsible for producing an annual State of Tasmania's Children report.<sup>261</sup>*

8.31 The issue of difficulties with court-mandated referrals to social workers was raised:

*We receive referrals for clients who have no intention or interest in attending. We receive initial referrals which, when the immediate crisis has passed, are allowed to lapse with no further contact. We receive referrals where it is assumed that our services are free whereas they are not. We receive referrals for children placed with foster parents who then carry the responsibility for attendance or associated cost, without financial support ... it is difficult to understand how this may change without a very substantial financial investment: skilled, expert help is expensive.<sup>262</sup>*

8.32 The Committee received evidence on services for Aboriginal children:

*The over representation of indigenous children in the child protection system is unfortunately common to all Australian child protection systems. Additionally the outcomes for Aboriginal children in care continues to be cause for concern. Experience from other jurisdictions suggests that it is in the children's best interest to have greater involvement of the Aboriginal community in their care and provision. There have been preliminary discussions with the Tasmanian Aboriginal Centre (TAC) and child protection services regarding options for improving provision to Aboriginal children who are at risk of abuse or neglect. At present, there is strong support for the TAC to start taking responsibility for the care of Aboriginal children in out of home care in this State,*

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<sup>261</sup> Commissioner for Children, p. 28.

<sup>262</sup> The Blue Door, Deborah Klye, David Hunnerup, Andrew Harris submission, p. 1.

*perhaps beginning in one region. Budget negotiations have begun with a view to finalising a proposal for Government to consider.*<sup>263</sup>

- 8.33 Another participant said there were many examples of community projects and approaches that focus on building capacity in families, including approaches by local government. Some examples in the Clarence area include:

*Facing Up To IT – Playing Our Part (FUTI-POP) challenging family violence and safe kids in Clarence Plains project is a good example of the community working together in tackling sensitive community issues by encouraging everyone to play a role in creating a safer community.*<sup>264</sup>

### **Findings**

- (108) *The Kids Come First database has the potential to provide the data source for a regular report on the state of Tasmania's children and young people.***
- (109) *Court-mandated referrals for children, young people or adults to social workers are made on the misunderstanding that such services are free. Many of these referrals are made for clients who have no intention or interest in attending, leaving the social worker to pick up the cost of non-attendance, and impacting on scarce social worker resources. Often the referrals come after the initial crisis has passed with foster carers left to carry the associated cost of the social worker without financial support.***
- (110) *The over-representation of, and outcomes for, indigenous children in Child Protection is cause for concern.***

### **Recommendations**

***The Committee recommends that:-***

- (102) *It is in the interests of indigenous children in Out of Home Care to have the involvement of the Aboriginal community in their care and provision; the Government should progress negotiations with the Tasmanian Aboriginal Centre to provide out of home care to indigenous children.***
- (103) *The Kids Come First database should be further resourced and updated regularly following the recommendations in a 2009 report, and that the Minister for Children should be responsible for***

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<sup>263</sup> Jacob, Submission, p. 18.

<sup>264</sup> Angela Goldsmith, Youth Services Coordinator, Clarence City Council, submission, p 1.

*producing an annual State of Tasmania's Children report. The same report could report progress on strategies in the recently-released Agenda for Children and Young People.*

## 9. RESOURCING

### *Resourcing of Child Protection and Family Support systems in Tasmania*

- 9.1 The Committee received evidence as to the adequacy and resourcing of Child Protection and Family Support systems in Tasmania.

### *Resourcing of Child Protection*

- 9.2 The Committee heard evidence from a number of sources that the child protection system is under-resourced.
- 9.3 The Committee received a submission from the Australian Childhood Foundation which states as follows:

*Statutory child protection services are inadequately resourced. It is recommended that a major injection of funds be invested by the State Government to build the operational management infrastructure of the statutory child protection services. Child protection staff, in particular team leaders and supervisors, require substantially more resources to underpin a considered, planned and ongoing professional development program that delivers to them up to date and relevant training, mentoring and supervision. The system's future capacity for quality decision making and improved outcomes for abused children and young people rests in the development of a highly trained, highly skilled workforce in the child protection system. Improvements in the system's effectiveness will not occur without this strategic initiative.<sup>265</sup>*

- 9.4 The Committee received a submission from the Australian Association of Social Workers (Tasmanian Branch), which stated as follows:

*While acknowledging that reforms to address failures in the Child Protection system are underway, it is clear that the current service delivery system has become unsustainable and is struggling to meet demand. An example is the following statement provided by a Branch member:*

*As a former Child Protection Officer & a qualified Social Worker with 15 years experience I despair of the Child Protection System in this state, regarding the responses to the calls and professional notifications [that I make] on a daily basis ... Response by CP [Child Protection] is based on capacity to respond rather than level of need I firmly believe. Mainly responses are limited to cases of physical abuse, very little else is addressed.<sup>266</sup>*

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<sup>265</sup> Australian Childhood Foundation Submission, p. 3.

<sup>266</sup> Australian Association of Social Workers (Tasmanian Branch) Submission, pp. 2-3.



- 9.5 The Committee received a submission from the General Secretary of the CPSU, Tom Lynch, in which the following comments about the funding of child protection services were made:

*I think Child Protection workers do the best they can under the circumstances there are simply not enough of them to adequately meet the need.<sup>267</sup>*

*It makes no sense to under resource a system so that it fails and to then say the system its self needs to be reviewed. We contend that many of the failings within the Child Protection system have arisen as a result of a lack of resources.<sup>268</sup>*

*There is no transparent system in place to ensure the caseload allocated to a Child Protection worker is reasonable. Workers who are allocated more cases than they can properly manage are forced to 'crisis' manage them. Many workers spend a significant proportion of their time dealing with urgent situations that arise rather than being able to plan and review their cases. This often means finding solutions is more complex because intervention has come later than preferred and therefore more time consuming. Recently some managers have tried to address the crisis management approach by requiring case management plans to be completed within a set timeframe. When caseloads are excessive, all this does to focus overloaded workers on completing paperwork instead of dealing with children and their issues. There has been an increase in the administrative duties required by Child Protection Workers and implementation of new systems, which have also increased the time taken to complete such tasks. This all has the potential to place more children at risk.<sup>269</sup>*

- 9.6 The Committee questioned Mr. Lynch in relation to the extent of the under-funding of Child Protection Services. Mr. Lynch responded as follows:

*It's hard to put a number on it. I think partly it's hard to put a number on it because there is so much pressure in the system. We have a lot of people leaving, so we have a lot of vacancies. To see the perfect world where your current establishment was filled and you weren't having a change of systems and all the sort of things that have gone on, you might then be able to say 'I can now decide exactly how many additional positions there'll be'. I would guess it would be around that 20 to 30 mark of child protection workers additional in the system that would make a difference.<sup>270</sup>*

- 9.7 The Committee also heard evidence in relation to resourcing from the current Commissioner for Children, Ms.

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<sup>267</sup> CPSU Submission, pp. 1-3.

<sup>268</sup> Ibid., pp. 14.

<sup>269</sup> Ibid., pp. 1-3.

<sup>270</sup> Lynch, Hansard, 29 November 2010

Aileen Ashford. The Committee invited the Commissioner to estimate the quantum of the under-resourcing, to which Ms Ashford responded:-

*That is a difficult question but I can go to the out-of-home-care system. When KPMG did a review of that quite a few years ago now, the cost to make that system functioning and healthy was, from memory, around \$15 million. That is one part, obviously.*

*... I would think you are probably talking around \$30 million to \$40 million (that it is underfunded at the moment) ... If you look at the whole system, if you look at Child Protection within that, at the front end of the system in a way, if you look at proper training and resourcing of that workforce so that they have good outcomes for children, if you look at an out-of-home-care system which is officially being run by government and you look at foster care within that - and I am sure you have had many presentations by foster carers - if you look at where Child Protection are placing children because there are no placements out there, you look at foster carers who have four or five children placed with them, if you look at a family support system that wraps around it that is currently new and operating - and it's very early days yet so we don't know the results but we are seeing some good results, but they would say to you that they need more resources within that system - we have youth at risk, we have many children who are disengaged with school both within the residential services setting, family support and in Child Protection.*

*So we are not just looking at one level of the system, we are looking at all levels. I think that everyone has tried over many years to make it work and I think it has now come to the point where you look at other jurisdictions that have invested significant amounts of money into their child protection system.<sup>271</sup>*

- 9.8 Bravehearts told the Committee the crux of any child protection system is the adequate resourcing of both government and non-government services:

*Without adequate resources, no system can expect to adequately protect children or enhance family welfare ... the resourcing of child protection must reflect the levels of need and demand placed upon services. Early intervention and prevention services are often caught in the complex pincer movement of greater expectations of delivery and limited resourcing.<sup>272</sup>*

- 9.9 A family support worker, who wished to remain anonymous, said that child protection needed to be a 24 hour service:

Child Protection is a 24 hour job; it should be a 24 hour service, especially at weekends when binge drinking is rife and children

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<sup>271</sup> Ashford, Hansard, 29 November 2010.

<sup>272</sup> Bravehearts, Submission, p. 10.

tend to go hungry because the money has run out. Workers should be visible on a daily basis in the community.<sup>273</sup>

- 9.10 A CPSU member said while the Child Protection Service had just implemented the new Child Protection Information System, further funding was needed to get other systems to the same state, including a replacement for YJIS (Youth Justice Information System).<sup>274</sup>
- 9.11 Similarly, the evidence to the Committee demonstrated that family support systems and universal services are under-resourced.
- 9.12 The Committee heard the following evidence in relation to this issue:

*We need more universal services out there that Family Support workers in the IFFS program can actually refer families to. If I look at the north west area there is a real gap for mediation and counselling services for adolescents particularly, and for family mediation there is very little at all in the north-west area. It is about actually having the universal services to refer families to, to get the support that is needed.*<sup>275</sup>

*We are finding, and staff are feeding this back, increasing lack of universal services out there, particularly in the north-west and outside the Burnie-Devonport area, and then in the south-east outside the metropolitan area - the Eastern Shore, Bridgewater, the east coast, the Midlands and the Central Highlands, and certainly the west coast and the far north-west. For issues around drug and alcohol, family counselling, mental health services, our staff would love to be able to refer to some of those other services as well. That would be one key thing that staff are feeding back quite regularly.*<sup>276</sup>

- 9.13 The Committee also heard about lack of resources to support families in need in the community:

*Overspending in some areas of the Department means there is a lack of brokerage funds to assist families in need. Brokerage funding for families needing assistance should be quarantined from general budget expenditure in order to ensure availability of such funding.*<sup>277</sup>

- 9.14 Evidence was received linking resourcing to response times and outcomes:

*When families have agreed to be referred to Gateway services the response time in contacting/visiting is often crucial to the*

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<sup>273</sup> Gutwein, Submission.

<sup>274</sup> CPSU, Submission, p. 6.

<sup>275</sup> Lee, Hansard, 23 November 2010.

<sup>276</sup> Mundy, Hansard, 21 December 2010.

<sup>277</sup> Gutwein, Submission.

outcomes. With this in mind adequate staff resourcing needs to be taken into consideration to ensure there is the capacity to engage with families in a very short time frame once referrals have been made ... in our experience staff is dedicated and skilled however the overall capacity of staff to respond to reports through the DHHS Family Support and Child Protection Services is often stretched (depending on caseloads).<sup>278</sup>

### ***Resourcing of Therapeutic Counseling Services***

- 9.15 The Committee heard evidence from the Australian Psychological Society as to the need for improved resourcing of therapeutic counselling services which recommended:

*... increased funding to provide assessment and intervention for children who experience abuse and neglect. The Australian Childhood Foundation currently provides a service to clients of Child Protection only but it is under-resourced with a long waiting list.*<sup>279</sup>

- 9.16 The Committee received a submission from the Australian Childhood Foundation, which states as follows:

*The initial funding for the Child Trauma service of the Australian Childhood Foundation in Tasmania only allows for servicing of less than 30% of the potential population of abused children and young people under the care and supervision of the Department who require specialist therapeutic intervention and support. In addition, there are increasing numbers of requests for service from Department of Education and non-government services that cannot be responded to because of the limitation of funds.*

*The integrated approach by the Child Trauma Service to direct counselling with children and young people, and support for their carers, families, schools, child protection professionals and other related service providers addresses a number of the co-ordination problems inherent in the current system in Tasmania. It also builds networks of sustained support for children and young people in care based on a shared understanding of the ongoing development needs of the child. It is recommended that the Government make an additional allocation of recurrent funds to enable the expansion of the service to enable it to better meet the demand for its services.*<sup>280</sup>

### ***Resourcing of the Out of Home Care Sector***

- 9.17 The Committee received evidence in relation to the resourcing of the out of home care sector. The evidence

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<sup>278</sup> Angela Goldsmith, Youth Services Coordinator, Clarence City Council, submission, pp. 1-2.

<sup>279</sup> Australian Psychological Society (Tasmanian Branch) submission, p. 9.

<sup>280</sup> Australian Childhood Foundation Submission, p. 4.

demonstrated that the out of home sector is inadequately resourced.

- 9.18 The Committee received a submission from the Australian Childhood Foundation which states as follows:

*There is clear evidence that the out of home care system in Tasmania has been neglected over decades. The number of placements available for children and young people are inadequate. Children and young people are placed in households that are sometimes over crowded. Some placement environments are stressful and indeed cause additional harm to already traumatised children and young people. Carers are under increasing stress to manage and meet the needs of an increasingly complex and significantly traumatised population of children and young people in care. Carers receive limited training and little ongoing specialist support to be able to create relationship environments for children that can stabilise children's behaviour and over time resource their recovery and wellbeing. There is little attention to matching the skills and styles of carers to the needs of children and young people placed in care. There are no therapeutically oriented programs of family based care in Tasmania, despite the research and evidence from all other jurisdictions that these programs are extremely effective in turning around the lives and outcomes for children and young people in the care system. In their 2008 Report (New Directions for Child Protection In Tasmania), KPMG produced a cohesive and achievable policy blueprint for the development of an effective and tiered out of home care system for abused and traumatised children and young people. It sets out an integrated framework of increasingly intensive layers of supported placement options for children and young people. The recent funding and outsourcing of Therapeutic Residential Care by the Tasmanian Government is the first component of this framework to be implemented. The implementation of the other types of care will require a much more massive investment by Government. Without it, there is no doubt that there will be little improvement in the problems of the child protection system in Tasmania.<sup>281</sup>*

- 9.19 The submission of Deputy Secretary (Human Services), Alison Jacob states as follows:

*The Tasmanian out of home care system currently has provision for formal and informal foster care that meets the needs of the majority of children who come into care and a specialist therapeutic residential care service designed for a small number of children and young people who require very intensive professional intervention. However, there are very few options between these two levels of care for children who require varying levels of support and intervention between these two extremes of the continuum. This might include more therapeutic foster care perhaps delivered by professional carers specifically trained for the*

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<sup>281</sup> Australian Childhood Foundation Submission, p. 3.

*purpose. In addition there is a lack of options available for children and young people who require residential mental health services. The need to expand the range of options was identified by the KPMG review of Out of Home Care and it would be appropriate to work towards increasing the options that are available in Tasmania, as funding is available.<sup>282</sup>*

## **Findings**

**(111) The Committee received evidence that:-**

- many of the failings within the Child Protection System have arisen as a result of a lack of resources;*
- Child Protection needs a major injection of funds and the current reform agenda will stall without a substantial resource allocation to address the impoverished and inadequate out of home care system and inadequate resourcing of statutory child protection services. Without these measures, there will be little improvement in the problems of the child protection system in Tasmania*
- a different approach with greater levels of interagency collaboration, streamlining, a diminished focus on risk aversion and a smarter way of going about business may mean a more robust child protection system can be created.*

**(112) Resources to Child Protection must reflect the level of need and demand.**

**(113) Investment in early intervention appears to offer the best value for families, community and the Government.**

**(114) Gateway is an effective early intervention mechanism for families and children at risk who do not require statutory child protection intervention. However, there was conflicting evidence with some evidence the Gateway had reduced the likelihood of families slipping through service gaps and contrary evidence that a major fault of the new system is the risk of families falling through the gap between the Gateway and the statutory Child Protection System.**

**(115) Families and children at risk are moving between Gateway Services and Child Protection Services with the inevitable delays in addressing the risks.**

**(116) At times, the responsibility and pressures on a single Child Protection practitioner located in the Gateway is evident, particularly if that**

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<sup>282</sup> Alison Jacob submission, pp. 16 – 17.

*practitioner is not replaced in long periods of unplanned sickness or leave.*

- (117) Gateway family support services and, more particularly, Integrated Family Support Services would be strengthened and improved by more resources to allow workers to spend more time with complex family support cases. This would also prevent the difficulties faced by Gateway with "active holding" and constant re-prioritisation through Weekly Allocation meetings.*
- (118) There is a lack of universal family support services for Gateway to refer families to.*
- (119) Single family support worker models are unsafe, especially in remote areas. This can place the lone worker at risk.*
- (120) Once a family at risk is referred to support services, the case is closed without waiting to ensure the family has engaged with the service. Gateway has no power to require or mandate families to accept services, and engagement of some families is difficult.*
- (121) The Committee received evidence that referred families and children at risk are being monitored by staff with no, or unknown, professional qualifications and training, and no accountability for these cases and their judgments.*
- (122) There was a lack of availability of consistent data from the Gateway Services.*
- (123) Referral to Gateway Services by Child Protection Services should not be an indication of any change in the level of risk until a family support service has been engaged and the engagement has been evaluated and risk has been reduced to an acceptable level.*
- (124) Gateway do not advise Child Protection when a family has "disengaged" from their service, even if Child Protection has referred that family to Gateway. This increases the risk of children falling "through the cracks".*
- (125) There is insufficient resourcing of child trauma services for children and young people in out of home care, with only 30% of children able to access this support. Referrals from the community sector and Education Department cannot be met because of funding limitations*

## *Recommendations*

*The Committee recommends that:-*

- (104) Greater investment be made into the child protection system in Tasmania, including tertiary statutory child protection services which ensures professional training, mentoring and supervision of workers, family support services and out of home care.*
- (105) The workload and caseload of Child Protection workers should be manageable and should be monitored to ensure it is manageable within established ratios.*
- (106) Modern workplace portable technologies must be considered to enable Child Protection and Family Support Workers to undertake reporting, planning and communications whilst out in the field.*
- (107) Appropriate training and support be provided to Child Protection workers to enable them to up-skill and obtain appropriate qualifications.*
- (108) Support for the gateway model should be continued.*
- (109) Collaborative and joint family visits between Child Protection Workers and Family Support Workers for addressing disagreements about the level of family risk should be utilised more and addressed in Protocols and MOUs.*
- (110) Continual review of MOUs between Gateway, IFSS and Child Protection is needed.*
- (111) Gateway workers should have knowledge of the Child Protection System.*
- (112) Child Protection positions at each of the Gateway service locations must be backfilled when there is any unplanned leave/sickness. This would also have the benefit of succession planning, ongoing skill development and would "limit the number of families that may potentially fall through the gap between the two services".*
- (113) Joint training opportunities in skills and risk identification should be provided and resourced by DHHS.*
- (114) There is a need for increased investment in universal services, including mediation and counselling services for adolescents, drug and alcohol treatment and mental health services.*
- (115) Gateway family support services and, more particularly, Integrated Family Support Services would be strengthened and improved by more resources to allow workers to spend more time with complex family support cases. This would also prevent the difficulties faced*



*by Gateway with "active holding" and constant re-prioritisation through Weekly Allocation meetings.*

- (116) Efforts should be made at all times to ensure the safety of Child Protection and Family Support workers when they are attending visits to the homes of families. A risk assessment must be undertaken for single-worker visits.*
- (117) If a family at risk refuses to engage with support services, and there is ongoing risk, the matter should be re-referred to Child Protection Services.*
- (118) The Government investigate best practice data collection systems for its family support partners in the Gateway Services.*
- (119) Additional resourcing be provided to enable the expansion of Statewide trauma services for abused children and young people to ensure more than 30% of children in care can access such services.*

## 10. INTERACTION BETWEEN AGENCIES

### *Existing models of interaction (MOUs etc)*

- 10.1 The Tasmanian Government Submission detailed the existing models of interaction between agencies. The submission states as follows:

*A number of formal collaborative arrangements exist across the State Service to facilitate and support the provision of services to vulnerable and at risk children. These arrangements exist between Child Protection Services and other units within DCYFS in DHHS, Tasmanian Government agencies, Commonwealth Government agencies and NGOs.*

*DCYFS is responsible for the delivery of a number of services which often have common clients. In October and November 2008, Youth Justice and Disability Services respectively joined the then Children and Family Services to form DCYFS. This structural change was made with the express purpose of facilitating better collaboration across these services where there are common clients.<sup>283</sup>*

- 10.2 The existing models of interaction are summarised below.
- 10.3 Child Protection and Youth Justice Services - A protocol exists between these two services recognising that each service has a different focus and is governed by different legislation, and it is necessary to clarify roles and processes. When a young person is subject to both child protection and youth justice intervention, the key principles are:
- Remaining client-centred.
  - Maintaining communication between workers at all times to ensure best outcomes for the child or young person.
  - Ensuring the family and community is involved wherever possible and appropriate.
  - Being culturally sensitive and responsive.
  - Ensuring strengths-based practice; and
  - Sharing evidence across disciplines between professionals involved in the case.<sup>284</sup>
- 10.4 Child Protection and Disability Services – A policy and practice guideline exists between Disability and Child Protection Services. The policy and practice guideline

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<sup>283</sup> Tasmanian Government Submission, pp. 53-55.

<sup>284</sup> *Ibid.*, pp. 55-56.

between the two services outlines the DHHS position on the service response to children who have both a disability and a potential for or existing protective concerns. It contains 14 principles and practices that underpin service delivery as well as the agreed principles and practices that will be undertaken when responding to children and young people who need support and services from both Disability Services and Child Protection Services.<sup>285</sup>

10.5 Child Protection and Children and Young Persons Program (CHYPP) – a collaborative referral protocol exists between Child Protection Services and CHYPP. The protocol establishes the working agreement and processes to facilitate a joint understanding of professional expectations, and the practicalities of working with shared/mutual clients. The principles of the protocol are:

- The safety, wellbeing, needs and best interests of children and young people will be considered the priority in all cases;
- Collaboration and partnership between programs is to be promoted as they strengthen the protection of children against abuse and violence; and
- Exposure to family violence is considered a serious risk to the health and physical and emotional wellbeing of children.<sup>286</sup>

10.6 Child Protection and Child Health and Parenting Service (CHAPS) – while there is no formal Memorandum of Understanding between Child Protection Services and CHAPS there are protocols around CHAPS involvement in notifications of concern about unborn children.<sup>287</sup>

10.7 Police and Child Protection – a Memorandum of Understanding (MOU) exists between Tasmania Police and DHHS (Child Protection Services). This MOU was revised in April 2010 and its intention is to promote a collaborative working relationship which ensures the safety and protection of children and young people. The MOU provides the foundation for area based collaboration between the two services including – regular meetings to

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<sup>285</sup> Ibid., p56-57

<sup>286</sup> Ibid., p57

<sup>287</sup> Ibid., p57

discuss any client issues, participation by the two joint services in Inter Agency Support Teams, referrals of potential criminal abuse or neglect and joint investigation approaches.<sup>288</sup>

- 10.8 Child Protection and Department of Education (DoE) – a number of findings and recommendations contained within the Report on Child Protection Services related to the relationship (and common clients) between Child Protection Services and DoE. As such, improving the relationship (and sharing of information) was a key project undertaken as part of the implementation of that Report. One key outcome of this project was the development of a Partnering Agreement between the two agencies. The Agreement sets out key principles to enable both agencies to work together to improve the educational outcomes of children in OOHC. The agreement covers agreed working arrangements:
- School enrolment;
  - Supporting achievement/case management (including Individual Education Plans);
  - Supporting School Attendance;
  - School Retention; and
  - Monitoring of Student Outcomes.
- 10.9 A ‘Children under State Care Partnership Review Group’ has also been established with DHHS and DoE. It is moving toward streamlining documentation and communication around children who are in State Care.<sup>289</sup>
- 10.10 Child Protection and Australian Government Agencies – while the Tasmanian Government is responsible for the delivery of statutory Child Protection Services and provides other services as part of a broader system for protecting children, the clients of these services often deal with Commonwealth Government agencies, including Centrelink, the Family Court of Australia, Medicare and the Department of Immigration and Citizenship. As part of the development of the National Framework, the Commonwealth, state and territory governments have developed a protocol to facilitate the sharing of information

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<sup>288</sup> Ibid., pp. 57-58.

<sup>289</sup> Ibid., p. 58.

between the Commonwealth Government agencies and statutory child protection authorities.<sup>290</sup>

10.11 Housing Tasmania – under the Tasmanian Homelessness Plan Coming in from the Cold<sup>291</sup>, Housing Tasmania has agreed to either lead or contribute to a number of actions that will help improve the welfare of at risk children and young people. These include:

- Improving integration and co-ordination across the social housing system and with mainstream services through the Service Coordination and Improvement Program. This will include developing common assessment and application processes and a common waitlist.
- Developing a whole-of-government protocol for proactive referral processes and sharing of information between organisations, and establishing a lead case management model to better assist at risk clients in a consistent way across organisations.<sup>292</sup>

10.12 Child and Adolescent Mental Health Services (CAMHS) and Youth Justice – CAMHS has one formal MOU with Youth Justice and one under development with Child Protection. CAMHS put in place clinical treatment programs for children with complex mental health problems associated with attachment and trauma as a result of past abuse. CAMHS provide support to Child Protection Services by providing them with secondary consultations, individual and family assessments, therapeutical planning and consultations and training.<sup>293</sup>

### ***Interactive Service Delivery Mechanisms***

10.13 The Tasmanian Government Submission identified a number of integrative service delivery mechanism currently in place. These are summarised below.

10.14 Care Teams – Care Teams are established to promote co-operation and collaboration between all people involved in providing care and protection to a child or young person in

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<sup>290</sup> Ibid., pp. 59.

<sup>291</sup> Launched on 24 September 2010, access via: <http://www.dhhs.tas.gov.au>

<sup>292</sup> Tasmanian Government Submission, pp. 59-60.

<sup>293</sup> Ibid.

state care. They focus on collaboratively doing all the things that parents generally do for their child. In order for Care Teams to be effective, all available information about a child that enhances opportunities for better care must be shared by and with all members of the team.<sup>294</sup>

- 10.15 Case Planning – information on the Case and Care Plans for the future of the child detail the reason for intervention and the overall plan for the child. It also includes a list of the goals that need to be reached in order to achieve the overall plan, as well as the rationale behind the plan, tasks, timelines and people responsible for undertaking them.<sup>295</sup>
- 10.16 Care Planning – the Care Plan identifies the child’s needs and describes how these needs will be met while they are in OOHC. Those with the most knowledge of and responsibility for the child need to work together to establish shared goals and ways of achieving these based on the child’s needs, the strengths of the family and the services and supports available. This is a process involving extensive collaboration.<sup>296</sup>
- 10.17 The Committee sought from the Minister for Children a progress report of the of the following matters:-
- *alignment of DCYFS’ geographical boundaries with those of DoE and DPEM to make collaboration in service delivery easier between agencies;*
  - *regional AAGs and the SAG;*
  - *whether a position has been established to have responsibility for all policy and strategic matters related to children across the three relevant agencies: Health and Human Services; Education; and Police and Emergency Management.*

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<sup>294</sup> Ibid., pp. 60-64.

<sup>295</sup> Ibid.

<sup>296</sup> Ibid.

## 10.18 The Minister responded:-

*Alignment of Disability, Children, Youth and Family Services' (DCYFS) geographical boundaries with those of the Department of Education (DoE) and the Department of Policy and Emergency Management (DPEM) to make collaboration in service delivery easier between agencies.*

- In late 2010, DCYFS was split into Disability, Community and Housing Services (DCHS) and Children and Youth Services (CYS) to mirror the Minister's for Human Services and Children. Despite this split, each service stream retained the four operational areas across the State, and these regions are consistent with those used by DoE and DPEM. More recently in 2011, CYS has moved to having one Area Director for the two southern regions, although separate program managers for Child Protection Services (CPS) and Youth Justice have been retained. Disability Managers now report to the Director of DCHS rather than the Area Directors.
- A key recommendation of the CPS, Out of Home Care, Family Support and Disability Services sectors reviews was for integrated service delivery utilising shared governance at a statewide and area level.

*Regional Area Advisory Groups (AAGs) and the Statewide Advisory Group (SAG).*

- As a result, Area Advisory Groups (AAGs) were established in August 2009, and a Statewide Advisory Group (SAG) was also established.
- AAGs have co-chairs, the Department of Health and Human Services' Area Director and a nominee from the sector, and the Government and community sector organisations are working in partnership to undertake needs based planning at a community level as well as to identify service gaps and strategies to address them.
- The initial focus for the AAGs was to develop Area Plans, and these will go to the SAG when it next meets. Once the Area Plans are approved, the AAGs will focus on the implementation of the plans in each area.

*Whether a position has been established to have responsibility for all policy and strategic matters related to children across the three relevant agencies: Health and Human services; Education; and Police and Emergency Management.*

- *Our Children Our Young People Our Future* is Tasmania's Agenda for children and young people. Launched by the Premier, the Hon Lara Giddings MP, on 7 July 2011, it outlines the Tasmanian Government's strategic direction for children and young people over the next 10 years. *Our Children Our Young People Our Future* describes a vision for all Tasmanian children and young people to enable them to realise their full potential in life.
- The Ministers for Children, for Education and Skills, and for Police and Emergency Management have appointed an Oversight Committee which has the overarching responsibility for the delivery of the Tasmanian Government's Agenda for children and young people. The Oversight Committee comprises the Secretaries and Deputy Secretaries of the Departments of Health and Human Services, Education and Police and Emergency Management, and exercises the highest level leadership and decision-making on the Agenda activities.
- The Office for Children was established to lead the implementation of *Our Children Our Young People Our Future* in partnership with the Government and other sectors. The Office

for Children is a collaborative arrangement between the three participating agencies to enable better cooperation and coordination between them in relation to supports and services for children and young people. The Office is led by the Deputy Secretary, Children, who is also a member of the Oversight Committee.

- The governance arrangements in place to support the Agenda ensure there is action, accountability and collaboration across agencies in the interests of delivering better outcomes for Tasmania's children and young people

10.19 However, despite all these MOUs, processes, mechanisms and protocols, the Committee heard that there was limited evidence integration of responses was occurring:

*Despite a series of reports which have recommended the need for better integration of responses between the key pillars of the child protection system in Tasmania, there is limited evidence that this is occurring ... Improved service coordination around the needs of children and young people will more likely result from top down policy and management leadership.<sup>297</sup>*

10.20 One family support worker, who wished to remain anonymous, stated:

*There is a family living in squalor with dog faeces on the furniture and rats in the kitchen. This is a Housing Department property and when enquiries were made as to whether the home had been recently inspected the answer was "no". A suggestion that it may be a good idea as there were small children living in the home was met with the response "what do you want me to do about it?"<sup>298</sup>*

10.21 Tasmanian members of the Australian Association of Social Workers also gave evidence on this:

*When working with children at risk relationships between service/institution stakeholders are often strained due to a culture of risk aversion and blame, rather than a culture of collaboration. This is often exacerbated or facilitated by a lack of communication ... CP are meant to share information with other professionals and they fail to do so ... CP input at IAST meetings is scant and contains no real substance. The information they bring is often weeks out of date.<sup>299</sup>*

## **Findings**

**(126) There is evidence of limited interaction between Departmental Agencies and Child Protection actually occurring.**

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<sup>297</sup> ACF submission

<sup>298</sup> Gutwein MP, Submission, p. 2.

<sup>299</sup> Australian Association of Social Workers (Tasmanian Branch), p. 4.



*(127) The Committee received evidence that in relation to interagency cooperation, relationships between stakeholders is often strained due to a lack of communication.*

### ***Recommendations***

*The Committee recommends that:-*

*(120) All existing MOUs be reviewed with the objective to ensure best practice, and strengthened communications between Child Protection Services and Departmental agencies.*

*(121) The Government must have clear protocols to ensure positive interaction and collaboration between key stakeholders and professionals to reduce the culture of risk aversion and blame, facilitate better communications and share information for better outcomes for the child and family.*

### ***Information Sharing/Co-ordination and Collaboration between Government agencies and Community Sector Organisations***

10.22 The Committee received evidence as to the need for a coordinated, collaborative approach and information sharing between Government agencies and Community Sector Organisations.

10.23 The Committee considered the need to prevent children from 'falling through gaps' by strengthening the relationship and protocols between Child Protection and Family Support Services.

10.24 There was much evidence to the Committee that interaction between various Government Agencies was not optimum.

10.25 One submission raised the lack of interaction between various Government agencies, including Child Protection Services and Housing Tasmania, Child Protection Services and the Family Court, and Child Protection Services and Police, and suggested there be a Child Protection Worker or Family Support Worker attached to schools, or in school areas. It stated:

*Courts are allowing access of the child/children to both parents, even when this means the child is sent to stay with the person who has harmed them.<sup>300</sup>*

*Police are frustrated by the lack of response to child protection issues. On one occasion child protection workers instructed an IFSS worker to call the police and when they arrived they stated it was not a police matter and why weren't child protection dealing with it as the family was well known to them?<sup>301</sup>*

10.26 Another raised the non-integrated approach to service delivery:

*There is also a very non-integrated approach to service delivery with multiple services providing specialist interventions which are limited and if the circumstances change, these services disengage and tell the family to seek support from another organisation. For example, a family with a frequently running away child may engage with Good Beginnings while the child is at home to get support around parenting and the parent/child relationship, but if the child runs away they are told to go to Reconnect. Then if the child returns, Reconnect advises engagement with another service to work on their relationship in the home.<sup>302</sup>*

10.27 Witnesses from the University of Tasmania School of Social Work gave evidence of a 2009 research study in relation to professional collaboration:

*... while the importance of good information flow and professional collaboration between departmental based child protection services and other community based welfare professionals is clear, welfare professionals currently hold a negative view of the departmental child protection services and its staff and this hampers collaboration. On a positive note, the study found that welfare professionals in the study expressed a willingness to move towards addressing these issues and becoming agents for change themselves. The study recommended the development and provision of integrated interagency education sessions and training days for all professionals and organisations; the implementation of a feedback mechanism/procedure within the Child Protection Services and between welfare professionals in other agencies and organisations to ensure that the knowledge and experience of all workers, including those at 'ground level' are listened to, respected and considered in planning and decision-making; the evaluation of risk-based procedures with*

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<sup>300</sup> Gutwein, Submission 6, p. 2.

<sup>301</sup> Ibid., p. 4.

<sup>302</sup> CPSU submission, p. 6.

*a consideration of the benefits of a strengths approach through exploring the possibility of fully implementing the “Signs of Safety” approach and addressing the use of the Tasmanian Risk Framework; and a review of the recruitment processes within Child Protection to ensure credibility of their role.<sup>303</sup>*

10.28 The Tasmanian Catholic Education Office gave evidence on this matter:

*Communication between Child Protection Services and outside services needs to be strengthened to allow greater information sharing about children at risk. Because of perceived significant caseload pressures, it’s hard to see how child protection workers would have the capacity to network with outside services with a view to benefitting their client group. This works against the provision of best practice care and service delivery.<sup>304</sup>*

10.29 Bravehearts also commented on this issue:

*Bravehearts believes that a Statewide partnership taskforce should be established to strengthen the coordination between Government and non-government agencies. In contrast to the statutory role of the Government departments, the supportive service provision functions of non-government agencies provide an essential and valuable mechanism for increasing the ability to provide necessary services to children and families in need. It is generally accepted that a well-coordinated child protection system, inclusive of non-government agencies, leads to more effective interventions and improved service delivery.*

*Bravehearts [also] recommends the Tasmanian Government consider the introduction of Child Protection Directors across all Government Departments and that these Directors become the contact point for all external department inquiries around child protection matters pertaining to their Department.<sup>305</sup>*

## **Findings**

**(128) Community-based “welfare” professionals hold a negative view of Child Protection Services and this hampers collaboration.**

**(129) A recent study found a willingness of all stakeholders to move towards addressing information sharing and professional**

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<sup>303</sup> Taylor, Submission, pp. 5-6.

<sup>304</sup> Tasmanian Catholic Education Office submission, p. 1.

<sup>305</sup> Bravehearts, Submission, p. 10.

*collaboration through integrated interagency education sessions and training days. As well, implementing a feedback mechanism within Child Protection Services with Agencies and community-based professionals.*

### **Recommendations**

**The Committee recommends that:-**

**(122) Child Protection Services should be adequately resourced to allow for networking with outside services for best practice care and serviced delivery for children and families.**

### **Information Sharing**

10.30 The importance of information sharing, and the deficiencies in the current information sharing practices, were noted in the Tasmanian Government submission, which stated as follows:

*A key component of any integration or collaboration across services is the sharing of key information. Sharing information across services is essential practice when responding to children and young people at risk of harm and abuse. Information sharing enables collaborative practice, which needs to be underpinned by a willingness to share and exchange information to enable the best outcomes for the children in our care and the families we seek to support. It is important that external service providers who are already involved with the family remain involved and have sufficient information to continue to provide safe and effective services. Often those who are already engaged with the family or child are best placed for an effective short-term intervention.*

*While the 2009 amendments to the CYPTF Act included amendments to ensure there was no barrier to information sharing, it is the day-to-day activities undertaken by service providers that ensures this valuable practice is observed. While the information sharing arrangements for children known to Child Protection have been discussed in the previous section under legislation, concerns remain (regarding breach of confidentiality) over sharing information on a child not known to Child Protection. Currently the IASTs that are managed by DPEM (and the Collaborative Case Conferencing in the North), operate throughout Tasmania but only cover a small number of children and young people. Problems continue to occur with lack of information sharing between relevant agencies and an inconsistent approach throughout Tasmania.*

*Possible avenues to explore to resolve this matter include amendments to legislation and the establishment of a joint agency coordination unit responsible for overseeing children's and young people's issues. These options are outlined below:*

- *confidentiality provisions could be amended in the relevant legislation to specifically permit the exchange of information between Government agencies and/or contracted parties for the purpose of supporting and working for the benefit of children and young people. The information sharing provision, Section 37 in the Family Violence Act could be used as a model for information sharing; and*
- *a joint agency coordination unit could be established with responsibility for overseeing children's and young people's issues including the coordination of service delivery. It could also deliver training opportunities, such as investigative training workshops. Officers from different agencies could be seconded to the unit to work closely together. It would be beneficial to develop a data warehouse to capture case notes from multiple departments relating to individual children and their families. Access would be restricted according to business needs.<sup>306</sup>*

10.31 Deficiencies in the current information sharing practices were also noted in the submission of the Commissioner for Children, which stated as follows:

*The following examples of deficiencies in information sharing suggest there is an immediate need to review legislation and practices to ensure that an integrated and collaborative approach to the safety and well being of children and young people can be implemented across Government and NGO services.*

#### *1.1 Information sharing and service provision generally*

*NGOs with an agreement with the Tasmanian Government to provide health, welfare, residential etc services wholly or partly for children are "personal information custodians" for the purpose of the Personal Information Protection Act 2004. This restricts the use of information obtained by these organisations.*

*Information sharing between Child Protection and Gateways is subject to the legislative provisions in the Children Young Persons and Their Families Act 1997, as amended in 2009 and facilitated by a November 2009 Memorandum of Understanding between Child Protection and Gateway Services. Staff working within Gateways, Integrated Family Support Services or any other organisations involved in the delivery of services to children and their families may share*

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<sup>306</sup> Tasmanian Government Submission, pp. 75-76.

*information received from clients with Child Protection if there are concerns regarding the safety and well being of a child.*

*Section 53B of the Children Young Persons and Their Families Act provides that the Secretary of DHSS may share information with an "information sharing entity" or may require that entity to provide relevant information when assessing a child's circumstances.*

*Although information sharing entities may share relevant information with each other it is only the Secretary of the Department (or an authorised officer under the Children, Young Persons and Their Families Act) that may compel production of relevant information.*

*Therefore Gateway Services are not empowered to compel production of relevant information from other agencies such as the Police or Mental Health.*

*I RECOMMEND that Government undertake a review of current practice and legislation governing information sharing as between Gateways and Government agencies to assess whether Gateway services are being denied access to information that would otherwise be relevant to the performance of their functions.<sup>307</sup>*

10.32 The Commissioner also raised the fact that NGOs are excluded from Inter Agency Support Teams:

*This raised the question of how the young person's needs can effectively be addressed when the most appropriate service may not be involved in the process. This could become even more problematic once out of home care is fully outsourced meaning that the service provider could be excluded from IAST meetings. I RECOMMEND that if the whole of the young person's needs are to be addressed, as is the aim of the IAST, then NGOs must be included in the process and the current format and information sharing must be amended.<sup>308</sup>*

10.33 The information sharing practices with regard to NGOs was also raised in the following submission:

*I have been involved with a family with many risk factors. They have a young daughter diagnosed with a potentially life-threatening, lifelong illness which requires ongoing support from educators at the hospital, nursing staff and medical staff. The mother has issues with drug dependency, the father has alcoholism and they have another child with severe behavioural problems related to some of their parenting issues and attachment. When the daughter was diagnosed with her illness we attempted to contact Housing and Child Protection. We were very concerned about the parents' ability to parent*

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<sup>307</sup> Commissioner for Children, Submission, pp. 8-9.

<sup>308</sup> *Ibid.*, p. 10.

*this child with her added illness, because they were already struggling. A Child Protection notification was downgraded to a Gateway notification, who then handed it onto an NGO attached with their group to do home visits to check that the family were getting along okay. I continued to have concerns about the care the family was able to provide for their daughter. They are very loving parents who want to do the best and they came in asking for help. They agreed to a Child Protection referral because they thought it would help them access better services. We discovered on our last re-notification that the home visiting service, which had an untrained worker who was meant to be going out to the home in a rural area north of Hobart, had the wrong address and hadn't visited for at least three months. The neighbours informed us that the family had moved away. They had tenuous housing placements; Housing had been unable to find them accommodation closer to town for medical services. As clinicians we had been terribly worried about the high risk for this family. Child Protection didn't think it was the same risk and so downgraded it to a point where somebody with no psychological, child development, or parenting support training was doing the home visits and who didn't pick up that the family being absent increased the risk to these children. Fortunately nothing has happened. The daughter could have died from lack of medical attention had something gone wrong in the interim. To get that case re-upgraded has taken a large amount of intervention from our part at the hospital saying, 'What is happening?', because there isn't that scrutiny of what the NGOs are doing in the name of Child Protection or Gateway. They are very well intentioned but we don't know, when we make a referral, what level of service will be provided to a family and what follow up there will be. Is somebody saying, 'Have you seen the family this week? How are they doing? These are the indicators of health care and healthy family functioning and development progress: are they being met? No. Then let's get somebody more senior involved.' It is as if the family gets allocated and a box is ticked and they're pushed to the side and not seen again. We know families change; there are times of high stress, low stress, kids who need more help or less help, and yet our allocation service using the NGOs doesn't acknowledge that families' needs may vary over time.<sup>309</sup>*

10.34 Information sharing was also raised by a CPSU member in the union's submission to the Committee:

*We have a number of MOUs with organisations, however information sharing is very slow due to cumbersome processes. Some agencies are still very guarded and some refuse to provide information to CPS.<sup>310</sup> [and]*

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<sup>309</sup> Williams, Hansard, 17 December 2010.

<sup>310</sup> CPSU, Submission, p. 6.

*The local Inter-Agency Support Teams (IAST) program operated by the Police should be reviewed with the view of using the 'learnings' to expand this program towards better integration of service delivery.<sup>311</sup>*

### **Findings**

- (130) While there is a high level acknowledgement of the need to share information across agencies, the practical experience is that information is not shared due to an over-cautious approach to privacy considerations. In addition, the inability of information technology systems to communicate inter and intra agency, limits the capacity to share information.*
- (131) Non-government agencies can be excluded from the Interagency Support Team (IAST) meetings even though an organisation might be providing the day to day out of home care to the child under discussion.*
- (132) Where multiple risk factors exist, such as parental difficulties and a medical condition of the child, information sharing between agencies will ensure ongoing monitoring of the child and reduce the likelihood of escalating risks for the child.*
- (133) While MOUs exist with other Agencies and organisations, information sharing is slow due to cumbersome processes.*
- (134) The Committee received evidence that Child Protection Services treat referral to Family Support Services as evidence of reduced risk, before assessing any change in behaviours giving rise to those risks.*

### **Recommendations**

*The Committee recommends that:-*

- (123) The Government should explore legislative avenues to improve information sharing with amendments to confidentiality provisions to permit the exchange of information between interested parties (see Section 37 of the Family Violence Act).*
- (124) Those who work with relevant departments and organisations be properly educated in privacy and confidentiality considerations in order to ensure that they are not inappropriately applied to unnecessarily constrain information sharing.*

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<sup>311</sup> Ibid.



- (125) If contracted services are to work in partnership with government, to ensure consistent and high quality practice, common standards should be adopted and the performance of contracted services should be independently monitored.*
- (126) The Inter-Agency Support Team (IAST) processes should be reviewed with a view to expand this program to achieve better integration of service delivery; non-government agencies should be included in Interagency Support Team (IAST) meetings.*
- (127) Information systems need to be improved to allow better intra and inter agency sharing and collaboration.*
- (128) Referral to family support not be seen as a reduced risk for the child/children until the Family Support Service has reported demonstrated capacity that the risk has reduced.*

## 11 LEGISLATION

11.1 The Committee heard evidence as to the need for legislative reform.

### *Existing Act*

11.2 The following background information to the current legislation was provided in the Tasmanian Government Submission:

*The Children Young Persons and Their Families Act ("CYPTF Act") was proclaimed in 2000. It provides a framework and mandate for government and non-government services, community members and families to respond to situations where children may have suffered harm from abuse or neglect or where they may be at risk of suffering harm within the family unit.*

*Section 7 of the CYPTF Act sets out the object, which is '...to provide for the care and protection of children in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach his or her full potential.' In seeking to fulfil this object, the Minister should endeavour:*

*'(a) to promote, and assist in the development of, a partnership approach between the Government, local government, non-Government agencies and families in taking responsibility for and dealing with the problem of child abuse and neglect; and*

*(b) to promote and assist in the development of coordinated strategies for dealing with the problem of child abuse and neglect; and*

*(c) to provide, or assist in the provision of, services for dealing with the problem of child abuse and neglect and for the care and protection of children; and*

*(d) to provide, or assist in the provision of, preventative and support services directed towards strengthening and supporting families and reducing the incidence of child abuse and neglect; and*

*(e) to assist recognised Aboriginal organisations to establish and provide preventative and support services directed towards strengthening and supporting families and reducing the incidence of child abuse and neglect within the Aboriginal community; and*

*(f) to provide, or assist in the provision of, information or education services for guardians, prospective guardians and other members of the community in relation to the*

*developmental, social and safety requirements of children; and*

*(g) to provide, or assist in the provision of, education to persons who are required to notify the Secretary if they know or reasonably believe or suspect that a child is being, or is likely to be, abused or neglected; and*

*(h) to provide, or assist in the provision of, services to help persons who have been under the guardianship or in the custody of the Secretary during childhood to make a successful transition to adulthood; and*

*(i) to collect and publish relevant data or statistics or to assist in their collection or publication; and*

*(j) to promote, encourage and undertake research into child abuse and neglect; and*

*(k) to encourage the provision, by educational institutions, of courses offering instruction about child abuse and neglect and its prevention and treatment; and*

*(l) generally to do such other things which the Minister believes will further the object of this Act.'*

*The CYPTF Act reflects principles from the UN CROC<sup>312</sup>.*

*The object of the CYPTF Act reflects the accepted public health model approach to child protection, which sees universal services, preventative and early intervention services underpinning the statutory Child Protection System. Clauses (a) through (e) clearly acknowledge this complex environment and the need to establish partnerships and coordinated strategies to provide services and reduce the number of children and families requiring statutory intervention.*

*The CYPTF Act is founded on three principles (Section 8(1)):*

- 1. the primary responsibility for a child's care and protection lies with the child's family;*
- 2. high priority is to be given to supporting and assisting the family to carry out that primary responsibility; and*
- 3. if a family is not able to meet its responsibilities to the child and the child is at risk, the Secretary may accept those responsibilities.*

*The introduction of the CYPTF Act introduced a number of refinements to child protection legislation and practice in Tasmania, including the extension of mandatory reporting. The introduction of mandatory reporting not only placed obligations on a number of professional groupings, it also placed an obligation on Child Protection Services to be able to respond to such reports.*

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<sup>312</sup> <http://www.unicef.org/crc/>

*As evidenced in the Report on Child Protection Services the system was not able to cope at that time and had an unallocated list which at its peak numbered over one thousand. This Report highlighted the need to reform the system's inability to cope with increasing demand, and the need to address the complex and intertwined issues impacting on vulnerable Tasmanian children and their families. The Report on Child Protection Services contains a number of suggested legislative amendments in these areas as well as including some broader proposals for change.*

*The recommendations for legislative amendment were in the areas of:*

- improved early intervention and family support;*
- better information sharing and liaison between government and non-government service providers;*
- more timely and improved processes for clients of the Child Protection System;*
- clarification of the role of the Department as an exemplary parent; and*
- a strengthening of the complaint and review process for children in the care of the Department.*

*The number and complexity of some of the amendments recommended in the Report are such that when a response to the Report was prepared it was proposed to progress the legislative amendments in two stages to ensure the timely implementation of all recommendations.<sup>313</sup>*

### **Current Reform Agenda**

11.3 The Tasmanian Government Submission provided the following information about the current reform agenda in relation to the legislation:

#### Phase One Amendments

*In August 2009 the first package of amendments to the CYPTF Act came into effect. The areas of amendment related to:*

- providing for improved sharing of information relevant to the best interests of a child between Community Service Providers, a Community Based Intake Service provided by a contracted NGO, and Child Protection Services. This will allow Child Protection Services to seek information regarding a child, young person or their family when making an assessment, undertaking an investigation or undertaking case management;*
- providing the ability for the Secretary DHHS to receive information concerning unborn children and take appropriate*

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<sup>313</sup> Tasmanian Government, Submission, pp. 82 – 84.

*action including: assessing the likelihood that the child, once born may need protection; and offering help and support to both the pregnant woman and her partner (if appropriate);*

- establishing greater options for permanent care arrangements, where appropriate, for children for whom reunification with their birth families is not an option; and*
- creation of an AYDC Residents' Advocate position within the Commissioner for Children's Office to assist in promoting the interests of young people in custody.*

#### *Phase Two Amendments*

*A Steering Committee has been established to assist with the second phase of amendments to the CYPTF Act initially stemming from the Report on Child Protection Services. Remaining amendments to be considered include:*

- to provide greater flexibility for the adjournment of proceedings;*
- to allow a child to be taken into safe custody without a warrant for a period of one working day and change the period of time the Secretary may accept and retain responsibility for custody of a child without a court order being in place from five days to 24 hours;*
- to increase the period of time granted under an Assessment order;*
- to clarify the responsibilities of the Secretary as Guardian;*
- to clarify the use of 'Recognised' Aboriginal Organisations;*
- to clarify the role of the Commissioner for Children with regard to complaints;*
- to simplify the role and establishment of Advisory Panels; and*
- to expanding the use of FGCs.*

*The Steering Committee includes members from DHHS, DPAC, DPEM, DoE, the Magistrates Court of Tasmania, Tasmanian Aboriginal Centre, Legal Aid and the Commissioner for Children. The Steering Committee has met on two occasions.*

*Aside from the remaining amendments from the Report on Child Protection Services, additional proposals have come from a number of other avenues including: Steering Committee members; Magistrates Division; legal practitioners; and the former Commissioner for Children.*

*The issues to be addressed through amendments have not yet been finalised. It is proposed that this listing will not be considered by the Steering Committee until after the recommendations from both this Select Committee on Child Protection and the consultation on the Agenda for Children and Young People has been finalised. There is also a need to*

*allow the recently appointed Commissioner for Children to consider and provide advice on this issue.*

*It is proposed that the Steering Committee advise on priority areas prior to a discussion paper being finalised and that a broad consultation process is then undertaken.<sup>314</sup>*

Advice from a former Commissioner for Children

*A former Commissioner for Children has provided a number of reports containing recommendations relating to possible amendments to the CYPTF Act. These include:*

- *Parens Patriae. The former Commissioner proposed that the Family Law Court represented a less adversarial avenue to resolve instances where parenting arrangements (custody and guardianship) need to be assigned. This would require the Secretary of DHHS to become a party to a parental agreement within the Family Law Court of Australia;*
- *Reform of the Children Young Persons and Their Families Act 1997 Commissioner for Children's list of possible areas of reform September 2009 (Commissioner for Children's List of Reforms to CYPTF Act)<sup>315</sup>. In May 2009 the then Commissioner invited members of the Tasmanian legal profession with expertise in Child Protection and Family Court matters to participate in a reference group. Recommendations within this report are informed by the discussions that the Commissioner held within the reference group; and*
- *"Inquiry into the circumstances of a 12 year old child under the guardianship of the Secretary, July 2010". The Tasmanian Government has responded to the recommendations in this report. Where recommendations have been accepted by the Government and require legislative amendments, consideration will be given to the inclusion of these areas within the discussion paper to be developed by the Steering Committee.*

*The former Commissioner's advice needs to be considered in the context of the proposed second phase of amendments to the CYPTF Act.<sup>316</sup>*

#### 11.4 The Commissioner for Children stated:

*Although implementation of the reform agenda outlined in the 2008 Report is in its early stages, it is possible to identify deficiencies in the system as it is presently operating. Those deficiencies should be addressed immediately – especially if they are inconsistent with the philosophical values underpinning the reformed system and/or have the potential to undermine the quality of service now being provided by the NGO sector. Some deficiencies represent gaps in service*

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<sup>314</sup> Ibid., pp. 84 – 86.

<sup>315</sup> Access via: <http://www.childcomm.tas.gov.au/publications/reports-and-submissions/>

<sup>316</sup> Tasmanian Government Submission, pp. 86 – 87.

*provision whilst others compromise the ability of DHHS to ensure that service providers are held accountable for the quality of the services they provide.* <sup>317</sup>

11.5 The deficiencies identified by the Commissioner for Children and included in her submission were information sharing, interagency support teams, standards in out of home care, family violence, mental health, out of home care case management, youth justice, the need for a dedicated children's magistrate and legislative reform measures.

11.6 There was evidence provided to the Committee about the current reform agenda from the Australian Childhood Foundation:

*The current reform agenda will stall without an increased commitment by the State to legislative change, substantial resource allocation and the development of a policy framework for abused children and young people that emphasises planned and coordinated decision-making by statutory child protection services, the availability of high quality and tailored out of home care resources, the integration of trauma based therapeutic responses across the practices of child protection and care, and greater collaboration of the activities of health, education, police and youth justice elements of government.*<sup>318</sup>

### ***The Need for Legislative Reform***

11.7 The submission of the Commissioner for Children commented on the need for legislative reform. The submission stated as follows:

*Other jurisdictions have engaged in wide ranging inquiries into their child protection systems or aspects thereof. For example, recommendations made by the Victorian Law Reform Commission in its recent comprehensive report Protection Applications in the Children's Court are potentially relevant to Tasmania and are deserving of careful consideration.*

*Child protection systems should be amenable to ongoing and continuous improvement through regular review and assessment to ensure best practice and child centred strategies are at the forefront of the system. Piecemeal reform over an extended period runs the risk of overlooking the need for major reform and assessment of underlying principles.*

*I RECOMMEND that there be a complete overhaul of the legislative framework within which child protection within Tasmania is practiced and in that context, the review body could take account of all outstanding recommendations for reform that require or involve legislative action and make*

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<sup>317</sup> Commissioner for Children, Submission, p. 8.

<sup>318</sup> ACF submission

*recommendations for reform to be contained in an entirely new Act.<sup>319</sup>*

### ***Evidence to Committee on legislative change***

11.8 The Committee received a significant amount of evidence in relation to the need for legislative changes. The main themes identified were the absence of a provision dealing with cumulative harm, the absence of decision making principles set out in the Act, the expansion of the types of orders available to the court in protection applications and the incorporation of the Charter of Rights for Children and Young People in Out of Home Care into the Act:

*A thorough examination of laws that guide Child Protection practice is required, keeping the child's 'best interests' as a priority and to address confidentiality issues which hinder this. Additionally laws that require a child to provide evidence regarding abuse and neglect on multiple occasions and allow males to engage in sexual activity with a child to escape conviction by using the defence they were unaware of their age requires immediate attention.<sup>320</sup>*

11.9 The Salvation Army also wanted legislative change:

*Legislation that encourages world's best practice needs to be put in place. A format that is child centred and family focused and that is framed around the best interests of the child would provide Tasmania with a far more functional and successful service delivery system.<sup>321</sup>*

11.10 It is noted that the report of the former Commissioner for Children<sup>322</sup> made a number of recommendations in relation to legislative amendments.

### ***Findings***

***(135) That the CYPTF Act has been amended, ad hoc, as various reforms have come on line.***

***(136) Since the release of the Government's 2008 reform agenda, there have been deficiencies identified in the system which represent gaps in service provision, compromise the ability of the Department***

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<sup>319</sup> Commissioner for Children, Submission, p. 18.

<sup>320</sup> Australian Psychological Society (Tasmanian Branch), Submission, p. 9.

<sup>321</sup> The Salvation Army Child Protection, Submission, p. 5.

<sup>322</sup> Commissioner for Children, Inquiry into the Circumstances of a 12 year old Child under Guardianship of the Secretary, October 2010



*to ensure accountability, and have the potential to undermine quality of service.*

*(137) The Committee notes that the Government has established a Steering Committee to consider legislative reform*

### **Recommendations**

*The Committee recommends that:-*

*(129) A complete overhaul of the legislative framework within which child protection in Tasmania is practiced is required.*

*(130) Further recommendations for legislative reform contained in this report should be considered by the Steering Committee.*

### **Cumulative Harm**

11.11 A number of submissions received by the Committee identified the absence of a provision in the *Children, Young Persons and Their Families Act 2007* dealing with "cumulative harm."

11.12 The Committee heard evidence from the current Commissioner for Children. She stated as follows in relation to this issue:

*From my reading of the Act, there is nothing that talks about cumulative harm, so it's a crisis-driven response to child protection. You're not often looking at how many notifications happened before for this child, how many times that they've been in care or what's happened to the family around them. It's a very hard act to meander through, from my perspective.<sup>323</sup>*

11.13 The Committee heard evidence from Mr. Tucci of The Australian Childhood Foundation, who stated as follows in relation to this issue:

*The child protection system is still largely geared towards episodic intervention that focuses on the allegations of abuse contained in a current investigation. This can lead to short term decision making and a focus on immediate matters of concern. In turn, such an approach is contributing to patterns of reporting and re-reporting to DHHS that result in no real change within families or better protection of children in those*

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<sup>323</sup> Ashford, Hansard, 29 November 2010.

*families. It is recommended that new provisions be introduced into the Act to enable child protection services to intervene with children who over the long term have experienced cumulative trauma and harm.*<sup>324</sup>

11.14 The CEO of the Australian Childhood Foundation, Mr Tucci, expanded on this in verbal evidence to the Committee:

*[there is] the need to clearly rewrite the legislation that covers child protection in Tasmania. I think it is out of date and not strong enough to either give guidance to child protection workers in the system itself or to clearly inform parents of what their rights are but also of their responsibilities in making changes when changes are required. I don't think it's clear enough in terms of the range of orders that should be made available for children to be placed on and it doesn't clearly spell out some of the really important principles that you find in a lot of other child protection legislation across the country. For example, it doesn't spell out the need for Child Protection to take a longer-term view of repeated referral and repeated notifications of child abuse to it, and continues to provide child protection intervention as episodic. That means that every time a new report is made it is only that report which is investigated, rather than including an assessment or information that would allow the Child Protection worker to make more of a case over a period of time that a child has been harmed and experienced abuse and violence, and therefore requiring a stronger form of intervention. That principle is called 'cumulative harm' and is a principle that has begun to emerge in some of the other State legislation. It is very important because it begins to shift the system towards having a more longer-term holistic view of children's needs who have been abused, rather than only treating each investigation as a particular one-off report. In the submission there is a whole range of other areas of reform for the legislation itself that I think would be tantamount to being rewritten. That is what I would recommend.*<sup>325</sup>

11.15 The submission of the Sexual Assault Support Service expressed a similar view. The submission states as follows:

*Unlike the Victorian Children, Youth and Families Act 2005 (CYFA), the Tasmanian Children, Young Persons and their Families Act 1997 does not expressly consider the effects of cumulative patterns of harm on a child's safety and development. Cumulative harm may be caused by an accumulation of a single recurring adverse circumstance or event (such as unrelenting low-level care); or by multiple*

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<sup>324</sup> Australian Childhood Foundation, Submission, p. 2.

<sup>325</sup> Tucci, Hansard, 6 December 2010.

*circumstances or events (such as persistent verbal abuse and denigration, inconsistent or harsh discipline, and or exposure to family violence). The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing. Therefore, it can be present in any type of protective concern but is unlikely to be the sole factor for reporting and thus overlooked.*

*The CYFA states that the best interests of the child must always be paramount when making a decision taking action with regard to a child. Included in the best interest principle, and outlined in section 10(3)(e) is "the effect of cumulative patterns of harm on a child's safety and development". Further, at section 162(2) the CYFA determines that "harm may be constituted by a single act, omission or circumstance or accumulate through a series of acts, omissions or circumstances".*

*The grounds for statutory intervention are outlined in section 162(1) (c)-(f) and cumulative harm may be a factor in any one ground (such as failure to provide basic care) or a combination of different grounds (such as physical injury and emotional harm) where the prolonged and repeated experience of these circumstances or events have or are likely to cause the child significant harm. The need to identify and respond to cumulative harm has the most impact on cases of "omission" (neglect) that may have previously been considered as low risk when considered episodically.*

*In line with the CYFA Victorian practitioners are required to assess each report as bringing new information that needs to be carefully integrated into the history of the child and weighted in a holistic assessment of the cumulative impact on the child, rather than an episodic focus on immediate harm.*

*Recommendation: Legislation is amended to change the focus from episodic interventions to cumulative harm.<sup>326</sup>*

## **Findings**

- (138) *There is a crisis-driven response to child protection. There is no legislative requirement to consider how many prior notifications for a child, how many times a child has been in State care, and nothing in the legislation that addresses cumulative harm.***
- (139) *The Child Protection System is geared towards episodic intervention and this approach contributes to patterns of reporting and re-reporting that result in no real change within families. This leads to short-term decision-making.***

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<sup>326</sup> Sexual Assault Support Service, Submission, pp. 9 – 10.

**(140) *The Act is out of date and not strong enough to give guidance to child protection workers in the system, or inform parents of what their rights and responsibilities are; it is not clear in its principles and does not spell out the need for Child Protection to take a longer-term view of repeated referral and repeated notifications of child abuse.***

### **Recommendations**

**The Committee recommends that:-**

**(131) *Legislation be amended to change the focus on episodic interventions to cumulative harm and new provisions introduced to enable child protection services to intervene with children who, over the long-term, have experienced cumulative trauma and harm.***

### **Decision Making Principles**

11.16 A number of submissions also referred to the absence of decision-making principles in the Act.

11.17 The Committee received evidence from the current Commissioner for Children in relation to this issue. She stated as follows:

*...the current Act doesn't have any decision-making principles in it for child protection, and the reason we're sitting here today is obviously the report that was done by my predecessor. If you look at that report, there was some very poor decision-making processes that happened. If you had decision-making principles within an Act, that's what you would be bound to, and they would be focused on the best interests of the child.<sup>327</sup>*

11.18 The Committee also heard evidence from Mr. Tucci of the Australian Childhood Foundation in relation to this issue. He stated as follows:

*I think the Tasmanian system does lack rigour in terms of case planning. There is really no case-planning process that identifies senior management to develop a plan for a child and then monitor that plan over time. Without that rigour, the possibility of orders not being applied properly and child protection not fulfilling its obligations is very likely. What is not in the Act and therefore has not been developed in Tasmania is a really clear framework for decision-making. When you do*

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<sup>327</sup> Ashford, Hansard, 29 November 2010.

*not have it in an Act, it is not surprising that it does not happen in practice. That is what you need. You need the Act to be clearer and the decision-making processes within child protection to be clearer. You should start to then have less drift, less opportunity for orders not to be applied rigorously because there are points of review and monitoring and caring all the time, ultimately accountable back to the court.*<sup>328</sup>

11.19 A similar issue was raised in the evidence from Bapcare, which stated as follows:

*From Bapcare's perspective we would like to see a shift in the current Act that covers child protection and that the Government look at legislating some of the decision-making principles, and in particular look at things that we feel have been very positive in other jurisdictions - things like legislating best interest principles around decision-making for children. In Victoria, within their legislation not only did they capture child protection decision-making but also the decision-making of family support and out-of-home care providers; they legislated for the best interests of children. They legislated on cumulative harm and on some of the standards and principles that would support the work being undertaken. The legislation also talks about that community intake. It also looks at information-sharing provisions to support that critical comprehensive assessment that needs to take place of the whole family and each child in the family. This is a key part of the reform agenda and it probably needs to be supported by a new Act, as against making changes to the Act, and capturing some of those key principles.*<sup>329</sup>

11.20 The evidence from Bravehearts also commented on this matter, and stated as follows:

*....the Queensland Department of Child Safety and the New South Wales Department of Community Services have also introduced Structured Decision Making Systems. Being able to provide appropriate response to child protection concerns is a fundamental role of child protection departments across the nation. The objectives of Structured Decision Making are to:*

- identify and structure critical decision points;*
- increase consistency in decision-making;*
- increase accuracy of decision-making;*
- target resources to families most at risk; and*
- use case level data to inform decisions throughout the agency.*

*In Queensland the Structured Decision Making System, developed by the Children's Research Centre (CRC) in the*

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<sup>328</sup> Tucci, Hansard, 6 December 2010.

<sup>329</sup> D'Elia, Hansard, 1 December 2010.

*United States of America, is used to guide decisions at critical points along the child protection continuum of work – intake, investigation and assessment, ongoing intervention and closure. The tools assist decision-making, but they do not make the decision. There remains an important need for quality professional judgement in using the tools and making decisions. We understand that the same system is being tailored for introduction into New South Wales. Bravehearts recommends the investigation of a Structured Decision Making model for assessing child protection notifications and to guide decision-making through the process from notification to closure.<sup>330</sup>*

11.21 The Submission of the Salvation Army also raised this issue and stated as follows:

*Tasmania should consider enacting new legislation that includes decision making principles within the Act to ensure Child Protection actively engage families and children in decision making processes. In our view the child's parent should be assisted and supported in reaching decisions and taking actions to promote the child's safety and wellbeing. Where a child is placed in out of home care, the child's care giver/s should be consulted as part of the decision making process and given an opportunity to contribute to the process. The decision making process should be fair and transparent. The views of all persons who are directly involved in the decision should be taken into account and decisions are to be reached by collaboration and consensus, wherever practicable. The child and all relevant family members (except if their participation would be detrimental to the safety or wellbeing of the child) should be encouraged and given adequate opportunity to participate fully in the decision making process. Persons involved in the decision making process should be provided with sufficient information, in a language and by a method that they can understand to allow them to participate fully in the process.*

*Informed practice needs to be connected to legislation. The Victorian legislative system created the framework "every child, every chance".<sup>331</sup>*

## **Findings**

**(141) *The Act does not require the child and the family to be included in the decision making process and there is no clear statement of decision making principles against which decisions are made.***

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<sup>330</sup> Bravehearts, Submission, p. 8.

<sup>331</sup> Salvation Army, Submission, p. 11.

## *Recommendations*

*The Committee recommends that:-*

- (132) *The Steering Committee explores the introduction of Structured Decision Making systems (a tool developed by the Children's Research Centre in the US and introduced in Queensland) to identify and structure critical decision points, ensure consistency in decision-making, increase accuracy of decision-making, target resources to families most at risk, use case level data to inform decisions.*
- (133) *New legislation should include decision-making principles that legislate to ensure Child Protection actively engages with families and children in decision-making processes. Even when a child is removed from a family, the family must be given the opportunity to continue to be involved in decision-making processes, except if that were determined to be detrimental to the safety of the child/children.*

## *Types of Court Orders*

11.22 The evidence of the Australian Childhood Foundation recommended an expansion of the types of orders available to the court. The relevant evidence is summarised below:

*Victorian and New South Wales legislation is quite similar. You would find that the court has powers to make interim orders in the first instance to immediately protect children. Those interim orders allow the court to make very specific conditions on the parents and/or children to reside in a particular place or to attend a particular service, to undertake assessment. That is not really specified in the Tasmanian legislation. It is there in a roundabout way but it is not very clear. Once a determination has been made by the court as to whether an application made by child protection is proven, then there is a range of orders starting from supervision orders through to custody to third-party people. For example, if a child is to be placed with an extended family member the court will make that determination that they can be placed and that custody will be directed towards the uncle or aunt, for example. Then you have custody to the Secretary of the Department or to the Minister, where the Minister has the everyday responsibility of looking after the child but the guardianship responsibility of that child still resides with the parent. Then the final order, if you like, in that continuum is guardianship to the Minister where they have responsibility both for the overall care of the child and for decision-making about the care of that child in the*

*long term. Once that has happened it then moves through to permanent care and adoption orders. If, after a period of time, parents are not able to make the changes that are required to have their children returned to them, then the child's needs are placed first and their stability in terms of their accommodation and relationships is prioritised. What you find generally in some of the better legislation is a continuum of orders whereby the child protection system and the courts can match the intrusiveness of State intervention to the severity of harm experienced by the child, so the more severe the greater the intrusion by the State, the less severe the less intrusion by the State and the more emphasis on the child being returned home.<sup>332</sup>*

*[In relation to the Victorian jurisdiction] In relation to orders, it is probably one of the best in the country. There are still some limitations to it but it tries to do things such as define the period of time where parents are encouraged and supported to make changes. If those changes do not then eventuate and they do not make those changes within a specified period of time, then it sets out some principles around circumstances under which children should be placed in permanent care, for example. That is important in terms of getting kids some stability in the child protection system. Tasmania is not the only one. Child protection systems are notorious for holding children's development hostage to giving parents too many chances to change when that change is not really possible.<sup>333</sup>*

*The current Act is not clear enough in the range of orders that are available to the Court in its decision making. It is recommended that the Act be revised in order to stipulate a definitive range of Orders that equates the intrusiveness of state intervention to the severity of harm experienced by the child or young person. There are examples of these frameworks in other jurisdictions that can be used as the basis for redeveloping this important section of the Tasmanian legislation.<sup>334</sup>*

11.23 The matter of planning for permanent care placements for children who will never be able to return to their parent's care was also raised by Alison Jacob, Deputy Secretary (Human Services):

*For children unable to return to their parent's care it is important that, where possible, more permanent care arrangements are made to improve stability and provide a long term care option that is in the best interests of the child as well as more satisfactory for some potential carers. The work required to plan and implement permanent care arrangements for this group of children is also time consuming*

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<sup>332</sup> Tucci, Hansard, 6 December 2010.

<sup>333</sup> Ibid.

<sup>334</sup> Australian Childhood Foundation Submission, p. 2.



*and intensive. Again, there is a strong case to develop a specialist team who undertake this work with potential for this to be outsourced.*<sup>335</sup>

## Findings

- (142) Child protection systems are notorious for holding children's development hostage to giving parents too many chances to change when that change is not really possible.*
- (143) The Act is not clear in the range of orders that are available to the Court in its decision-making and there is a tendency for such orders not to be enforced.*

## Recommendations

*The Committee recommends that:-*

- (134) There is a need for clarity on Court Orders and a continuum of Orders where the child protection system and courts can match the intrusiveness of State intervention to the severity of harm experienced by the child – e.g. the greater the harm, the greater intrusion, the less severe the harm, the more emphasis of reunification from the outset.*
- (135) Court orders should be for defined periods of time, where parents are encouraged/supported to make changes. If those changes do not eventuate in that period, it is clear to all parties from the outset what will then occur.*
- (136) The Act should be revised to stipulate a definite range of Orders that equates to the intrusiveness of State intervention to the severity of harm experienced by the child or young person. Examples of this framework can be seen in legislation in other jurisdictions.*
- (137) For children unable to return to their parent's care it is important that, where possible, more permanent care arrangements are made. Permanency planning is time consuming and intensive; the Department should develop a specialist team to undertake this work.*

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<sup>335</sup> Jacob, Submission, p. 16.

## **Charter of Rights for Children and Young People in Out of Home Care**

- 11.24 The submission of the Commissioner for Children recommended incorporation of the Charter of Rights for Children and Young People in Out of Home Care in Tasmania into the legislation. The submission states as follows:

*In June 2009 the Minister for Human Services the Hon Lin Thorp MLC launched the Charter of Rights for Children and Young People in Out of Home Care in Tasmania.*

*The Charter was developed by a Steering Group chaired by my predecessor over a period of 13 months. During this process the views of various individuals and organisations were considered by the Steering Group which also comprised representatives from CREATE, the DHHS and the Foster Carers Association of Tasmania (FCAT).*

*Consultations occurred with members of the Children and Young Persons Advisory Council established under s.81(1)(a) of the Children Young Persons and Their Families Act 1997 ("the CYPATF Act"), the Children and Young Persons Consultative Council ("the Adult Advisory Council") established under s.81(1)(b) of that Act, non-Government organisations involved in the provision of out of home care, child protection workers, young people who are in/have been in care (via CREATE), FCAT, the Department of Education and a Children and Young Persons Reference Group.*

*Particular importance was placed on the views and opinions of children and young people about the content, drafting and design of the Charter.*

*Administratively DHHS has agreed that it will be responsible for distribution of the Charter documents to all children and young people entering out of home care.*

*The Charter also provides a framework for the important work of Children's Visitors pursuant to the pilot Children's Visitors Program being run from this Office. As such, it provides a means for measuring the experiences of children in care and for promoting a more integrated, transparent and consistent standard of practice amongst carers and agencies involved in the delivery of out of home care services.*

*In New South Wales, Victoria and Queensland official acknowledgement of the importance and relevance of Charters is reflected in the embedding of those Charters in legislation governing child protection and out of home care.*

*I strongly RECOMMEND immediate amendment of the Children, Young Persons and Their Families Act 1997 to reflect the importance of such a Charter and the continuing obligation upon either the Department or the portfolio Minister*

*to promote compliance with the Charter by all agencies and carers involved in the provision of out of home care.*

*Whether the actual text of the Charter is incorporated in legislation (as is the case in Queensland) or whether further consultations should occur before any legislative acknowledgement are matters for further consideration.<sup>336</sup>*

### ***Findings***

***(144) Unlike other Australian jurisdictions, Tasmania does not have a Charter of Rights for Children embedded into its legislation.***

### ***Recommendations***

***(138) The Charter of Rights for Children in Out of Home Care should be embedded into legislation governing child protection and out of home care.***

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<sup>336</sup> Commissioner for Children, Submission, p. 20.

## 12. JUSTICE SYSTEM

### *Existing services – evidence to Committee on less adversarial system*

12.1 A number of the submissions received by the Committee referred to the need for a less adversarial child protection system.

12.2 For example, the Committee heard evidence from Mr. Greg Barnes, Barrister, who stated as follows:

*There is no place for the traditional adversarial justice system in this very delicate balance between the rights of individuals, the rights of children and the expectations of the state. We do, however, have to move away from the court system. The filing of affidavits is time-consuming and it is not effective in the way it deals with issues and helps parties to heal. We are much better moving to a conciliation model, keeping matters out of court. If the department feels that children are at risk, based on real evidence - not simply hearsay upon hearsay, or a media report - then what needs to happen is that there needs to be conciliation. There needs to be a meeting between the parents, the children, the department and the state. There needs to be a building of trust and confidence between the parties. In far too many of these cases there is no trust. Most of my clients have no trust in the state for a very good reason.<sup>337</sup>*

12.3 The current Commissioner for Children's submission states as follows:

*The Terms of Reference for the Victorian Law Reform Commission's recent inquiry<sup>338</sup> into that State's child protection system required it to review Victoria's legislative and administrative arrangements in relation to Children's Court processes in child protection matters. The terms of reference also directed the Commission to consider models that take a more administrative case management approach to child protection issues. Broadly, the Commission concluded as follows:*

*6.29 The Commission believes that Victoria should move away from child protection procedures that closely resemble those used in summary criminal prosecutions. The processes used in child protection matters should be designed specifically for this unique jurisdiction. Much can be drawn from experiences elsewhere in the legal system to guide procedural changes that may minimise disruption while maintaining a focus on the best interests of the children.*

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<sup>337</sup> Barnes, Hansard, 8 November 2010.

<sup>338</sup> Victorian Law Reform Commission – *Protection Applications in the Children's Court* – Final Report 19, at 209

*6.30 New procedures should reflect the fact that most child protection cases will be resolved by agreement. This is clearly a desirable outcome in proceedings of this nature when the parties will usually have important ongoing relationships."*

*Even if Government accepts the arguments in favour of less adversarial child protection processes, I do not endorse further ad hoc and piecemeal amendment to the CYPTF Act to implement this reform. That sort of ad hoc amendment runs the risk of focusing only on Court processes and ignoring the possibilities for adoption of less adversarial processes at each stage of the child protection decision making process.*

*For example, greater use of Family Group Conferences and of agreed outcomes arrived at after discussion and input from all relevant service providers and agencies involved with a child or young person identified as being at risk of entering the child protection system, is entirely consistent with the reform agenda currently underway. Recourse to adjunctive Court processes would be a last resort, the focus being on provision of services to a child and family members to address issues and factors that would otherwise lead to a child or young person becoming embroiled in the child protection system.*

*I RECOMMEND Government inquire into the extent to which the child protection system – particularly Court processes – would benefit from adoption of less adversarial procedures.<sup>339</sup>*

- 12.4 The submission of Vince McCormack also strongly indicated that less adversarial proceedings in child protection matters, in particular the increased use of conferencing, would be beneficial. He commented as follows in relation to the use of conferences:

*...if there is an agreement between Child Protection and the family, usually that is endorsed by the court and then that becomes the way forward. So it is really giving the family a very solid voice into how to proceed and it is based on the philosophy that if families are treated respectfully and are resourced sufficiently they will make good decisions about their children. If they are under attack or in a corner or emotionally distraught, you get an emotional reaction which is not good. So it is a creative context where respect happens, families are listened to, they all have good intentions for their children, those intentions need to be honoured - so how can we resource you, how can we work with you in order to move forward? At times the children have to stay in care, of course, and there are situations where they need to be made safe and they cannot go back to their families but that can be worked through.<sup>340</sup>*

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<sup>339</sup> Commissioner for Children, Submission, pp. 22 – 23.

<sup>340</sup> McCormack, Hansard, 1 December 2010.

*Sometimes it is about power - who has the power and who makes the decisions. Fundamental to the New Zealand legislation was the understanding that in conferencing the role of the child protection worker changes. They are not there as the decision-makers but they are there more as a collaborative partner, working with the family and drawing on the family strengths and wisdoms, which are there if you look hard enough, to work with them so that there is joint decision-making rather than the Child Protection worker having the say. There are always exceptions. Sometimes, in a situation where a child is not safe, the Child Protection worker needs to come in, and bang, bang a decision needs to be made straight away, but that does not always happen.<sup>341</sup>*

- 12.5 Other evidence to the Committee suggested better supports for parents and education about the Child Protection system:

*Once children are taken, parents usually have no case worker and no support unless they locate it themselves. The Child's Case Worker does his or her best but they are not there for the parents. The support workers who supervise access do their best, as they are often targeted by anxious parents, as does the Child Rep, but this is not their role. The situation has been exacerbated by Legal Aid funding restrictions which mean most parents do not get aid if there is a Child Rep. Parents have many questions and in any event, are usually incapable of listening to the answers, for various reasons.*

*I see no reason why instructional videos cannot be offered and also placed on the internet that answers common questions parents have in a format they can understand. For example, a role play showing a bad access visit compared to a good one; what you can expect from Court; what the consequences are of failing to show up to appointments or follow reasonable directions; what the usual reunification process looks like.<sup>342</sup>*

## **Findings**

- (145) *The Court system is, by its nature, adversarial and can be intimidating and exclusive. Every avenue to avoid engaging in the formal Court processes should be maximised. A good example of this is the Family Group Conference process which, if fully utilised, can be a very effective means of reducing conflict and resolving issues without the need to engage in the formal Court process.***

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<sup>341</sup> Ibid.

<sup>342</sup> Mooney, Submission, p. 4.

## *Recommendations*

*The Committee recommends that:-*

- (139) The Steering Committee consider legislative reform to ensure that non-adversarial dispute resolution mechanisms are maximised.*
- (140) Instructional DVDs or simple question/answer sheets to common questions and their rights should be provided to all parents whose children are removed. This should be provided before any court appearance.*

### *Children's Court – pilot/evidence*

- 12.6 The need for a specialist Children's Court was identified in a number of submissions.
- 12.7 An existing pilot for a specialist Youth Magistrate is currently being run from the Hobart registry. This court deals with criminal cases involving youths. Once the pilot is past its initial stage, the Court will consider bringing child protection matters into its scope but this will be dependent on workload.<sup>343</sup>
- 12.8 A number of submissions received by the Committee highlighted the need for a specialised children's court for child protection matters.
- 12.9 Some of the reasons for this were identified in the following submission from Kate Mooney, a Barrister practicing in the child protection jurisdiction:

*There is no doubt that a specific Children's Court is long overdue for the following reasons:*

*1. Shell-shocked and emotional parents are having to attend a criminal court and have their matter slotted in between criminal matters. The Magistrate had an inquest interrupted for our child protection matter the other day. It means little to us lawyers but the parents have heightened perceptions at times like this. One of the major hurdles to parties consenting to an order is an unsurprising inability to agree to an order putting one's child in "welfare." People feel like failures and criminals. Having them appear in a criminal court hardly militates against this.*

*2. Optimally there would be far more active case management of matters by Magistrates. They simply don't have time and also have no chance of recalling a matter*

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<sup>343</sup> Tasmanian Government, Submission, pp. 41-43.

*between each appearance, given the sheer number of criminal matters they see every week. Magistrates could be having compliance checks to see parties are doing what they said they'd do. It would help if the Magistrates determined a check list of actions each party must attend to, especially during the assessment periods, prior to the next Court date, in order to settle everyone's expectations and keep matters on track. Traditionally, Magistrates appear loathe to tell the Secretary to do anything as it may appear to impinge on funding discretions. I think this can be handled. I often notice how parents really notice and respond well when the Magistrate seems across the material and is more actively case managing than simply relying on the lawyers to push the matter through the system.*

*3. Magistrates ought to be empowered to hold pre trial conferences and have more control and direction over what is being presented and in what form. There is nothing like a judicial officer voicing prima facie views along the way to assist the parties.*

*4. The selection of judicial officers can be more focused to suit the appointment and jurisdiction, as occurs in the Federal Courts. It would also assist in the development of consistent practice and philosophical approach by the Court.*

*5. Magistrates ought to be specifically empowered by the Act (rather than by inference) to determine access arrangements and initial reunification plans (although these must be a work in progress as circumstances invariably change). Most parents agree to an order being made but don't agree to the access being offered, which is often woefully inadequate for both child and parent's mental health as a direct result of funding restrictions. Sorting out access arrangements for children and parents is considered so important by Australian society that we have a Family Court and a Federal Magistrates Court well funded to deal with such questions. There is a huge body of case law and social science research on the effect of various arrangements on the future well being of children. Yet for these vulnerable children, this all-important question is administratively shunted off to an overwhelmed case worker who is being told there is insufficient funding for anything but two supervised hours a fortnight. Some Magistrates take the attitude that they are "not there to micromanage the Department" when asked to deal with access issues, yet access is one of the major concerns of the judicial officers of our mammoth Family Court and Federal Magistrates Court system.*

*6. The judicial case management inherent in the less adversarial process adopted by the Federal Courts (the Family Court in particular) is recommended to the Committee, not for adoption but to determine best practice in a well-funded*



*Court dealing with families. In particular the principles enunciated at section 69ZN of the Family Law Act 1975.<sup>344</sup>*

12.10 The current Commissioner for Children noted that there is a current pilot taking place in the Magistrates Court which relates to youth criminal matters only. The Commissioner for Children was supportive of extending this pilot to child protection matters should the pilot be successful:

*It has often been argued that as in other jurisdictions a specialist children's court should be created within Tasmania to hear all matters involving children and young people. While the creation of a children's court has been rejected on the grounds that Tasmania is too small to warrant the dedication of resources that the creation of a separate children's court would require, the need for a young person to be dealt with by someone who is aware of the specific issues related to youth offending remains.*

*To address this issue the Magistrates Court of Tasmania will pilot a program in which a dedicated Magistrate will hear all matters related to Youth Justice. The aim of this process is not only to ensure that the Magistrate is an "expert" in youth justice matters but also, by having someone who is dedicated to hearing these matters, hearings can be expedited, ensuring that cases are able to come before the court in a reasonable time without long adjournment resulting in the case lingering on and in some cases young people spending unreasonable amounts of time on remand at Ashley Youth Detention Centre.*

*If the Children's Court Youth Magistrate pilot is successful, IT IS RECOMMENDED that it be expanded to include all issues related to children and young people including child protection matters as the benefits of having a dedicated Magistrate would be equally valuable in this area.<sup>345</sup>*

## **Findings**

- (146) *It can be very confronting for families to attend a criminal court and having their child protection matter slotted in between criminal matters.***
- (147) *A specialist Youth Magistrate is currently being piloted dealing only with criminal cases involving youths.***
- (148) *Magistrates do not have time for active management of Child Protection matters, given the number of criminal matters they see each week. Yet parents respond well when the Magistrate seems***

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<sup>344</sup> Mooney, Submission, pp. 1-2.

<sup>345</sup> Commissioner for Children Submission, pp. 17-18.

*across the material and is more actively case managing the matter, instead of relying on lawyers.*

### **Recommendations**

**The Committee recommends that:-**

- (141) *The pilot Youth Magistrate should be extended and evaluated to determine whether to extend to include all matters related to child protection.***
- (142) *Every effort should be made to better resource the Magistrates Court system to enable Magistrates to proactively manage Child Protection matters.***
- (143) *There be a stronger commitment to a consistent practice approach by the court to Child Protection matters.***

### **Legal Aid**

12.11 A number of submissions received by the Committee identified legal aid funding as an issue in the child protection system. The evidence demonstrated the need to ensure that legal aid support for members of the public impacted by the child protection system is given greater priority.

12.12 The following is an example of such a submission:

*More funding ought to be given to Legal Aid. Lawyers play a vital role in talking people through the process and helping them realise that a cooperative approach invariably results in getting one's children back much more quickly.<sup>346</sup>*

12.13 A number of submissions from parents and carers who had been involved in the child protection system referred to the unavailability of legal aid in some circumstances. The following is one example of such submission:

*The department has their own access to lawyers. Our daughter has access to a lawyer via Legal Aid, but we are not eligible for that. So we are the ones who are trying to defend a situation and we, to be honest, cannot afford a lawyer at \$330 an hour, so we have retained someone who can advise us. But obviously we are not going to afford to take her into court for two hours just to sit there looking at us.<sup>347</sup>*

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<sup>346</sup> Mooney Submission, p. 4.

<sup>347</sup> Henri, Hansard, 29 November 2010.

12.14 The Committee heard evidence from Mr. Norman Reaburn, Director, Legal Aid Commission of Tasmania. This evidence confirmed that there was a period where legal aid was unavailable to parents in child protection matters. Mr. Reaburn stated as follows:

*We give aid to people in care and protection proceedings, except that for a period of about eight months ending at the end of July we were not giving aid to parents in care and protection proceedings because of budgetary pressures, but we are now giving aid to parents again. We have, with the assistance of the Government, a bit of extra money and we are giving aid to parents again.*

*In a care and protection proceeding we are involved in giving aid to parents. More often than not that does involve giving separate grants of aid to separate parents, rather than one grant for both of them. It is not common for there to be one grant for both parents. We also give aid in the sense that the court is able to appoint an independent children's lawyer in care and protection proceedings and request the Legal Aid Commission to arrange for that lawyer to represent the child. That lawyer is not subject to the child's instructions but uses their best sense of the situation to assist and advise the court. We pay for that and if the independent children's lawyer requires any expert assistance from psychologists, social workers or people like that, we pay for that as well where it's necessary.<sup>348</sup>*

12.15 Mr. Reaburn also spoke generally about eligibility criteria for receiving a grant of legal aid. He advised the Committee that there are both means and merits tests which an applicant for legal aid must satisfy in order to be eligible for a grant of legal assistance.

12.16 In relation to the means test, Mr. Reaburn stated as follows:

*They have to have a relatively low income and a relatively low asset base.....- If you are on benefits you will qualify; if you are earning more than benefits, it is a sliding scale. The way in which the slide accommodates is by increasing our contribution. Everybody who gets legal aid is obliged to provide us with a \$60 contribution, unless in special circumstances when we'd waive it. As people's income increases, the level of contribution that we ask for starts to increase. There comes a point where the level of contribution calculated by the means test formula will come to more than it will cost us to provide the aid. At that point we turn around and say, 'No, you have to go away and do it yourself'.<sup>349</sup>*

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<sup>348</sup> Reaburn, Hansard, 22 December 2010.

<sup>349</sup> Ibid.

12.17 When questioned further by the Committee in relation to the level of income that would disqualify a person under the means test, Mr. Reaburn responded as follows:

*It would depend on how many children they had, for instance. You would have to be getting high \$30 000s before you wouldn't qualify at all.<sup>350</sup>*

12.18 When questioned by the Committee in relation to the level of assets allowed under the means test, and whether a home owner would qualify for legal aid, Mr. Reaburn responded as follows:

*....a home-owner, but provided the equity in the home is below a certain level. We have a limitation on the equity in the home. We have a limitation on the equity in a motor car and we don't count family furniture and family belongings. If you have other assets, such as money in the bank or shares or other property, you are going to fail.... Even in circumstances where it wouldn't be very liquid, yes. The difficulty about it is that we have to be fairly stringent with these tests. Yes, I could exercise a discretion but we have to be fairly stringent because if our budgets are tight - and our budgets are very tight - if one person gets aid, that means that somewhere down the track there is another person who is going to fall off the back. So we have to consider the whole of the community that we are assisting whenever we look at any individual application.<sup>351</sup>*

12.19 In relation to the merit test, Mr. Reaburn stated as follows:

*It means there has to be some justification for taking the position that the applicant wants to take. Essentially it means that there has to be some reason for spending taxpayers' dollars on putting this point of view to a court.... One of the ways in which we formulate this is: would the reasonably prudent person be prepared to put their own money into this case? We quite often get proposals for assistance that a reasonably prudent person wouldn't do so.<sup>352</sup>*

## **Findings**

**(149) That lack of access to legal aid is an issue in the Child Protection system and there is a demonstrated need to ensure legal aid support for members of the public impacted by child protection decisions is given greater priority.**

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<sup>350</sup> Ibid.

<sup>351</sup> Ibid.

<sup>352</sup> Ibid.

*(150) For a period of about eight months at the end of July 2010, the Government was not providing legal aid to parents in care and protection proceedings because of budgetary pressures.*

*Recommendations*

*The Committee recommends that:-*

*(144) The Government must ensure that no parent is denied access to legal representation in Child Protection matters involving the custody of their child.*

## 13. EDUCATION

13.1 The evidence to the Committee demonstrated the need to improve educational outcomes for children in care.

13.2 The Committee heard evidence from Ms. Jacqui Reed, CEO of the CREATE Foundation. She stated as follows:

*Young people in Tasmania overwhelmingly felt from the study, that they don't have anyone to help them with their homework. Over half of the young people did not have anyone they could ask to support them with their homework and almost one-third said that they would appreciate support from a tutor.<sup>353</sup>*

13.3 Ms. Reed further stated as follows:

*In transition to care, we found that the lack of housing and accommodation options was severe. Transitioning from care meant that many young people start the transition process while they're still at or within formal schooling, so that increased the level of stress for young people. For example, if they turned 18 during the year, their last year at school, young people are transitioned at that stage and need to be looking for other educational supports because they need to be fending for themselves. Within education, we are very concerned at the high rates of suspension and expulsion and the instability of placements really compounds that. We also found that there are definite links between homelessness, poverty and mental health and many young people through the transition process are caught up in that cycle. The transition program as it is now has a new pilot between the department and Housing Tasmania. It is a lead-tenant model; we consider it to be a best practice model and we are very keen that it should continue. It shows great merit and a great way for young people to be supported on their first step to independence.<sup>354</sup>*

13.4 The need for continuity in schooling for children under Orders was also raised:

*It is not uncommon for a child's foster placement or school to be changed without any reference to the Child Representative, who is not even advised after the event on many occasions. Presumably, this is because it is seen as an administrative/case management decision and not part of the judicial determination of whether a child is at risk. This*

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<sup>353</sup> Reed, Hansard, 21 December 2010.

<sup>354</sup> Ibid.

*completely fails to appreciate that a child can be at risk of mental health damage if it is taken away from both its school and its family. In my view, although it is a case management matter, it ought to be flagged and a collaborative approach sought in order to minimise angst during proceedings.*<sup>355</sup>

13.5 A foster carer also raised this matter:

*... the children who come to us from their parents are attending school. The children who come to us from other carers or from residential care or from the system are not attending school ...*

*It is about support but it is really around meeting the kids' needs. These kids have been traumatised along the way somewhere. There has been some sort of trauma in their life. It is not listening to the kids and finding out why they are not engaged in school. It is more like, "Here's your program; do it". It is not really listening to the kids and doing an individual education plan.*<sup>356</sup>

13.6 A parent of a child with a disability who had an Individual Education Plan stated that these were not properly resourced:

*We got him into Bowen Road Primary School who embraced the concept of individual education plans and we have an education plan for him each year. Of course they are hamstrung by a lack of services and the things they want to achieve, in terms of key outcomes and, in terms of what the speech pathologist reports recommend don't always happen because of a lack of resources.*<sup>357</sup>

13.7 The Department of Education said every child in Out of Home Care should have an Individual Education Plan:

*Being notified that the child is in home care should trigger the school to say we need to work on an individual education plan for this child. That is one of the areas of communication that we have been working really hard to address. An individual education plan takes time to assess the child and establish what might be some reasonable goals for that child et cetera. They really cannot be done in a very short time frame. One of the things that the committee Katrina (Beams, Manager, School Support, Learning Services South) has been working on has been grappling with is a reasonable time frame for teachers to work together to put in place a plan. They have come up with six months as an appropriate time frame.*

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<sup>355</sup> Mooney, Submission, p. 4

<sup>356</sup> Flack, Hansard, 15 November 2010.

<sup>357</sup> Smith, Hansard, 29 November 2010.

*We do some checking. We ask schools whether there are plans in place. Several years ago there was an audit of that process. Predominantly we are finding that where schools have been made aware and have had sufficient time then they have plans in place for those children.<sup>358</sup>*

### **Findings**

- (151) *The Committee received evidence that children who are in the Out of Home Care system are not regularly attending school.***
- (152) *Half the young people who participated in a two-year study of children in Out of Home Care in Tasmania said they did not have anyone to help with homework and a third would have appreciated support from a tutor.***
- (153) *Young people who are turning 18 during the school year are transitioning from Out of Home care while still in education. This increases the level of stress for them and decreases the likelihood of them completing the school year.***
- (154) *There are high rates of non-attendance, suspension and expulsion of children in Out of Home Care.***
- (155) *A child can be at greater psychological risk if they are simultaneously removed from both their family and school, as it is not uncommon for a child to have to change schools when going into a foster care placement. It is also common for a child to have to change schools every time that placement is changed. Child Representatives are often not informed of this.***
- (156) *There is a lack of collaboration and integration between Child Protection Services and the Department of Education.***

### **Recommendations**

***The Committee recommends that:-***

- (145) *Every child in Out of Home Care must have an Individual Education Plan, and those entering Out of Home Care for the first time should have an Individual Education Plan in place by three to six months. This must be monitored.***
- (146) *If children in Out of Home Care are not meeting key educational outcomes and benchmarks, there should be collaboration between Child Protection Services, the school and relevant carers***

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<sup>358</sup> Lidster, Hansard, 10 December 2010.



*to ensure tutoring or additional assistance is provided by the school.*

- (147) For children in Out of Home Care, changing schools with changed placements should be avoided if at all possible.*
- (148) Support be provided for young people transitioning from out of home care to complete their education.*
- (149) Every effort must be made for students displaying difficulty in participating in formal school environments to explore alternative education programs and settings.*
- (150) There needs to be sharing of attendance data between Child Protection and the Department of education.*

## 14 EARLY IDENTIFICATION OF RISK AND INTERVENTION, INCLUDING THE ADEQUACY OF EARLY INTERVENTION IN SCHOOLS AND HIGH RISK PREGNANCIES

### *Adequacy of Early Intervention in High Risk Pregnancies*

14.1 The Committee received a submission from Dr. Williams which provided the following suggestions in relation to early intervention and prevention strategies involving infants and young children.

*Identification of highly at risk unborn babies for example a Perinatal Mental Health initiative is an important early intervention and prevention strategy. The senior clinician authors of this submission are supportive of upgrading of staffing and training of child and family health nurses; key front line staff who have daily contact with under 5 year olds in the community. Our best practice initiatives would include:*

- *Early childhood nurse training to identify at risk infants and attachment disturbance.*
- *Nurse home visiting programs to support and monitor at risk infants and their mothers.*
- *Early childhood nurses acting as care-coordinators for highly at risk mother-baby dyads (model proposed by Prof. Dorothy Scott, Australian Centre for Child Protection, University of South Australia).*
- *Enhancing the capacity of community based services to refer to specialist intervention (eg: Child and Adolescent Mental Health Service, Child and Family Services) depending on level of risk to infant.<sup>359</sup>*

14.2 Further detail was provided in the evidence of Dr. Wagg, a co-author of the above submission, as follows:

*[in relation to systems which identify high-risk pregnancies and systems for monitoring for infants] In other jurisdictions in the UK where I worked there were early childhood nurses who did lots of home monitoring and they had a home-visiting program so they would be universal programs but then they would be more intensive programs to identify high-risk clients. I think there need to be well-integrated services so that mums who have alcohol problems, drug/alcohol problems and mental health problems are linked up with those services very assertively so it is not optional but 'If you want to keep your kid,*

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<sup>359</sup> Williams, Submission, pp. 1 – 2.

*you need to go to these services'; also good links between the early childhood nurse services and child and adolescent mental health services so that the mothers and babies who are having the hardest time do get expert intervention in fostering that better attachment..... The model of Dorothy Scott, who is the Professor of Social Work in South Australia, is of that early childhood nurse being the coordinator of care. I think that is one of the things that happens where you have a parent and a child who have high needs in lots of different areas - the child might have a developmental problem, the mum might have drug and alcohol problems and also housing problems - and they have to go to 10 different services to get what they need. To have that nurse as a coordinator of service saying, 'We'll set it all up. We'll have a case conference. We'll make sure everybody is doing their bit' so that mum is not falling between the cracks is important.<sup>360</sup>*

- 14.3 The Committee heard evidence from the Salvation Army who reported they were increasingly encountering children whose births are not registered, which gives cause for alarm that there is no authority checking on the wellbeing of the child. The Department was questioned about this:

*Ms PETRUSMA - Can I ask a question in regard to breaking down the silos. We have heard evidence in the inquiry that some people had given birth outside hospitals because they are frightened that they might lose the child. What could be done about communicating better with hospital staff? I think some of these 16-year-olds must be giving birth out in the bush because these kids are suddenly arriving into the system when they are months old. It seems like they are being flagged in hospital that there is an unborn baby alert and then if the mother is due to give birth on, say, 10 December, you would usually say that by 24 December she should have had that baby but she does not turn up. What is put in place to check where that mother has gone to instead of the baby popping up three months in the future?*

*Ms McCROSSEN - Those very things are what we weigh up at the decision-making point - not to put an alert on a child because that is about safety and risk, but in terms of how we communicate. Sometimes if we communicate that there is an alert in place, we obviously need to weigh up the possibility of the mother fleeing and hiding away from Child Protection. We have a co-located worker within the hospital and I guess we utilise that position and social workers within the hospital who know the client to provide us with information as to whether or not it would cause more of a risk to communicate that there is an alert in place. Sometimes you don't know that and sometimes the risk of not putting an alert on an unborn child is*

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<sup>360</sup> Wagg, Hansard, 17 December 2010.

*greater than the risk of the mother fleeing and having the baby somewhere else.* <sup>361</sup>

14.4 Another submission by a family support worker stated:

*There is no follow-up or support offered to mothers who have had their child/children removed at birth.*<sup>362</sup>

### **Findings**

- (157) *The Committee received evidence that a community sector organisation is increasingly encountering children whose births are not registered.***
- (158) *Sex education/parenting skills seem hit and miss throughout government and non government schools.***
- (159) *Health and education should be working together.***

### **Recommendation**

***The Committee recommends that:-***

- (151) *Early identification of at-risk unborn babies has been an important early intervention strategy which should be replicated at the community level with –***
  - early child health nurses receiving specialist training to identify at-risk infants;***
  - more nurse home visiting programs for mothers at risk; and***
  - undertaking a trial of care coordination by child health nurses for at-risk mothers/babies.***
- (152) *Parents who have had their babies removed at birth should have access to support services.***
- (153) *If an unborn baby alert is placed on an at-risk mother, there must be a tracking system to notify if the mother has not presented to a hospital for the birth.***
- (154) *Consistency is brought into the education system in relation to sex education/parenting skills.***

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<sup>361</sup> Hansard, 2 December 2010

<sup>362</sup> Gutwein, Submission.

## ***Adequacy of Early Intervention in Schools***

14.5 The Tasmanian Government submission states as follows:

*The Department of Education works within the legislative requirements of the CYPTF Act. The role of DoE in the Child Protection System is to support DHHS in ensuring that children experiencing abuse and neglect are cared for and educated in a manner which maximises their opportunity to grow up in a safe and stable environment and to reach their full potential.*

*It is mandatory for all school staff to report known or suspected cases of child abuse to Child Protection Services. The purpose of mandatory reporting is to develop a community where reporting is expected from everyone and where discretion about reporting is not based on personal choices.*

*Under the CYPTF Act, all adults in the community have a responsibility to take steps to prevent the occurrence or repetition of abusive behaviour to children. More specifically, all DoE staff are mandatory reporters of child abuse including but not limited to:*

- principals and teachers in any educational institution (including a kindergarten);*
- persons who provide child care, or a child care service, for fee or reward;*
- persons concerned with the management of a child care service licensed under Part 6 of the Child Welfare Act 1960; and*
- any other person who is employed or engaged as an employed for, of, or in, or who is a volunteer in any government agency that provides, among other services, education and childcare.*

### ***Schools***

*There are some students in every school who have difficulties with schooling to a greater degree than most other students. These students occur in statistically predictable patterns, often related to areas of socio-economic need. These students require more help and support to learn than others.*

*DoE addresses issues of poverty through differential funding of staffing allocations and schools grants to improve access to education for all students. Schools are compensated for levels of disadvantage through needs based indices such as the DoE Educational Needs Index (ENI) which is a measure of the socio-economic background of students attending the school. In 2009, approximately \$29 million was allocated to schools on the basis of need through DoE staffing and school grant formulas.*

*This was over and above the funds specifically targeted for equity programs including, but not restricted to Launching into*

*Learning, Raising the Bar Closing the Gap, School Literacy Grants to support literacy intervention for high ENI schools; and the Student Assistance Scheme*

*A school's role in relation to students who are under guardianship or custody orders is to support the child, especially if their behaviour is extreme or challenging. This support can include but is not limited to:*

- *ensuring the child is enrolled in and attending the school most appropriate for them;*
- *ensuring the child has access to an identified adult in the school to go to in relation to any issues and concerns;*
- *providing information to Child Protection to assist them develop an accurate assessment of how best to protect the child;*
- *developing an Individual Education Plan where the educational need of the child requires this;*
- *ensuring that all alternatives in relation to keeping a child at school are thoroughly explored before suspension or expulsion are considered; and*
- *participating in case conferences or family group conferences.*

### **Social workers**

*Social workers are often the step between teachers and Child Protection involvement. Social workers have a 'first line of defence' role with highly vulnerable families and are often the first phone call teachers and principals make when they are alerted to children living in difficult circumstances. Schools often have the initial conversations with parents/guardians with a follow up by the social worker. Then they move into a case-by-case individual management system.*

*The Social Work team have solid relationships with Child Protection workers and managers and meet with them on a regular basis to case conference at risk children and families.*

*Kindergarten staff are the first point of contact for some families and the recent Tasmanian Government policy to increase attendance from 10 hours to 15 hours each week will provide additional contact to support and know those students at risk.*

### **Mental health and drugs**

*DoE addresses issues of mental health through:*

- *the employment of school psychologists to work with students at risk in this area (the Tasmanian Government has committed to employing more school psychologists in 2011 and increasing training for psychologists); and*

- *programs such as 'mind matters' and 'kids matter' with dedicated project officers.*

*DoE supports a drug education co-coordinator to assist all schools with drug related issues including policy development, curriculum planning, and professional learning that promotes resilience and a supportive school community.*

### **Child and Family Centres**

*DoE is collaborating with DHHS to establish Child and Family Centres (CFCs) in communities where the need is the greatest.*

*CFCs are being built in the most vulnerable communities across the State in order to give those children the best possible start to life. The goals of the CFCs are to:*

- *improve the health and educational outcomes for children – 0 - 5 years;*
- *provide a range of integrated early years services in the local community to support the development of children birth to five years;*
- *build on the existing strengths of families and communities and assist in their educational needs;*
- *increase participation in early years programs such as those offered through Launching into Learning;*
- *build community capacity by developing partnerships with parents, carers and the community; and*
- *respond to child and family needs in a seamless and holistic manner.*

### **Launching into Learning**

*The Launching into Learning Program (LiL) aims to give Tasmania's children the best possible start in life. LiL targets the 'hard to reach families' who are frequently vulnerable.*

*CHAPs workers pass information about vulnerable children and families onto LiL coordinators who are then able to target support options for families. For example: parenting programs via Neighbourhood Houses, '123 magic' courses at community centres, or through some social workers.*

### **Student Assistance Scheme**

*The Student Assistance Scheme provides assistance for low-income families towards the cost of levies for students enrolled from kindergarten through to senior secondary level. It is available to students attending a government or registered non-government school or college and those students eligible to pay levies at the Tasmanian Academy or the Tasmanian Polytechnic.<sup>363</sup>*

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<sup>363</sup> Tasmanian Government, Submission, pp. 43 – 46.

14.6 The Committee heard of the difficulties for schools being proactive in early intervention:

*Schools are providing meals and clothing to children on a regular basis and money goes on drugs and alcohol. Children are attending schools malnourished with Vitamin D deficiency; others have severe oral health problems impacting on speech and learning capacity. Schools should not be the watchdog for the Child Protection Service.<sup>364</sup>*

*... we have many children who are disengaged with school both within the residential services setting, family support and in Child Protection<sup>365</sup>*

*... schools in particular have five hours a day when they have these kids and they can notice if someone is losing weight all of a sudden or if there is an increase in bruising. When they are reporting it they are not feeling that the weight of what they are reporting is higher than if a community member rings up that they saw this kid in the park or something like that.<sup>366</sup>*

14.7 The CPSU gave evidence about the need for school social workers:

*It is not only in Child Protection that services to children at risk are being under resourced. At present the Department of Education employs a total of 45 (FTE) school social workers to deliver services to approximately 65,000 students enrolled in our State schools – a ratio of around 1 school social worker for every 1500 students. School social workers report that a vast majority of their time is spent dealing with crisis situations involving individuals or small groups and therefore rarely have the opportunity to be proactive. These workers are the frontline where early intervention and prevention strategies would have the most impact but they simply do not have the time to do this work.<sup>367</sup>*

14.8 The submission of Professor Sandra Taylor of the Social Work Discipline, University of Tasmania agreed:

*Tasmania is one of the few states in Australia to employ qualified social workers in its educational systems. However, those social workers are spread so thinly across so many schools that it is simply not possible to provide adequate services to the many children whose behaviour and learning capacities are seriously impaired by complex and dysfunctional family experiences.*

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<sup>364</sup> Gutwein submission.

<sup>365</sup> Ashford, Hansard, 29 November 2010.

<sup>366</sup> Paul, Hansard, 21 December 2010.

<sup>367</sup> CPSU, Submission, p. 2.



*The importance and necessity for increased collaborative communication and jointly conducted practices between child protection services and Department of Education Social Workers is highlighted extensively in the recent report by the Commissioner for Children following the inquiry into the circumstances of a 12 year old child under guardianship of the Secretary ... the government response to this report supports many of the recommendations made by the Commissioner. It will be imperative to adequately resource the recommendations and monitor their implementation and impact.<sup>368</sup>*

- 14.9 The Australian Psychological Society Ltd (Tasmanian Branch) gave evidence on the psychologist resource in Tasmanian Schools:

*While currently under-resourced, one of the largest workforces of psychologists in Tasmania are those working in government schools. They play a significant role not only in identification and reporting, but also often in intervention, treatment and support.<sup>369</sup>*

- 14.10 Others disagreed:

*Schools should not be placed in a position of being the watchdog for a service that already exists to protect children.<sup>370</sup>*

- 14.11 A CPSU member also recommended that every child in the care of the Department needed communication with the relevant school social worker or other key staff:

*Schools are in a position to monitor the progress of young people, there needs to be greater collaboration between CP workers and school social workers for there to be good practice in case management.<sup>371</sup>*

- 14.12 The Committee also heard from a foster carer who had experienced difficulty in finding alternatives to suspension:

*He was getting suspension after suspension. We would send him back to school and he would get suspended again, so I just said, "Look, Mark [Mark Byrne CEO of DCYFS], something needs to be done. Then Mark sent it back down his silo to the area manager who said "You need to speak to the education area manager". I*

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<sup>368</sup> Taylor, Submission, p. 3.

<sup>369</sup> The Australian Psychological Society Ltd (Tasmanian Branch) – submission.

<sup>370</sup> Gutwein, Submission, p. 4.

<sup>371</sup> CPSU submission.

*went down there. Should it not be the Child Protection worker talking to them?*<sup>372</sup>

14.13 Another CPSU member raised concerns about current practices of Child Protection Services in schools:

*It is current practice for CP workers to ask school staff whether they themselves feel comfortable speaking with a parent about an allegation of abuse/neglect. This is not the role of school staff – it places staff at risk and places children at risk because school staff are not in a position to be able to ensure the safety of a child in these circumstances.*<sup>373</sup>

14.14 The Tasmanian Catholic Education Office stated:

*One of the concerns that our school system has is the emerging trend for child protection workers to turn responsibility for managing reasonably low level child abuse and neglect cases back to schools who more often than not have neither the expertise nor the resources available to them that are available to the Department of Education schools. We work from a resource base far less than the Government school system.*<sup>374</sup>

## **Findings**

- (160)** *The Committee received evidence that schools are perfectly positioned to be involved with early intervention, but school social workers feel that their reporting or notifications as mandatory reporters of known or suspected abuse do not carry sufficient weight.*
- (161)** *While the Education Department is obligated to ensure children are enrolled in, are attending school and all alternatives are thoroughly explored before suspension and expulsion are considered, in practice children are suspended over and over again, and sent home.*
- (162)** *Social workers in schools are “often the step between teachers and child protection involvement” however there is just one social worker for every 1500 children and they are spread so thin that the majority of time is spent dealing with crisis situations. They rarely have the opportunity to be proactive or to provide adequate support to the many children whose behaviour and learning capacities are seriously impaired by complex and dysfunctional family experience.*

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<sup>372</sup> Flack evidence, Hansard, 15 November 2010.

<sup>373</sup> CPSU, Submission, p. 5.

<sup>374</sup> Tasmanian Catholic Education Office, Submission, p. 2.

- (163) *Psychologists working in schools play a significant role in identification, intervention, treatment and support, however, they are under-resourced.*
- (164) *There is potential to address issues of generational disadvantage through the Department of Education's birth to 4 programs and Child and Family Centres.*

### *Recommendations*

*The Committee recommends that:-*

- (155) *There is a need for additional resourcing of school social workers and psychologists working in schools to identify, report, intervene and support children.*
- (156) *It be ensured mandatory reports and notifications from teachers, school social workers and psychologists are given due weight by Child Protection Services in risk assessments, and mandatory reporters are kept informed following such notifications.*
- (157) *Alternatives are fully explored before suspension and expulsion, or alternatively, for children in Out of Home Care, ensure that school-based suspensions can occur.*
- (158) *Monitoring and publicly reporting on numbers of children who have or are disengaging from education and not attending school occurs.*
- (159) *A system be instigated where the parent – even if the “parent” is the Secretary, DHHS – is advised and action is taken to either ensure the child re-engages with school or alternative education plans are put in place.*
- (160) *There is a need for increased collaboration and communication, and jointly conducted training practices, between child protection services and Department of Education school social workers and psychologists.*
- (161) *Support be provided for a greater emphasis on schools acting as early identifiers of children at risk and supporting families and children to overcome issues early where possible*

## 15 LONG TERM CONTRIBUTORS TO CHILD ABUSE

15.1 The Committee received evidence in relation to the need to address long-term contributors to child abuse in Tasmania.

### *General*

15.2 The Tasmanian Government Submission provides the following background information:

*As has been argued in the National Framework for Protecting Australia's Children 2009-2020, many factors contribute to child abuse and neglect and research suggests that these include:*

- *domestic violence*
- *parental alcohol and drug abuse*
- *parental mental health problems.*

*They also include factors relating to the broader challenges of exclusion and disadvantage such as:*

- *poverty and social isolation*
- *unstable family accommodation and homelessness*
- *poor child and maternal health*
- *childhood disability, mental health and/or behavioural problems*
- *young people disconnected from their families, schools and communities*
- *past experiences of trauma.*

*Adult treatment or support services – particularly those addressing domestic violence, substance misuse and mental health issues, as well as housing, gambling, disability, employment and income support services – need to be more child-focused, and responsive to the needs of families. In addition, it is important to address disadvantage (for example, overcrowded and inadequate housing); recognise and promote family, community and cultural strengths that protect children; and to develop community-wide strategies to address specific risk factors where they occur in high concentration, such as alcohol misuse and family violence (National Framework, 2009).*

*Speaking generally, factors that impinge upon child wellbeing and safety are multiple and complex; they are beyond, simply, 'the personal'. The limits of taking a 'deficits-based' and individualised approach for working with children and families,*

particularly within the context of statutory work are well documented (Turnell & Edwards, 1999; Tilbury et. al., 2007; Arney & Scott, 2010). Factors that impinge on child wellbeing and safety reflect social, cultural, economic and political dimensions of people's lives and therefore each of these domains, and their diverse configurations, needs to be considered in a systematic and thoughtful way to improve the situation of children and families. This requires the investment of resources across the multiple environments that are meaningful to the promotion of children's safety and their wellbeing, such as the provision of appropriate and affordable housing, access to quality education, access to good and plentiful food, a responsive legal system, providing parents' with financial security, access to quality and affordable health and dental care, and providing crisis and long-term support services alongside of other welfare services as needed. The investment of resources across these domains includes developing the capacity of the workforce within these areas to identify and respond meaningfully to the broader context in which children's safety and wellbeing can be located.

Some children are born into extreme disadvantage caused by a complex set of social determinants. The result is extreme vulnerability on multiple levels. These determinants include:

- poverty;
- a lack of adequate or stable housing;
- poorly educated parents;
- chronic health conditions in either child or parent including psychiatric illness;
- intergenerational issues which can include abuse, neglect and/or crime;
- domestic violence;
- marriage breakdown;
- unaddressed trauma in the adults in the children's lives caused by past or ongoing substance abuse and/or mental health issues;
- isolation; and
- being born into an impoverished community.

As there are so many contributing factors, it is likely that not many will be addressed before these children will themselves become parents, often when they are in their early-mid teenage years, and the cycle of disadvantage and extreme vulnerability will continue.

For many children the picture is not quite as bleak as that outlined above, unfortunately the complex and inter-woven socio-demographic determinants that contribute to the

*production of vulnerability in children are on the rise in Australia.*

*According to A Picture of Australia's Children 2009<sup>375</sup> there is a demonstrated relationship between the health and wellbeing of children and the environment in which they grow up. The reverse is also true: children who have been abused or neglected emotionally or physically often have poor social, behavioural and health outcomes immediately and later in life. Abuse and neglect victims may experience lower social competence, poor school performance and impaired language ability, a higher likelihood of criminal offending, and mental health issues such as eating disorders, substance abuse and depression.*

*The Report into Child Protection Services (2006) reported that in recent years issues such as long term unemployment, family violence, drug and alcohol abuse and mental health issues have had an increasing impact on the capacity of some parents to keep their children safe and meet their needs.*

*The Report noted that in Tasmania:*

*'The majority of children referred to the child protection system come from families that are affected by a combination of other issues that include financial difficulties, substance abuse, mental health symptoms, inadequate housing and family violence. In particular, an increase in the use of illicit drugs and alcohol by parents has added to the level of risk of many children being notified to child protection services.'*

*Tasmania is not the only jurisdiction facing child protection issues caused through factors such as parental substance abuse, poverty, and family violence. The AIHW publication Child Protection Australia 2008-09 provides a snapshot of the types of abuse and neglect across Australian jurisdictions<sup>376</sup>. Overall, emotional abuse was the most common type of substantiated abuse in all jurisdictions except WA and the NT, where neglect was the most common type. In Tasmania, 47.7% of cases of substantiated abuse were for emotional abuse, followed by 33.2% reported as neglect.*

*The relatively high rate of neglect in Tasmania is a reasonable indication that the abuse suffered by children is often linked to parental factors such as poverty or family violence. It is also an abuse type which can be positively responded to by increased levels of family support and other key aspects of the Tasmanian reform agenda.*

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<sup>375</sup> *A Picture of Australia's Children*, Australian Institute of Health and Welfare, 2009.

<sup>376</sup> Australian Institute of Health and Welfare, Child Welfare Series Number 47, Child protection Australia 2008-09.

*The Brotherhood of St Lawrence notes in its publication Monitoring children's chances<sup>377</sup> that (at the time of the report):*

- *relative child income poverty rates in Australia are in the middle range of OECD countries;*
- *nine out of 25 OECD countries have lower child poverty rates than Australia;*
- *just under 12% of children are in relative income poverty at any time;*
- *around 1 in 6 children are in a situation where neither resident parent is in paid employment;*
- *at least 5% of children are in relative poverty for at least three years; and*
- *9% of children are in a household where no adult is in paid employment for at least three years.*

*While it is acknowledged that the economic resources of the family may not be perfect indications of a child's wellbeing and potential, they are important. Without adequate financial resources, parents may find it difficult to give their children the best possible start in life. In addition, the stresses associated with having limited resources may impact negatively on a child.*

*It will take a concerted effort on the part of multiple agencies and bold strategic policy decisions by governments to address the ongoing safety of Australian children in future years.<sup>378</sup>*

15.3 This was expanded on by the Deputy Secretary (Human Services), Alison Jacob in relation to parents as carers:

*Analysis of the risk factors that contributed to Tasmanian children being taken into care show:*

- *Up to 65% of carers have a history of alcohol or drug misuse;*
- *Up to 50% of carers have been perpetrators of family violence;*
- *Up to 50% of carers have a history of mental health issues;*
- *About 10% of carers have an intellectual disability.*

*These problems are not easily solved and require systems to be put in place that will provide ongoing support and intervention over extended periods of time.<sup>379</sup>*

15.4 The Salvation Army also gave evidence:

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<sup>377</sup> The Brotherhood's Social Barometer, *Monitoring children's chances* – Brotherhood of St Lawrence 2005

<sup>378</sup> Tasmanian Government, Submission, pp. 88 – 90.

<sup>379</sup> Jacob, Submission, pp 6-7.

*Most families (87%) with children in child protection have relationships with Homeless and Drug and Alcohol Services. The lives of children in care are typically in constant crisis. Many in care experience multiple placement breakdowns and no consistency in their lives. Many children have drug and alcohol, mental health issues and engage in criminal activities. The Salvation Army is increasingly encountering children whose births are not registered.<sup>380</sup>*

- 15.5 Evidence to the Committee was that there were a number of contributing factors and therefore families needed to be considered holistically:

*Families need to be considered holistically – unemployment, literacy/numeracy, budgeting, parenting, physical/mental health, drug/alcohol abuse, housing, support for children.<sup>381</sup>*

### **Findings**

- (165)** *Long-term contributors to child abuse were identified as including family violence, parental alcohol and drug abuse, parental mental health problems, poverty and social isolation unstable family housing and homelessness, poor child and maternal health, childhood disability, mental health and behavioural problems for children and young people, disconnection from family, school and community for young people, and past experiences of trauma.*
- (166)** *As there are so many contributing factors, there is a risk that if those factors are not addressed, children could themselves become parents and the cycle of disadvantage and extreme vulnerability will continue for another generation.*

### **Recommendations**

**The Committee recommends that:-**

- (162)** *In order to address the long-term contributors to child abuse, an investment of resources across a range of areas is needed. Systems need to be put in place that will provide ongoing support and intervention over extended periods of time.*
- (163)** *Gateway Services are provided with additional funds to allow Integrated Family Support Services to continue to work with certain*

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<sup>380</sup> The Salvation Army Child Protection, Submission, p. 4.

<sup>381</sup> Gutwein, Submission.



*families who present with multiple challenges for an extended period of time to try to overcome entrenched and long-term contributors to child abuse.*

### **Socio-economic factors**

15.6 The Tasmanian Government Submission provides the following information in relation to socio-economic factors:

*Of all Australian states and territories, Tasmania has the highest proportion of households dependent on government pensions and allowances. The number has risen from 31.5% in 2005-06 to 34.1% in 2007-08, and remains the highest<sup>382</sup>. Tasmania also has the second highest proportion of people living in highly disadvantaged areas, after the NT.*

*Tasmania has one of the highest proportions of children living in jobless families of all states and territories. In Tasmania in 2005-06, 21.6% of all children aged under 15 were living in families where no resident parent was employed<sup>383</sup>. This was the highest proportion of all states and territories (except the NT for which no separate data was published) and higher than the Australian proportion of 15.8%. The proportion of Tasmanian children (aged under 15) living in jobless families (where no parent is employed) has risen from 16.3% in 1997 to 21.6% in 2006<sup>384</sup>.*

*According to the National Centre for Social and Economic Modelling study on child social exclusion<sup>385</sup>, Tasmania had the second-highest proportion of children at risk of social exclusion of all states and territories after the NT, and there was a high level of disparity between the proportions of children living in low risk versus high risk areas. Nearly half (46%) of all children aged 15 and under in Tasmania in 2006 were living in statistical local areas (SLAs) in the bottom quintile of the child social exclusion index (ie. the worst-scoring SLAs), while 8% were living in SLAs in the top quintile.<sup>386</sup>*

15.7 The former Commissioner for Children raised the issue of parental poverty as a child risk factor in his Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary, October 2010. He stated as follows:

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<sup>382</sup> Australian Bureau of Statistics, 2008 Australian Social Trends, Data Cube 4102.0, Family and Community Indicators, 2008.

<sup>383</sup> Ibid.

<sup>384</sup> Ibid.

<sup>385</sup> National Centre for Social and Economic Modelling 2008, Child social exclusion: an updated index from the 2006 Census, Paper for presentation at the 10th Australian Institute of Family Studies Conference, Melbourne, July 9-11, 2008, Figure 4, p. 21.

<sup>386</sup> Tasmanian Government Submission, pp. 91 – 92.

*[Recommendation] That the Tasmanian Government as a matter of urgency commence negotiations with the Commonwealth Government through FAHCSIA and Centrelink for voluntary income management for families referred to Gateway which Gateway assess as likely to benefit and involuntary income management for families with children under a Voluntary Care Agreement, requirement or orders assessed by Child Protection Services as likely to increase the level of child protection.<sup>387</sup>*

15.8 The National Council of Women agreed:

*We strongly agree that there should be more parental responsibility encouraged and exercised.*

15.9 The Tasmanian Government Response states as follows:

*Recommendation accepted with qualifications – it does not recognise the voluntary nature of non-government (Gateway) response as opposed to statutory child protection intervention. The Commissioner's report does not provide any evidence that such a mechanism would have resulted in a different outcome in the case under review. However, the Government (through the Community and Disability Services Ministers' Conference) is actively monitoring the trial of such mechanism in Western Australia and – depending on the outcome of that trial – will consider introducing something similar in Tasmania.<sup>388</sup>*

15.10 A family support worker raised concerns about how cost of living pressures impacted on children in families:

*High electricity costs mean parents are not bathing children regularly ... schools are providing meals and clothing to children on a regular basis and money goes on drugs and alcohol. Children are attending schools malnourished with Vitamin D deficiency; others have severe oral health problems impacting on speech and learning capacity.<sup>389</sup>*

## **Findings**

**(167) Tasmania has the second highest proportion of people living in disadvantage of all States and Territories after the Northern Territory, the highest proportion of children living in jobless families, the second highest proportion of children at risk of social exclusion, and the second highest turn-away rate for unaccompanied children seeking crisis accommodation.**

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<sup>387</sup> Commissioner for Children, Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary, p. 9.

<sup>388</sup> Tasmanian Government Response to Recommendations in the Commissioner for Children's Report on his Inquiry into the Circumstances of a 12 year old child under Guardianship of the Secretary, p. 5.

<sup>389</sup> Gutwein, Submission.

- (168) *For some Tasmanian families, high electricity prices mean parents are not bathing children, schools are providing meals and clothing to children on a regular basis, and children are attending schools malnourished and have severe oral health problems impacting on speech and learning capacity.*

### **Recommendations**

*The Committee recommends that:-*

- (164) *Tasmania liaises with the Commonwealth Government about participating in its child protection income management trials.*

### **Homelessness**

15.11 The Tasmanian Government Submission provides the following information about homelessness as a factor.

*Homelessness is also a contributing factor to child wellbeing. In 2007-08, Tasmania had the second-highest turn-away rate for adults and unaccompanied children seeking new crisis accommodation of all states and territories after the ACT (70 per cent compared to 81 per cent for the ACT)<sup>390</sup>. On average in 90% of cases, valid requests for accommodation in Tasmania were unable to be met due to a lack of accommodation being available<sup>391</sup>. In 2006, 31% of the Tasmanian homeless population was aged 12 – 18 years, higher than the national proportion of 21 per cent.<sup>392</sup>*

### **Recommendations**

*The Committee recommends that:-*

- (165) *Children should not be removed from their families if there are no abuse or risk factors evident other than the homelessness of parents. Instead, efforts should be made to find crisis and longer-term accommodation.*
- (166) *Investment should be made in providing more family crisis accommodation and families who use such accommodation should be provided with wrap-around supports until they can exit the accommodation and find longer-term affordable housing solutions.*

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<sup>390</sup> Australian Institute of Health and Welfare (2009), Demand for SAAP accommodation by homeless people 2007-08 – full report, May 2009, Table 7.1. Accessible from: [www.aihw.gov.au](http://www.aihw.gov.au)

<sup>391</sup> Ibid, Figure 4.1.

<sup>392</sup> Tasmanian Government Submission, p. 95.

## **Sexual Assault Trauma**

15.12 The Sexual Assault Support Service Submission states as follows:

*Walker (2008) outlines the impacts of unresolved trauma on individuals and their capacity to parent especially in relation to repeating patterns of abuse with their own children; attachment; the use of drugs and alcohol as a coping mechanism; and, mental health issues. In short unresolved trauma can lead to disturbed patterns of attachment in the parent which in turn leads to disorganised behaviour in the child and equates to significant risks for mental health problems in adulthood. These impacts are also regarded as risk factors within CPS.*

*Numerous studies link childhood sexual abuse to an increase in depression, anxiety disorders, antisocial behaviour, substance abuse, eating disorders, suicidal behaviour, and Post Traumatic Stress Disorder (Dinwiddie et al. 2000; Fergusson, Lynskey & Horwood, 1996; Mullen, Martin, Anderson Romans & Herbison, 1994, as cited in Fergus & Keel, 2005). There are also co-morbidity issues with those with Post Traumatic Stress Disorder having an 80-85% chance of having depression also (O'Donnell, Creamer, & Pattison, P. 2004).*

*Some US research suggests that 35-75% of women seeking mental health services reported childhood sexual abuse (Polusny & Follette, 1995, as cited in Duncan, 2005). One Australian study found four times as many of the childhood sexual abuse sample had received treatment in the public mental health system and there was a significantly higher rate of "major affective disorders, anxiety disorders, personality disorders and disorders of childhood" (Spataro & Mullen, 2004). With childhood sexual abuse often being perpetrated by a family member or someone trusted by the family, there is intergenerational risk created by the effect of trauma on parenting capacity, but also by the belief systems that sustain sexual abuse being passed on (Duncan, 2004, as cited in Duncan, 2005).*

*The enormous individual, social and public health system impacts of sexual abuse cannot be overlooked. As the Tasmanian child protection system, like many in Australia, is taking a public health model approach (Bromfield, 2010), SASS urges the Select Committee to consider the abovementioned substantiated links between childhood sexual abuse and ongoing lifetime problems as a result of unresolved trauma.<sup>393</sup>*

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<sup>393</sup> Sexual Assault Support Service Submission, pp. 10 – 11.

*In discussing early intervention, preventing entry or re-entry into protective care, and risk factors, Bromfield & Holzer (2008, p.62) stress the need for skills and resources to be provided to families. They also assert the imperative that both risks and needs are identified at all stages of involvement in child protection. Walker (2008) clearly outlines the impacts of unresolved trauma on individuals and their capacity to parent especially in relation to issues with repeating patterns of abuse of their own children; attachment; the use of drugs and alcohol as a coping mechanism; and, mental health issues.*

*Sexual assault is a type of trauma - SASS deals with the impact of sexual assault as our core business. These impacts are also regarded as risk factors within CPS. As stated by the Commissioner for Children in his Inquiry into the Circumstances of a 12 year old girl under the Guardianship of the Secretary (2010, p.7) the unresolved trauma history of the mother was overlooked as were her consequent and predictable lack of boundary setting and substance abuse issues. Any risk assessment in relation to protective and safe parenting should take these matters into account. While a punitive response that focuses simply on removal of children would seem to be unjust in these circumstances, there are no resources available to work with adults to mitigate the impact of unresolved trauma as a result of childhood abuse. As a consequence of their own childhood sexual abuse such parents may be sentenced to a life of continually losing custody of their own children to the CPS.*

*The Child and Family Services New Directions for Child Protection in Tasmania: An Integrated Strategic Framework released in 2008 includes consideration of parental risk factors. Furthermore Bromfield & Holzer (2008, p.68) points out the Tasmanian Government identified families where there are mental health and drug and alcohol issues as priority areas for early intervention. They also state that whilst the legislative framework is strong there is a lack of resources to enable support services to fulfill the legislative intention for early intervention.*

*SASS calls for all levels of government to make good on the policies outlined in both the New Directions for Child Protection in Tasmania: An Integrated Strategic Framework and Agenda for Children and Young People: Consultation Paper by considering the abovementioned recommendations regarding early identification, intervention and prevention of child sexual assault.*

*Recommendations:*

- *Trauma history of parents involved with CPS should be systematically assessed and risk assessment frameworks should contain appropriate indicators of complex trauma symptoms.*

- *CPS workers should be skilled, resourced and required to assess the impact of childhood sexual abuse on the parents of at risk children and services should be made available to such parents to support their recovery from complex trauma related problems wherever possible.*<sup>394</sup>

### **Findings**

**(169)** *That there are substantiated links between unresolved childhood trauma and lifetime problems and patterns of abuse being repeated; this can impact on the capacity of individuals to parent their own children.*

**(170)** *The Committee received evidence that:-*

- *while unresolved sexual abuse is regarded as a known risk factor within Child Protection Services, in the case of the prostitution of the 12 year old girl, the unresolved trauma history of the mother was overlooked by Child Protection Services; and*
- *while the Government's "New Directions for Child Protection in Tasmania" includes consideration of parental risk factors, there is a lack of resources to enable support services to fulfil the legislative intention for early intervention and there are few resources available to work with adults to mitigate the impact of unresolved trauma as a result of childhood abuse.*

### **Recommendations**

*The Committee recommends that:-*

**(167)** *Risk assessment frameworks within Child Protection Services must take into account and acknowledge unresolved childhood trauma and complex trauma-related symptoms.*

**(168)** *Child Protection Workers must be skilled and resourced to assess impacts of generational childhood sexual abuse.*

### **Mental Health**

15.13 The Mental Health Council of Tasmania provided the following information:

*The MHCT would also like to draw the Committee's attention to the Statewide and Mental Health Services, Department of Health and Human Services document "Building the Foundations for Mental Health and*

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<sup>394</sup> Sexual Assault Support Service, Submission, pp. 6 – 7.

*Wellbeing”, 2009.<sup>395</sup> This is a strategic framework and action plan in implementing promotion, prevention and early intervention. The framework outlines five priority areas; with priority three focusing on the investment in the early years and families. This priority addresses the foundation of ‘building support for mental health and wellbeing in families’, through strengthening family relationships, enhancing parenting skills and establishing strong parent/child attachment in the early years. The evidence is clear that investment as early as possible in the developmental cycle will have the most significant impact on mental health and well being.*

*The policy document outlines strategies which the MHCT would urge the Committee to consider. The first; to support the development of positive parenting skills. This would be achieved through providing a high level of support to parents of children at risk, particularly parents identified through child protection agencies, corrective services, alcohol and other drug agencies, and parents with a mental illness.<sup>396</sup>*

### ***Finding***

***(171) The underfunding of mental health services can create additional risks for children.***

### ***Recommendations***

***The Committee recommends that:-***

***(169) There is a need to provide a high level of mental health support to parents of children at risk, particularly those identified through child protection agencies.***

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<sup>395</sup> [http://www.dhhs.tas.gov.au/mentalhealth/publications/strategic\\_documents](http://www.dhhs.tas.gov.au/mentalhealth/publications/strategic_documents)

<sup>396</sup> Mental Health Council Tasmania, Submission, pp. 1-3.

## 16 COMPARISON OF CHILD PROTECTION AND FAMILY SUPPORT SERVICES IN AUSTRALIA

- 16.1 The Tasmanian Government submission provides a comparison of child protection jurisdictions in Australia.
- 16.2 The National Child Protection Clearing House undertook a comprehensive study in 2005 comparing statutory child protection systems across Australia. The paper found that 'Despite different legislative frameworks and some operational differences, Australian state and territory child protection systems are providing very similar models of intervention.'<sup>397</sup>
- 16.3 The Tasmanian Government submission provides the following information in relation to comparison between states and changes since 2005:
- 16.4 Victoria – The Victorian *Children, Youth and Families Act 2005* provided the platform for a whole-of-government responsibility for protecting children and an 'early intervention' approach. The implementation of local level community intake services (known as Child FIRST) enabled a differential response to concerns about the wellbeing of children. Mandated reporters are able to report concerns about children to Child FIRST agencies. These agencies have capacity to support vulnerable families through the provision of family support services. The Child FIRST service system is coordinated with child protection intake services. The Tasmanian model (implemented in August 2009) of a differentiated pathway for referrals with concerns about children in vulnerable families being referred to Gateway Services and the more serious concerns being referred to Child Protection Intake Services is based on the Victorian approach.<sup>398</sup>
- 16.5 New South Wales – A Special Commission of Inquiry into Child Protection Services in NSW (known as the Wood Inquiry) was released in late 2008. The NSW Government

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<sup>397</sup> Tasmanian Government, Submission, p. 18.

<sup>398</sup> *Ibid.*, pp. 18-19.



response *Keep Them Safe: A shared approach to child wellbeing* recognises the need to support families earlier and to prevent children requiring statutory child protection intervention. The Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 was passed in 2009.<sup>399</sup>

- 16.6 ACT – Child protection in the ACT is managed under the *Children and Young People Act 2008*. The ACT legislation has a significantly broader scope than the Tasmanian Act, including objectives relating to:
- Responding to the needs of young offenders (including rehabilitation and reintegration);
  - The provision of whole-of-government assistance to children and young people, families and communities; and
  - Ensuring the protection of children and young people in employment.<sup>400</sup>
- 16.7 Western Australia – Child Protection in Western Australia continues to be managed through the *Children and Community Services Act 2004*. The Act came into operation on 1 March 2006. Western Australia does not operate under the differentiated referral pathway that now exists in Tasmania and Victoria and is now being established in New South Wales.<sup>401</sup>
- 16.8 Queensland - *The Child Protection Act 1999* remains the platform for child protection interventions.
- 16.9 South Australia – *The Children’s Protection Act 1993* remains the platform for child protection interventions.<sup>402</sup>
- 16.10 Northern Territory – The Care and Protection Act 2007 was passed in November 2007 and commenced in stages throughout 2008. The Department of Health and Families’ website states that a Differential Response Framework has been developed in the Northern Territory. The elements of the framework include capacity to divert ‘high needs, low risk families’ away from tertiary child protection interventions. The Framework also includes Targeted Family

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<sup>399</sup> Ibid., p19

<sup>400</sup> Ibid., p19

<sup>401</sup> Ibid., p19

<sup>402</sup> Ibid., p20

Support Services to case manage vulnerable families. Out-posted child protection workers and the provision of brokerage funds are also features of the Framework. Thus the NT Framework has many features of the Tasmanian model. The recent inquiry into child protection services in the NT (Growing Them Strong Together) recommended the public health approach that included a differentiated pathway/response for family concerns and abuse and neglect concerns. The report cites the Tasmanian Gateway Services and the Victorian Child FIRST models.<sup>403</sup>

- 16.11 The Committee received evidence that the Tasmanian model had been mirrored on the Victorian Child FIRST model and this was a successful model:

*This process of change has been proven to be successful in reducing child protection notifications and providing better services to vulnerable children and families in other jurisdictions such as Victoria.*<sup>404</sup>

- 16.12 However, the Committee also received information that the Child Protection system in Victoria had been subject to an Own-Motion Inquiry by the Victorian Ombudsman, and a copy of that subsequent report was provided to the Committee by the Tasmanian Government.

The Ombudsman's report "*Own motion investigation into the Department of Human Services Child Protection Program*" found coordination between the Department and community service organisations was critical and:

*There is a clear need to ensure children do not fall between the responsibilities of these service systems ... during interview, witnesses from Child FIRST sites expressed frustration regarding protocols ... several witnesses stated that Child FIRST is suffering the same demand and capacity issues as the department [and] this potentially creates the risk that family issues may escalate, resulting in them coming to the attention of Child FIRST or Child Protection at a later point ... senior workers in both the department and Child FIRST said that some serious cases of child abuse which they considered should be managed by the department were left with Child FIRST ... conflicting opinions between Child FIRST and the*

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<sup>403</sup> Ibid., p20

<sup>404</sup> Glenhaven, Submission, p. 1.

*department can lead to the unsatisfactory handling of cases for which they share responsibility.*<sup>405</sup>

16.13 Case studies were cited where a notification of a child who was allegedly malnourished and physically abused, had had six previous notifications and one previous report substantiated, yet was referred by Child Protection to Child FIRST (equivalent to Tasmania's Gateway system).<sup>406</sup>

16.14 The Victorian Ombudsman found in his report:

*The Child FIRST program has received positive feedback as a progressive reform within the service system for vulnerable children. However, it appears pressure from the Department has prevented Child FIRST from focusing on the legitimate diversion of children from the formal child protection system. Overflow of demand for the Department's services has instead positioned Child FIRST as a de-facto child protection program.*<sup>407</sup>

16.15 The Ombudsman recommended developing a comprehensive strategy for enhancing greater understanding between Child Protection staff and Child FIRST workers regarding respective roles and agreed processes, as well as establishing arrangements for ongoing independent scrutiny of the Department's decision-making with particular attention to how the urgency of notifications are categorised and consistency of thresholds applied.

## **Findings**

**(172) *That reforms to the Tasmanian child protection system were modelled on Victoria's Child FIRST system. An "own motion" inquiry by the Victorian Ombudsman into such system heard evidence of children falling between the responsibilities of the Child Protection Service system and Child FIRST family support system, and found that not only was coordination between the two systems critical, but independent scrutiny of Departmental decision-making was needed to avoid inappropriate referrals between the two systems, and children falling between the gaps.***

**(173) *Its adaptation to Tasmania, known as the Gateway Services, has not been without its problems and needs to be subject to continual refinement to suit local needs.***

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<sup>405</sup> Victorian Ombudsman Own Motion Investigation, p.30

<sup>406</sup> Ibid, p. 30.

<sup>407</sup> Ibid., p. 42.

*Recommendations*

*The Committee recommends that:-*

- (170) A comprehensive strategy and system for enhancing greater understanding between Child Protection staff and Gateway Services workers regarding respective roles, agreed processes, including referrals, be established. This should allow for periodic review and ongoing communications.*

## 17 STATISTICAL SUMMARY

17.1 A summary of key recent statistics regarding Child Protection was sought by the Committee and is included below:-

### Child protection Australia 2009–10 January 2011<sup>408</sup>

#### Recent trends in notifications

In Australia, the number of child protection notifications decreased by 16% from 339,454 in 2008–09 to 286,437 in 2009–10 (Table 2.2). The largest reported decrease in notifications was in New South Wales (27%) where the threshold for mandatory reporting was raised from including children deemed at ‘risk of harm’ to the new ‘risk of significant harm’. Tasmania, Queensland and South Australia also had decreases in the number of notifications (decreases of 4%, 7% and 13%, respectively).

Victoria, Western Australia, the Australian Capital Territory and the Northern Territory showed an increase in notifications, which may be due to enhanced public awareness as a result of legislative changes, public awareness campaigns or inquiries into child protection processes. Appendix 8 provides details on the various inquiries into state and territory child protection services that may have impacted on public awareness. Similarly, Appendix 4 provides details of specific child protection legislation in jurisdictions that may have had an impact on the number of notifications received during 2009–10.

**Table 2.2: Number of notifications, states and territories, 2004–05 to 2009–10**

Year	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
2004–05	133,636	37,523	40,829 <sup>(a)</sup>	3,206	17,473	10,788 <sup>(b)</sup>	7,275	2,101	252,831
2005–06	152,806	37,987	33,612	3,315	15,069	13,029	8,064	2,863	266,745
2006–07	189,928	38,675 <sup>(c)</sup>	28,511 <sup>(d)</sup>	7,700 <sup>(e)</sup>	18,434	14,498	8,710	2,992	309,448
2007–08	195,599	41,607	25,003	8,977	20,847	12,863	8,970	3,660	317,526
2008–09	213,686	42,851	23,408	10,159	23,221	10,345 <sup>(f)</sup>	9,595	6,189	339,454
2009–10	156,465 <sup>(g)</sup>	48,369	21,885	12,160 <sup>(h)</sup>	20,298 <sup>(i)</sup>	9,895	10,780	6,585	286,437

(a) In Queensland, from March 2005, all notifications recorded by the department require an investigation to be undertaken. In previous financial years, not all notifications were required to be investigated. This was because reports that could be responded to by way of protective advice (rather than investigation) were also recorded as notifications. This practice ceased from March 2005, and reports dealt with by way of protective advice are now recorded as Child Concern Reports.

(b) The introduction of the *Family Violence Act 2004* included an amendment to the *Children, Young Persons and Their Families Act 1997*, which extended the definition of abuse and neglect to include a child affected by family violence. As a consequence, there has been a significant increase in notifications from the Department of Police and Emergency Management about children affected by family violence.

(c) Due to new service and data reporting arrangements, the Victorian child protection data for 2006–07 onwards may not be fully comparable with previous years' data.

<sup>408</sup> <http://www.aihw.gov.au/publication-detail/?id=6442475448&tab=2>

(d) From 2006–07, notification figures recorded for Queensland are affected by a change in recording practice. From March 2007, any new child protection concerns received by the department that relate to an open notification or investigation and assessment are recorded as an additional concern and linked to the open notification/investigation and assessment. Previously, any new child protection concerns received by the department were recorded as an additional notification.

(e) The number of notifications for Western Australia increased between 2005–06 and 2006–07 because all Concern for Child Wellbeing reports were counted as a notification for the first time. Previously, only those that were followed by an investigation were counted as a notification.

(f) In Tasmania, from February 2008, there was a change in the processes for recording notifications. New contacts made about similar concerns during an open notification/investigation period, within the first 6 weeks, were added to the notification as a 'case note'. Case notes are not included in the count of notifications, hence comparison between values from 2007–08 to 2008–09 should be interpreted with caution.

(g) New South Wales figures are not comparable with those of other jurisdictions. See Section 2.1 for further details.

(h) Western Australia introduced a new client information system in March 2010. See Section 2.1 for further information.

(i) During 2009–10, South Australia implemented a new client information system and this was accompanied by policy and practice changes. Therefore data for this year are not fully comparable to previous years' data.

Source: AIHW Child Protection Collections 2010. <sup>409</sup>

## Substantiations of notifications

In 2009–10, the total number of substantiations of notifications received during the year fell by 8,434 (15%) from the previous year (Table 2.4). The largest decrease was observed in South Australia (25%); however, changes to policy and practice associated with the introduction of a new client information system has impacted on the number of substantiations and the comparability with data from the previous year.

Substantiations also decreased in New South Wales (23%), Tasmania (19%), the Australian Capital Territory (17%) and Queensland (5%). All other jurisdictions recorded increases in the number of substantiations, ranging from a 4% increase in Victoria to a 45% increase in the Northern Territory.

**Table 2.4: Number of substantiations of notifications received during the relevant year, states and territories, 2004–05 to 2009–10**

Year	NSW	Vic	Qld	WA	SA	Tas <sup>(a)</sup>	ACT	NT	Total
2004–05	15,493	7,398	17,307	1,104	2,384	782	1,213	473	46,154
2005–06	29,809	7,563	13,184	960	1,855	793 <sup>(b)</sup>	1,277	480	55,921
2006–07	37,094	6,828 <sup>(c)</sup>	10,108 <sup>(d)</sup>	1,233	2,242	1,252	852 <sup>(e)</sup>	621	60,230
2007–08	34,135	6,365	8,028	1,464	2,331	1,214	827	756	55,120
2008–09	34,078	6,344	7,315	1,523	2,419	1,188	896	858	54,621
2009–10	26,248 <sup>(f)</sup>	6,603	6,922	1,652 <sup>(g)</sup>	1,815	963	741	1,243	46,187

(a) The increase in substantiations in Tasmania is considered to be in part due to increased application of the Tasmanian Risk Framework as well as greater adherence to the definition of 'substantiation' published by the AIHW.

(b) Data relating to substantiations for Tasmania for 2005–06 and 2006–07 should be interpreted carefully due to the high proportion of investigations still in process by 31 August 2007.

(c) Due to new service and data reporting arrangements, the Victorian child protection data for 2006–07 onwards may not be fully comparable with previous years' data.

(d) From 2006–07, substantiation figures recorded for Queensland are affected by a change in recording practice. From March 2007, any new child protection concerns received by the department that relate to an open notification or investigation and assessment are recorded as an additional concern and linked to the open notification/investigation and assessment. Previously, any new child protection concerns received by the department were recorded as an additional notification. As each notification must have an associated assessment outcome (e.g. substantiated), the recording change whereby new concerns are now recorded within the original notification has therefore also affected the substantiation count.

(e) The decrease in the number of substantiated investigations reflects a requirement of staff to substantiate emotional abuse or neglect only if there was, or is likely to be, significant harm and there was no-one with parental responsibility willing and able to protect the child/young person. Recording an outcome of an appraisal as not substantiated does not exclude ongoing work with the child or young person.

(f) New South Wales figures are not comparable with those of other jurisdictions. See Section 2.1 for further details.

(g) Western Australia introduced a new client information system in March 2010. See Section 2.1 for further information.

Source: AIHW Child Protection Collections 2010. <sup>410</sup>

<sup>409</sup> <http://www.aihw.gov.au/publication-detail/?id=6442475448&tab=2> p 16

<sup>410</sup> <http://www.aihw.gov.au/publication-detail/?id=6442475448&tab=2>, p 19

These trend data need to be interpreted with caution because fluctuations may be the result of a number of factors, including the number of children requiring a child protection response, community awareness and/or willingness to report problems. These data also reflect the activity of the departments responsible for child protection and, as such, are sensitive to changes in child protection legislation, departmental policies and practices.

**Table 2.8: Rates of children 0–17 years who were the subject of substantiation of a notification received during the relevant year, states and territories, 2004–05 to 2009–10 (number per 1,000 children)**

Year	NSW	Vic	Qld	WA	SA	Tas <sup>(a)</sup>	ACT	NT	Total
2004–05	5.8	6.0	13.4	2.1	5.2	5.4	11.4	7.6	7.1
2005–06	8.0	6.3	10.4	1.9	4.2	5.6	11.4	7.8	7.2
2006–07	8.5	5.6 <sup>(b)</sup>	8.7	2.3	5.0	6.8	7.4 <sup>(c)</sup>	8.8	6.9
2007–08	8.2	5.1	7.1	2.7	5.2	7.9	7.1	11.4	6.5
2008–09	8.7	5.0	6.3	2.8	5.4	9.1	7.8	12.3	6.5
2009–10	8.0 <sup>(d)</sup>	5.2	5.7	2.9 <sup>(e)</sup>	4.2 <sup>(f)</sup>	7.4	7.0	16.6	6.1

(a) The increase in the rate of children who were the subject of a substantiation in Tasmania is considered to be due in part to increased application of the Tasmanian Risk Framework as well as greater adherence to the definition of ‘substantiation’ published by the AIHW. It should also be noted that data relating to Tasmanian substantiations for 2005–06 and 2006–07 should be interpreted carefully due to the high proportion of investigations in process by 31 August 2007.

(b) Due to new service and data reporting arrangements, the Victorian child protection data for 2006–07 onwards may not be fully comparable with previous years’ data.

(c) The decrease in the number of substantiated investigations reflects a requirement of staff to substantiate emotional abuse or neglect only if there was, or is likely to be, significant harm and there was no-one with parental responsibility willing and able to protect the child/young person. Recording an outcome of an appraisal as not substantiated does not exclude ongoing work with the child or young person.

(d) New South Wales figures are not comparable with those of other jurisdictions. See Section 2.1 for further details.

(e) Western Australia introduced a new client information system in March 2010. See Section 2.1 for further information.

(f) During 2009–10, South Australia implemented a new client information system and this was accompanied by policy and practice changes. Therefore data for this year are not fully comparable to previous years’ data.

*Notes*

1. Children may have been the subject of more than one substantiation.

2. Legislation and practice differs across jurisdictions in relation to children aged 17 years. In some jurisdictions, children aged 17 years are not substantiated and this means the number per 1,000 children who were the subject of a substantiation may be lower for those jurisdictions.

3. Refer to Table A1.18 for the population used in the calculation of rates for 2009–10. Population estimates were updated in 2009 and this may have an impact on the rate comparison over time.

Source: AIHW Child Protection Collections 2010.<sup>411</sup>

### Recent trends regarding children on care and protection orders

At 30 June 2010, there were more children on care and protection orders than the previous year, with an overall increase of 7% from 30 June 2009 (from 35,409 to 37,730) (Table 3.7). Increases ranged from 2% in Queensland to 21% in the Northern Territory. Since 2005, the number of children on care and protection orders across Australia has increased from 24,075 to 37,730 in 2010 (an increase of 57%).

From 30 June 2005 to 30 June 2010, the rate of children aged 0–17 years on orders in Australia increased from 5.0 to 7.4 per 1,000. A similar pattern of increase was found across all jurisdictions, although the rates at June 2010 varied, ranging from 5.3 per 1,000 in Victoria to 11.1 in the Northern

<sup>411</sup> <http://www.aihw.gov.au/publication-detail/?id=6442475448&tab=2>, p 27

Territory. Some of the variation is likely due to the different orders available and differences in policies and practices across jurisdictions. The increase in the number of children on care and protection orders may be also be attributed to a flow-on effect from greater awareness of child abuse and neglect, and the cumulative effect of the growing number of children who enter the child protection system at a young age and remain on orders until they are 18 years of age. Research indicates that children are being admitted to orders for increasingly complex factors, including parental substance abuse, mental health and family violence (COAG 2009a).

**Table 3.7: Trends in children on care and protection orders, states and territories, 30 June 2005 to 30 June 2010**

Year	NSW	Vic <sup>(a)</sup>	Qld	WA	SA	Tas	ACT	NT	Total
<b>Number</b>									
2005	8,620	4,668	5,857	1,783	1,553	716	464	414	<b>24,075</b>
2006	9,213	5,011	6,446	2,046 <sup>(b)</sup>	1,671	833	558	437	<b>26,215</b>
2007	10,639	5,492	6,391	2,629	1,881	897	574	451	<b>28,954</b>
2008	12,086	6,239	7,040	3,094	2,197 <sup>(c)</sup>	914	552	520	<b>32,642</b>
2009	13,491	6,100	7,942	3,337	2,361	991	610	577	<b>35,409</b>
2010	14,689	6,515	8,090	3,432 <sup>(d)</sup>	2,543	1,112	653	696	<b>37,730</b>
<b>Number per 1,000 children</b>									
2005	5.4	4.0	6.0	3.7	4.5	6.1	6.1	7.0	<b>5.0</b>
2006	5.8	4.3	6.5	4.2 <sup>(b)</sup>	4.8	7.1	7.4	7.3	<b>5.4</b>
2007	6.6	4.6	6.3	5.2	5.4	7.6	7.5	7.3	<b>5.9</b>
2008	7.5	5.2	6.8	6.0	6.2 <sup>(c)</sup>	7.8	7.1	8.4	<b>6.6</b>
2009	8.3	5.0	7.4	6.3	6.7	8.4	7.8	9.2	<b>7.0</b>
2010	9.0	5.3	7.4	6.4 <sup>(d)</sup>	7.1	9.4	8.2	11.1	<b>7.4</b>

(a) The data for Victoria for previous years were updated in 2009. This data may not match that published in previous publications of *Child protection Australia*. Note that this has also affected the 'Totals'.

(b) Implementation of the Western Australian *Children and Community Services Act 2004* in March 2006 required the legal status of children in care to be reviewed and protection orders were sought for a number of children already in care but not under care and protection orders.

(c) South Australia has included, for the first time in this collection, the number of children who were placed on third-party parental responsibility orders and administrative arrangements. Therefore these data are not comparable to previous years.

(d) Western Australia introduced a new client information system in March 2010. See Section 3.1 for further information.

*Notes*

1. Some rates may not match those published in previous *Child protection Australia* publications due to retrospective updates to data.

2. New South Wales data do not include children on finalised supervisory orders.

3. Refer to Table A1.19 for the population used in the calculation of rates for 2010.

Source: AIHW Child Protection Collections 2010.<sup>412</sup>

### Children admitted to, and discharged from, out-of-home care

Overall, there was a decrease (6%) in the number of children admitted to out-of-home care from the previous year, from 12,833 in 2008–09 to 12,002 in 2009–10 (Table 4.1). Decreases in the number of children admitted to out-of-home care occurred in all jurisdictions except Victoria, Western Australia and the Northern Territory where the numbers increased over the past year (Table 4.1).

Across Australia over the past 6 years, the number of children admitted to out-of-home care decreased by 4%, from 12,531 in 2004–05 to 12,002 in 2009–10.

<sup>412</sup> <http://www.aihw.gov.au/publication-detail/?id=6442475448&tab=2>, p 42



However, trends over the past 6 years varied across jurisdictions. For example, the number of children admitted to out-of-home care decreased in Victoria, Queensland, South Australia and the Australian Capital Territory. All other jurisdictions had increases from 2004–05 to 2009–10, ranging from a 5% increase in Western Australia to a 28% increase in the Northern Territory.

**Table 4.1: Trends in the number of children admitted to out-of-home care, states and territories, 2004–05 to 2009–10**

Year	NSW	Vic	Qld	WA	SA	Tas <sup>(a)</sup>	ACT	NT	Total
2004–05	3,105	3,301	3,198	795	1,257	293	297	285	<b>12,531</b>
2005–06	3,309	3,166	3,129	713	1,271	426	269	263	<b>12,546</b>
2006–07	4,334	2,994	2,897	990	728	372	207	384	<b>12,906</b>
2007–08	4,467	3,027	3,146	855	652	301	167	276	<b>12,891</b>
2008–09	4,564	2,936	3,015	797	660	349	194	318	<b>12,833</b>
2009–10	3,922	3,112	2,618	838 <sup>(b)</sup>	644	334	168	366	<b>12,002</b>

(a) Tasmania is not able to include children in care where a financial payment has been offered but has been declined by the carer. However, the number of carers declining a financial payment is likely to be very low.

(b) Western Australia introduced a new client information system in March 2010. See Section 4.1 for further information.

*Note:* The table includes all children admitted to out-of-home care for the first time, as well as those children returning to care who had exited care more than 2 months previously. Children admitted to out-of-home care more than once during the year were only counted at the first admission.

*Source:* AIHW Child Protection Collections 2010.<sup>413</sup>

### Recent trends regarding children in out-of-home care

At 30 June 2010, there were 35,895 (7.0 per 1,000) children in out-of-home care in Australia (Table 4.7). This compares with 34,069 (6.7 per 1,000) children in out-of-home care at 30 June 2009 (an increase of 5%). In all jurisdictions, the number of children in out-of-home care was higher at 30 June 2010 when compared with 30 June 2009 (Table 4.7).

The rates of children in out-of-home care at 30 June 2010 ranged from 4.4 per 1,000 in Victoria to 9.9 in New South Wales. The reasons for this variation are likely to include differences in the policies and practices of the relevant departments in relation to early intervention and out-of-home care, as well as variations in the availability of appropriate care options for children in need of this service.

Nationally, the number of children in out-of-home care in Australia at 30 June has increased each year since 2005 when there were 23,695 (4.9 per 1,000) children in out-of-home care. Overall, 12,200 more children (an increase of 51%) were in out-of-home care at June 2010 when compared with June 2005. On average, the number of children in out-of-home care has increased by almost 9%, each year, over the past 6 years.

This increase reflects the cumulative impact of children being admitted to, and remaining in, out-of-home care. The data also suggests that more children are being admitted to care each year than are being

<sup>413</sup> <http://www.aihw.gov.au/publication-detail/?id=6442475448&tab=2>, p 46

discharged. Increases in the number of children in out-of-home care may also be related to the increasingly complex family situations of children associated with parental substance abuse, mental health and family violence (Dawe Harnett & Frye 2008c). Intergenerational cycles of abuse may also contribute to the growth the numbers of children in out-of-home care (Pears & Capaldi 2001). These factors also affect the length of time children remain in care.

**Table 4.7: Trends in children aged 0–17 years in out-of-home care, states and territories, 30 June 2005 to 30 June 2010**

Year	NSW	Vic	Qld	WA	SA <sup>(a)</sup>	Tas	ACT	NT	Total
<b>Number</b>									
2005	9,230	4,408	5,657	1,829	1,329	576	342	324	<b>23,695</b>
2006	9,896	4,794	5,876	1,968	1,497	683	388	352	<b>25,454</b>
2007	11,843	5,052 <sup>(b)</sup>	5,972	2,371	1,678	667 <sup>(c)</sup>	399	397	<b>28,379</b>
2008	13,566	5,056	6,670	2,546 <sup>(d)</sup>	1,841	664 <sup>(e)</sup>	425	398	<b>31,166</b>
2009	15,211	5,283	7,093	2,682	2,016	808	494	482	<b>34,069</b>
2010	16,175	5,469	7,350	2,737 <sup>(f)</sup>	2,188	893	532	551	<b>35,895</b>
<b>Number per 1,000 children</b>									
2005	5.8	3.8	5.8	3.8	3.9	4.9	4.5	5.5	<b>4.9</b>
2006	6.2	4.1	6.0	4.0	4.3	5.8	5.1	5.9	<b>5.3</b>
2007	7.3	4.3 <sup>(b)</sup>	5.8	4.7	4.8	5.7 <sup>(c)</sup>	5.2	6.4	<b>5.8</b>
2008	8.4	4.2	6.4	5.0 <sup>(d)</sup>	5.2	5.6 <sup>(e)</sup>	5.5	6.4	<b>6.3</b>
2009	9.4	4.3	6.7	5.1	5.7	6.8	6.3	7.7	<b>6.7</b>
2010	9.9	4.4	6.8	5.1 <sup>(f)</sup>	6.1	7.5	6.7	8.8	<b>7.0</b>

(a) South Australia could only provide the number of children in out-of-home care where the Department is making a financial contribution to the care of a child.

(b) Due to new service and data reporting arrangements, the Victorian child protection data for 2007 onwards may not be fully comparable with previous years' data.

(c) The numbers of children in out-of-home care from 30 June 2007 onwards are not comparable to the numbers reported for previous years for Tasmania due to the exclusion of a cohort of children on orders who did not meet the definition of out-of-home care.

(d) Data for 2008 onwards is not strictly comparable to earlier figures for Western Australia as they previously included children whose whereabouts were unknown or who were living with relatives who were not reimbursed.

(e) Tasmania is not able to include children in care where a financial payment has been offered but has been declined by the carer. However, the number of carers declining a financial payment is likely to be very low.

(f) Western Australia introduced a new client information system in March 2010. See Section 4.1 for further information.

*Notes*

1. Some rates may not match those published in previous publications of *Child protection Australia* due to retrospective updates to data.

2. Refer to Table A1.19 for the population used in the calculation of rates for 2010.

Source: AIHW Child Protection Collections 2010.<sup>414</sup>

<sup>414</sup> <http://www.aihw.gov.au/publication-detail/?id=6442475448&tab=2>, p 53-54

Table 15A.1

Table 15A.1 State and Territory Government real recurrent expenditure on child protection and out-of-home care services, (2009-10 dollars) (a), (b), (c), (d), (e), (f), (g), (h), (i)

	Unit	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
<b>Total real expenditure</b>											
<b>Child protection services</b>											
NSW	\$'000	158 829	172 431	190 866	210 118	226 995	246 331	266 921	300 045	263 859	358 479
Vic	\$'000	101 521	106 248	108 206	109 381	112 143	113 738	118 808	125 914	144 550	153 869
Qld	\$'000	81 026	88 720	105 485	113 840	142 237	160 674	177 532	204 966	224 752	230 992
WA	\$'000	13 709	14 073	14 342	23 583	27 891	30 050	34 522	43 382	51 679	61 359
SA	\$'000	26 446	26 784	26 731	28 821	33 574	33 747	33 885	36 813	36 328	38 019
Tas	\$'000	3 567	4 500	5 643	6 160	6 660	7 858	14 723	17 142	19 222	20 006
ACT	\$'000	6 799	7 649	9 053	12 184	15 108	13 587	12 148	10 539	11 004	10 820
NT	\$'000	na	na	7 691	8 401	10 965	9 705	9 555	12 051	15 455	18 901
<b>Australia</b>	<b>\$'000</b>	<b>391 897</b>	<b>420 405</b>	<b>468 016</b>	<b>512 488</b>	<b>575 573</b>	<b>615 690</b>	<b>668 092</b>	<b>750 851</b>	<b>766 849</b>	<b>892 445</b>
<b>Out-of-home care services</b>											
NSW	\$'000	228 267	256 051	289 346	338 861	342 443	344 916	404 759	492 976	559 725	641 519
Vic	\$'000	163 770	170 532	170 737	175 480	212 319	215 108	221 612	235 458	267 049	292 229
Qld	\$'000	83 989	94 831	113 058	132 037	196 870	241 161	292 155	309 266	313 050	333 719
WA	\$'000	59 469	74 461	75 888	88 702	86 141	88 274	98 760	129 533	156 922	173 284
SA	\$'000	28 589	28 715	28 658	29 313	41 990	47 202	81 130	90 795	101 287	115 884
Tas	\$'000	9 823	15 743	16 414	18 939	22 087	27 948	32 004	27 560	26 098	32 778
ACT	\$'000	11 469	12 304	12 628	16 732	24 741	21 677	20 746	20 555	20 494	20 990
NT	\$'000	na	na	7 852	12 344	13 835	19 794	21 293	28 762	35 272	40 210
<b>Australia</b>	<b>\$'000</b>	<b>585 377</b>	<b>652 637</b>	<b>714 580</b>	<b>812 408</b>	<b>940 425</b>	<b>1 006 079</b>	<b>1 172 459</b>	<b>1 334 905</b>	<b>1 479 896</b>	<b>1 650 613</b>
<b>Child protection and out-of-home care services</b>											
NSW	\$'000	387 096	428 482	480 212	548 980	569 438	591 247	671 680	793 020	823 585	999 998
Vic	\$'000	265 291	276 780	278 943	284 861	324 462	328 846	340 420	361 372	411 599	446 098
Qld	\$'000	165 015	183 551	218 543	245 877	339 108	401 834	469 687	514 232	537 801	564 710
WA	\$'000	73 178	88 534	90 230	112 285	114 032	118 324	133 282	172 915	208 601	234 643

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Table 15A.1

Table 15A.1 State and Territory Government real recurrent expenditure on child protection and out-of-home care services, (2009-10 dollars) (a), (b), (c), (d), (e), (f), (g), (h), (i)

Unit	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	
SA	\$'000	55 035	55 499	55 389	58 134	75 564	80 949	115 014	127 608	137 615	153 903
Tas	\$'000	13 390	20 243	22 057	25 099	28 747	35 805	46 726	44 702	45 320	52 784
ACT	\$'000	18 269	19 953	21 681	28 916	39 849	35 265	32 893	31 094	31 498	31 810
NT	\$'000	14 720	15 512	15 543	20 775	24 799	29 499	30 848	40 813	50 726	59 111
<b>Australia</b>	<b>\$'000</b>	<b>991 994</b>	<b>1 088 554</b>	<b>1 182 596</b>	<b>1 324 926</b>	<b>1 515 999</b>	<b>1 621 769</b>	<b>1 840 551</b>	<b>2 085 756</b>	<b>2 246 745</b>	<b>2 543 057</b>
Intensive family support services											
NSW	\$'000	43 088	47 055	59 431	64 034	7 600	7 684	21 306	21 217	140 160	141 894
Vic	\$'000	6 103	9 841	9 761	16 013	16 879	20 618	24 860	43 932	54 667	57 430
Qld	\$'000	12 064	12 393	16 686	16 559	41 568	46 240	57 062	64 679	60 652	61 055
WA	\$'000	2 514	2 573	2 445	2 882	3 501	3 478	3 477	3 766	3 938	6 799
SA	\$'000	2 131	2 116	2 100	2 552	1 809	1 779	1 873	1 847	3 635	3 627
Tas	\$'000	376	755	536	659	1 058	1 200	194	224	2 301	4 174
ACT	\$'000	132	142	167	453	625	690	1 145	1 521	1 496	1 524
NT	\$'000	na	na	na	na	na	na	463	480	726	498
<b>Australia</b>	<b>\$'000</b>	<b>66 408</b>	<b>74 876</b>	<b>91 126</b>	<b>103 151</b>	<b>73 039</b>	<b>81 689</b>	<b>110 381</b>	<b>137 666</b>	<b>267 577</b>	<b>277 001</b>
Real expenditure per child											
Child protection services											
NSW	\$	106.32	112.90	126.09	139.65	151.14	164.81	175.63	197.80	172.45	219.09
Vic	\$	94.22	97.00	99.10	100.26	102.73	103.79	106.35	111.40	125.99	125.14
Qld	\$	93.98	100.29	118.40	125.97	155.43	172.94	184.35	209.94	223.80	212.54
WA	\$	30.28	30.79	31.47	51.68	61.10	65.11	72.76	89.70	103.92	114.24
SA	\$	80.07	80.66	81.28	88.11	103.44	103.96	102.85	111.20	109.06	106.78
Tas	\$	31.90	40.08	50.71	55.46	60.32	71.16	133.29	154.73	172.51	168.41
ACT	\$	92.99	102.62	123.67	168.61	211.03	190.47	168.84	145.19	149.24	136.04
NT	\$	na	na	136.01	148.88	194.69	170.58	163.77	205.05	261.12	300.16
<b>Australia</b>	<b>\$</b>	<b>89.04</b>	<b>93.77</b>	<b>103.49</b>	<b>113.32</b>	<b>127.11</b>	<b>135.48</b>	<b>143.84</b>	<b>160.43</b>	<b>161.23</b>	<b>174.75</b>

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Table 15A.1

Table 15A.1 State and Territory Government real recurrent expenditure on child protection and out-of-home care services, (2009-10 dollars) (a), (b), (c), (d), (e), (f), (g), (h), (i)

Unit	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Out-of-home care services										
NSW	\$ 144.19	158.14	180.20	212.46	215.13	217.48	250.92	305.83	344.27	392.08
Vic	\$ 143.28	146.71	147.26	151.63	183.34	184.94	186.59	195.91	219.02	237.66
Qld	\$ 91.73	101.09	119.62	137.87	203.05	244.78	286.06	298.30	293.64	307.06
WA	\$ 123.66	153.27	156.53	182.80	177.50	179.89	195.79	251.95	297.17	322.63
SA	\$ 81.41	81.30	81.88	84.30	121.72	136.74	231.34	257.59	285.57	325.46
Tas	\$ 82.67	131.99	138.83	160.51	188.46	238.24	272.79	233.82	220.41	275.93
ACT	\$ 147.29	154.86	161.90	217.58	325.05	285.61	270.46	265.77	261.24	263.91
NT	\$ na	na	132.05	208.09	233.35	330.96	345.61	463.27	564.42	638.57
<b>Australia</b>	<b>\$ 125.33</b>	<b>137.18</b>	<b>148.85</b>	<b>169.35</b>	<b>195.83</b>	<b>208.59</b>	<b>237.68</b>	<b>268.35</b>	<b>292.86</b>	<b>323.20</b>
Child protection and out-of-home care services										
NSW	\$ 244.51	264.63	299.07	344.21	357.73	372.81	416.38	491.97	506.56	611.17
Vic	\$ 232.09	238.11	240.59	246.15	280.17	282.73	286.62	300.67	337.57	362.80
Qld	\$ 180.23	195.67	231.24	256.74	349.76	407.87	459.89	496.00	504.45	519.59
WA	\$ 152.17	182.24	186.11	231.39	234.97	241.13	264.23	336.34	395.04	436.87
SA	\$ 156.72	157.13	158.26	167.18	219.05	234.50	327.97	362.03	387.99	432.23
Tas	\$ 112.69	169.71	186.56	212.72	245.29	305.22	398.27	379.25	382.76	444.35
ACT	\$ 234.61	251.12	277.95	376.04	523.56	464.63	428.83	402.04	401.50	399.95
NT	\$ 245.38	258.71	261.41	350.23	418.29	493.23	500.70	657.37	811.73	938.73
<b>Australia</b>	<b>\$ 209.70</b>	<b>225.97</b>	<b>246.34</b>	<b>276.19</b>	<b>315.68</b>	<b>336.25</b>	<b>373.12</b>	<b>419.29</b>	<b>444.61</b>	<b>497.95</b>
Intensive family support services										
NSW	\$ na	na	na	na	na	4.83	13.43	13.15	86.95	87.27
Vic	\$ 5.34	8.47	8.42	13.84	14.58	17.73	20.93	36.55	44.83	46.71
Qld	\$ 13.18	13.21	17.66	17.29	42.87	46.93	55.87	62.39	56.89	56.18
WA	\$ 5.23	5.30	5.04	5.94	7.21	7.09	6.89	7.33	7.46	12.66
SA	\$ 6.07	5.99	6.00	7.34	5.24	5.15	5.34	5.24	10.25	10.19

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Table 15A.1

Table 15A.1 State and Territory Government real recurrent expenditure on child protection and out-of-home care services, (2009-10 dollars) (a), (b), (c), (d), (e), (f), (g), (h), (i)

	Unit	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Tas	\$	3.16	6.33	4.53	5.59	9.02	10.23	1.65	1.90	19.43	35.14
ACT	\$	1.70	1.79	2.14	5.89	8.22	9.09	14.93	19.66	19.07	19.16
NT	\$	na	na	na	na	na	na	7.51	7.74	11.62	7.91
<b>Australia</b>	<b>\$</b>	<b>21.51</b>	<b>23.86</b>	<b>29.06</b>	<b>32.82</b>	<b>23.18</b>	<b>17.13</b>	<b>22.50</b>	<b>27.67</b>	<b>53.10</b>	<b>54.35</b>

(a) Refer to table 15A.4 for information on the comparability of expenditure data.

(b) Numbers may not sum exactly due to rounding errors.

(c) For child protection services, prior to 2009-10, expenditure per child related to children aged 0-16 years in the residential population. From 2009-10 onwards, expenditure per child for both child protection and out-of-home care and total child protection and out-of-home care services relates to children aged 0-17 years in the residential population.

(d) NSW: To provide greater accuracy in the reporting of costs, a new method was adopted in 2009-10. This involved the use of cost drivers to attribute costs to the various programs within protection and support services. As a result, data for 2009-10 are not directly comparable to data in previous years.

(e) Victoria: Victorian expenditure for 2004-05 includes additional funding for Aboriginal Family Decision Making, Adolescent Medication and Diversion and Foster Care Initiatives and data revisions. Over the past four years significant additional funding has been provided to Victorian 'Family Services'. Client data relating to the clients that received intensive support from these services has previously not been able to be provided but is included in 2007-08 for the first time. The increase in client numbers reflects the accumulated increase over recent years.

(f) Queensland: Queensland expenditure from 2004-05 onwards reflects full absorption costing on an accrual accounting basis.

(g) WA: The increase in total expenses for child protection in 2009-10 is a result of the expenditure of additional funding provided to address increases in demand for child protection services, as well as mandatory reporting of child sexual abuse being in the first full year of operation in 2009-10. The increase in total expenses for OOH in 2009-10 is due to the expenditure of additional funding received to address growth in the number of children and young people in the care of the CEO, including the provision of additional case workers. Additional funding was also received for the continued reform and expansion of the Department's residential care facilities as well as additional funding to provide a \$15 increase to the fortnightly carer subsidy rate. The increase in total expenses for IFSS in 2009-10 is a result of the allocation of increased funding to double the capacity of intensive in home support services delivered by the non-government sector.

(h) SA: The significant increase in OOH expenditure in 2009-10 was the result of growth in the alternative care system.

(i) Tasmania: The decrease in Tasmania's real recurrent expenditure on child protection and out-of-home care services from 2006-07 to 2007-08 has occurred because of a one-off back-payment in salary expenses of \$1.3 million for 2006-07 that had accrued from previous financial years. The increase in IFSS expenditure for 2009-10 occurred because of an investment in Integrated Family Support Services in Tasmania.

na Not available.

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Table 15A.1

**Table 15A.1 State and Territory Government real recurrent expenditure on child protection and out-of-home care services, (2009-10 dollars) (a), (b), (c), (d), (e), (f), (g), (h), (i)**

<i>Unit</i>	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
State and Territory governments (unpublished); tables 15A.30, 15A.31 and AA.26.										

Source:

## 18 NEED FOR FURTHER INQUIRY

- 18.1 The Committee received evidence in relation to the need for further inquiry including but not limited to a Commission of Inquiry under the *Commissions of Inquiry Act 1995*.
- 18.2 The Committee received conflicting submissions as to the need for further inquiry.
- 18.3 The following are extracts from submissions which support the need for further inquiry:

*We have been active in our recent calls for a full independent Commission of Inquiry into Child Protection in Tasmania. The Eastern Shore Community Association ("ESCA") is well aware of previous reports that have been conducted into the issue of child protection in Tasmania (in particular the Ombudsman's Review) however, it can reasonably be argued that it appears clear that the system is still failing in spite of the existence of such reports and the investment of additional Government resources. The very obvious and important next question must surely be why? The ESCA does not believe that any Government, Departmental or Parliamentary inquiry will be equipped with the necessary tools required to fully strip bare the answers to all the questions concerning child abuse and the failures of Child Protection Services in Tasmania. The ESCA believes that Tasmania would best be served by an independent Commission of Inquiry, preferably constituted of suitably qualified persons from outside Tasmania. The ESCA believes that this would provide the most conducive environment to obtain an optimum understanding of the true picture of past and present child abuse, the adequacy of child protection services in Tasmania and the ability to bring perpetrators to justice<sup>415</sup>.*

- 18.4 Others who provided their personal stories to the Committee also believed an inquiry was needed:

*Eight months after an abhorrent crime has been committed against a small child, a perpetrator walks free, a family is torn apart, and the Government is asking the public for ideas. Do we need an inquiry? Of course we do ... obviously the 12 year old child's story has captured the attention (and rightly so) of the wider Tasmanian community. However, one must also acknowledge and attend to the many other absolutely horrendous situations occurring for families across our State<sup>416</sup>*

- 18.5 Other individual Tasmanians wanted a Royal Commission into the case of the 12 year old who was prostituted:

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<sup>415</sup> Eastern Shore Community Association, Submission, pp. 1-2.

<sup>416</sup> Gale, Submission, p. 2.



*Can we be assured that none of these “men” have contact with our children ... can we be assured that none of the 206 are in positions of power and/or influence?<sup>417</sup>*

- 18.6 Other witnesses wanted action on the defence of reasonable and honest mistake in relation to sexual offences against persons under 17, and a review of the Sex Industry Offences Act:

*We believe the ‘reasonable and honest mistake’ should not be a defense and there should be mandatory proof of age, for the girl, with severe penalties for fake IDs ... would favour obtaining the facts about the situation in Sweden where we understand this option [prohibiting the purchase of sexual services other than for certified medical reasons] is in operation.<sup>418</sup>*

- 18.7 The Committee received a number of submissions which were not supportive of further inquiry, including Deputy Secretary (Human Services), Alison Jacob who stated as follows:

*....should people from other agencies and different professions be involved in some of the critical decisions that Child Protection people make about whether or not to recommend that a child is taken into care, for example.... In terms of good practice, I think it's a really good thing to have different people's views and to not get kind of 'group think' happening. That can happen in small groups of Child Protection people. It really is helpful to have people who can come in and say, 'Hang on a minute, I question that decision,' I think that's healthy. As far as what you do when something goes wrong, as it does and as it will, and anybody who works in the system, as I said earlier, should expect that there will be adverse incidents that happen, I think it is very helpful to be able to look at those circumstances from a more formal perspective and having external people. Certainly where we've had child death reviews we've done that. We have included people such as the paediatrician on the child death review process, the Commissioner for Children, external experts who are able to bring a different perspective and community members because it is very possible for the child protection system to be defensive and inward thinking, to know that they're going to get pilloried, so they might as well try to keep it as in-house as possible, and that's not healthy either.....One of the problems is that we have review after review after review of individual*

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<sup>417</sup> Moran, Submission.

<sup>418</sup> National Council of Women Coalition Tasmania Inc., Submission, p. 4.

*cases, and what tends to happen is that you just seem to get the same recommendations come up time and time again.....But what is lacking is who actually scrutinises to make sure those recommendations have been put in place? This new child death and serious injury council will basically make sure that any report by a coroner, any report by a child death review committee, any report by any other external source is basically subject to a second-tier scrutiny so that we can make sure that recommendations are followed up on and that there is actually an improvement of practice that follows from that. That child death and serious injury council would have representation from independent people - educators, paediatricians, the Commissioner for Children and whoever else you want to put on it, to make sure that something actually happens to improve the system, that we don't just have countless reviews.<sup>419</sup>*

*A further external review or commission of Inquiry is unlikely to improve current practice and may well distract from the reform that is being implemented. Commissions of Inquiry and external reviews of child protection practice leading to copious recommendations follow each other with remarkable regularity across all jurisdictions nationally and internationally.*

*Professor Eileen Munroe from the London School of Economics who is a renowned international expert on child protection and who is currently conducting an independent review of child protection practice in England warns about the potentially adverse consequences of 'yet another review' and set of recommendations related to child protection and is critical of the adverse effects on professional decision making that has resulted from previous reviews.*

*It is therefore important to think carefully before producing more recommendations for change. There are unexpected consequences that arise and which are experienced by professional as unhelpful, distracting from a clear focus on children's safety and wellbeing.*

*Monroe also quotes the British Association of Directors of Children's Services in relation to the adverse effects of increased scrutiny and inspection of child protection services.*

*The perceived punitive effects and the impact of judgments of services in terms of local media and political response are in danger of creating a climate whereby the inspected manage for inspection rather than managing for quality and outcomes for children and young people.<sup>420</sup>*

*....A further unintended consequence of further external review and external scrutiny combined with adverse publicity is that staff will not stay in child protection positions and recruitment to the service will be more difficult. Child*

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<sup>419</sup> Jacob, Hansard, 1 December 2010.

<sup>420</sup> Butler, P. (2010) *The next Child Protection crisis will tell if reforms have worked*, Guardian Newspaper Blog

*protection work is hard, exhausting and takes a heavy toll. In virtually all states and territories as well as in most of the western world, frontline practitioners and managers are voting with their feet.*<sup>421</sup>

- 18.8 The Committee received a submission from Professor Taylor of the University of Tasmania. In relation to the need for further inquiry, her submission states as follows:

*Extensive work has been undertaken in regard to these issues and challenges across Australia and in Tasmania. There have already been reviews of child protection services in Tasmania, for example, as undertaken by KPMG several years ago. Statutory services are undergoing significant changes and reorganisation, including contracting out of services through the Gateway process and to other community-based organisations. A useful first stage might be to undertake a systematic 'review of the reviews' that have already been undertaken with a focus on evaluating the status of all recommendations that have come out of these reviews. Establishing and implementing rigorously designed evaluations of the effectiveness of current models of service delivery including Gateway services, for improving the safety and wellbeing of children, are warranted.*<sup>422</sup>

- 18.9 The Tasmanian Government Submission states:

*The then Commissioner for Children's report Inquiry into the circumstances of a 12 year old child under the guardianship of the Secretary recommended a Commission of Inquiry into the decision not to prosecute:*

*'[Recommendation]That after an appropriate period the Government advise the Governor to appoint a Commissioner of Inquiry ... to review the decisions of the Crown in relation to the prosecution or otherwise of persons suspected of having had intercourse or indecent dealings with the subject child in order to address any public concerns about the probity of such decisions'.*<sup>423</sup>

*The Tasmanian Government does not accept this recommendation and provides reasons in a response to all of the recommendations in the Commissioner for Children's report<sup>424</sup>. In summary, the Director of Public Prosecutions is an independent statutory officer under the Director of Public Prosecutions Act 1973 and interference in this independent office by the Tasmanian Government is inappropriate.*

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<sup>421</sup> Jacob, Submission, pp. 11 – 12.

<sup>422</sup> Taylor, Submission, p 9.

<sup>423</sup> 'She will do anything to make sure she keeps the girls' *Inquiry into the circumstances of a 12 year old child under the Guardianship of the Secretary*, access via [http://www.dhhs.tas.gov.au/news\\_and\\_media/report\\_on\\_case\\_of\\_12-year-old\\_under\\_guardianship](http://www.dhhs.tas.gov.au/news_and_media/report_on_case_of_12-year-old_under_guardianship)

<sup>424</sup> Tasmanian Government response to recommendations in the Commissioner for Children's report on his inquiry into the circumstances of a 12 year old child under guardianship of the Secretary, October 2010

*In the recent parliamentary debate on the Integrity Commission Bill the use of Commissions of Inquiry was described as appropriately reserved for cases '...where something that starts off as an allegation of misconduct but on closer investigation is more a reflection of systemic policy failure than a case of unethical conduct by a particular individual or individuals...' and the example of the Victorian Bushfire Royal Commission is given as an illustration.*

*It is inappropriate to urge the conduct of a Commission of Inquiry in the absence of evidence of any lack of probity, let alone systemic failure, in making decisions about prosecutions. It is further questionable that a Commission of Inquiry (which would have to take the majority of its evidence in private) would have any effect on public opinion or concerns.*

*Such a Commission would be very expensive and arguably it would be wiser to spend that money for the benefit of vulnerable children.*

*Further, the Tasmanian Government does not accept the need for a Commission of Inquiry more broadly into the Child Protection System. The information included throughout this submission provides evidence that Tasmania's Child Protection System is functioning as it should at this stage of the reforms.*

*Although it is difficult to measure the immediate effectiveness of the reform process due to entrenched barriers within the community (many being generational in nature) which will require many years to address, there are number of early indications that the diversionary objective of the reform process is taking effect.*

*During 2009/10 (the first year of Gateway) approximately 10% of notifications to Child Protection were referred to Gateway. This equates to at least 600 children who were diverted from Child Protection to receive early intervention and family support services. Additionally, around 60 children were referred to Child Protection from Gateway. It is expected that over time the requirement for statutory interventions will decrease as more families are provided with the support they need, becoming more resilient and negating the need for a statutory Child Protection Response<sup>425</sup>.*

*In the 12 months ending 30 June 2010, there was a 25% decrease in notifications referred for investigation compared to the same period in the previous year.*

*The rate of children that were found to be victims of abuse and neglect decreased from 9.1 per 1 000 in 2008-09 to 7.4 per 1 000 in 2009-10. Although it is too early to reveal a trend, this is a positive indication that the reform agenda is making a difference.*

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<sup>425</sup> DHHS Quarterly reporting

*As well as reducing the need for children to be placed in OOHC, an aim of the reform process is to improve the quality of services provided by statutory Child Protection Services, thereby enabling a better response to children at risk. In order to improve the quality of the Child Protection System, an incremental approach to improving workforce culture, capacity and providing supportive policies and procedures is underway.*

*While there is still much progress to be made, the reforms have critically started to address the need for greater prevention and early intervention services for families and children at risk, reserving the Child Protection System for those severe cases requiring statutory intervention. It is premature to make a judgment about wide systemic policy failures at this stage of the reform process. Therefore a further Commission of Inquiry under the Commissions of Inquiry Act 1995 is inappropriate.*

*Further, there are existing sufficient review and accountability instruments at a Parliamentary, statutory, judicial and administrative level to examine and report on systemic performance and individual case or client level decisions. These include:*

- *Administrative: individuals may raise matters verbally at any time with Child Protection Services or make a written complaint. All complaints are investigated and responded to within 20 working days. Reviews may be sought through the Area Director and if that fails to resolve the issue, the complaint may be referred to the Chief Executive Officer of Children and Youth Services<sup>426</sup>. Further, there are many reporting mechanisms that allow transparency of the Child Protection System including the Review of Government Services report (which is released every year), the AIHW Report on Child Protection Services in Australia (also released annually), and the Quarterly Performance Reporting released by DHHS on the services it provides;*
- *Statutory: complaints may be made to the Ombudsman regarding the administrative actions of Tasmanian Government Departments to ensure that their actions are lawful, reasonable and fair - and where matters are not able to be settled directly with the relevant Department. In 2009-10 the Ombudsman reported that of complaints against Government Departments 30 per cent were against DHHS with half of those attributed to the Human Services side of the Agency<sup>427</sup>. The Ombudsman characterised these types of complaints as relating to*

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<sup>426</sup> See 'Voicing Your Concerns' Complaints procedures for Child Protection and Youth Justice Services, access via [http://www.dhhs.tas.gov.au/about\\_the\\_department/organisational\\_structure/operational\\_units/dcyfs/unit\\_structure/area\\_teams/child\\_protection\\_services/publications\\_and\\_resources](http://www.dhhs.tas.gov.au/about_the_department/organisational_structure/operational_units/dcyfs/unit_structure/area_teams/child_protection_services/publications_and_resources)

<sup>427</sup> Ombudsman Tasmania, Annual Report 2009-10.

*'parenting plans, the conduct of carers and other issues involving children currently in State care'*<sup>428</sup>;

- *Judicial: the CYPTF Act provides a framework to enforce accountability and transparency, and includes a legal imperative on service providers and the courts to obtain the views of the child, family and other persons interested in the child's wellbeing. For example Section 8(3), (4) and (5) sets out the 'principles to be observed when dealing with children' and clearly states that the child and other relevant persons must be given the opportunity to present their views and be provided with sufficient information to be able to participate fully; and*
- *Parliamentary: there are many regular avenues of scrutiny available through Parliament including estimates briefings, Question Time and this Select Committee.*<sup>429</sup>

18.10 The Committee received a submission from the CPSU on this issue. This submission states as follows:

*An inquiry will just tell us, expensively, what we already know.*

- *Not required if this inquiry is able to influence government direction and funding.*

- *I believe that there have been numerous enquiries and restructures over many years and staff are just worn out with restructure and enquiry overload. It should not be difficult for the political process to determine what is best for vulnerable children – there are numerous places where success is quoted (e.g. the New Zealand Child Protection system). The reality is though that the political process will always determine an outcome – e.g. the recent Children's Commissioner result. What workers have been told is that if more funding is provided to CPS it is likely that another level of management will be introduced to oversee staff practice and auditing of cases.*

- *I do not feel we need enquiries, we should be spending the money on staff training.*<sup>430</sup>

18.11 However, in relation to a more specific Commission of Inquiry into the issue of the prostitution of the 12 year old girl in State care, there were submissions noting concern at the failure to prosecute clients who allegedly had sex with the child, and the need for truth in advertising, including the role of newspapers in advertising adult sexual services and how better to protect children. Others were concerned about the low number of cases of child abuse referred for criminal investigation:

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<sup>428</sup> Ibid., p. 13.

<sup>429</sup> Tasmanian Government, Submission, pp. 81 - 83.

<sup>430</sup> CPSU, Submission, p.12.

*There is a strong community feeling that perpetrators have simply been getting away with abuse and that the system (both the Child Protection system and the Justice system) is not working adequately enough to bring child abusers to justice.<sup>431</sup>*

### **Findings**

- (174)** *That the child protection system is still inadequate in spite of many previous reviews and reports.*
- (175)** *Evidence received by the Committee argued both for and against further inquiry into the Child Protection system generally and the case of the twelve year old child specifically.*
- (176)** *A number of recommendations of previous inquiries have not yet been fully implemented.*
- (177)** *The case of the twelve year old child gave rise to considerable community angst and discomfort.*
- (178)** *There was considerable community disquiet regarding the decision not to prosecute certain people alleged to have had sex with a child.*
- (179)** *There was evidence received by the Committee of potential inadequacies in the criminal law as it relates to sexual offences against children.*
- (180)** *Public confidence in the proper and fair administration of the criminal law as it relates to young people is fundamental.*
- (181)** *Public confidence in the Child Protection system requires a clear demonstration that the best interests of the child are paramount.*
- (182)** *The Committee notes that the Government has commissioned the Tasmanian Law Reform Institute to conduct a review of the provisions of the Criminal Code as they relate to offences against children. The findings of such review are overdue.*
- (183)** *There is also scope for changes to the Evidence Act in relation to the hearing of evidence from child victims of sexual abuse that requires further investigation.*

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<sup>431</sup> Eastern Shore Community Association, p. 4.

*Recommendations*

*The Committee recommends that:-*

- (171) The review of the Criminal Code commissioned by the Government be expedited.*
- (172) Given the large number of reports and recommendations over recent years, a further broad ranging inquiry into the Child Protection system is not warranted.*
- (173) On balance, the establishment of a Commission of Inquiry into the circumstances surrounding the twelve year old child is not warranted.*
- (174) The Attorney-General takes such steps as required to satisfy himself that the decision of the Director of Public Prosecutions to not prosecute other alleged offenders against the twelve year old child was appropriate.*
- (175) The Government take immediate steps to respond to any outstanding recommendations of previous inquiries as soon as possible.*
- (176) The Government gives consideration to the implementation of the recommendations contained in the submission to this inquiry of the Sexual Assault Support Service.*

Parliament House  
HOBART  
13 December 2011

Basil O'Halloran M.P.  
CHAIR



## APPENDICES

### APPENDIX 'A'

No.	Name
3	Vince McCormack, The Narrative Centre
4	Kate Mooney
6	Peter Gutwein MP
7	Deborah Kyle
8	Jeff Davey, Chief Executive, Bapcare
9	Not used.
11	Glenhaven Family Care
12	Dr Joe Tucci, CEO, Australian Childhood Foundation
13	Anthea Vreugdenhil, AASW (Tasmanian Branch)
14	Darren Stops & Tracey Dean
15	Angela Goldsmith, Youth Services Coordinator, Clarence City Council
16	Ms Cate Clark, President – Eastern Shore Community Association
17	Tom Lynch, General Secretary, CPSU (SPSFT) Inc.
18	Dr Sonya Stanford, School of Social Work, University of Tasmania
19	Professor Sandra Taylor, Head of Social Work, University of Tasmania
20	Sonja Vanderaa
21	Betty Roberts OAM, National Social Issues Convenor, Catholic Women's League Tas. Inc.
22	Allan Clark, Director: Human & Executive Services, Tasmanian Catholic Education Office
23	Not used.

24 Elaine Bushby, President, National Council of Women, Coalition, Tasmania Inc.

26 Paul Mason

28 Bravehearts Inc.

29 Aileen Ashford, Commissioner for Children

30 The Salvation Army Tasmania Division

32 Tasmanian Government

33 Mental Health Council of Tasmania

34 Steven Bishop

39 Dr Michelle Williams, Staff Specialist Paediatrician, Senior Lecturer, Discipline of Paediatrics and Child Health, University of Tasmania

40 Sexual Assault Support Service

41 Mission Australia

42 Create Foundation

43 Jenny Piemontese

45 Leah Woolford

47 Alison Jacob

### APPENDIX 'B'

No.	Name
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1 T & C Moran

2 Kirsten O'Halloran

5 Debra and Paul Ashlin

10 Cate Clark

25 Danielle Gale

27 Carmelita Henri

31 Jodi Anne Beech

35 Tina Tarrant

36 Talwyn Davies

37 Tegan Dwyer

38 Yvonne Maxwell

44 Michael Stoneman

46 William Yabsley

## APPENDIX 'C'

WEDNESDAY, 20 OCTOBER 2010

The Committee met in Committee Room 3, Parliament House, Hobart at 2:00 p.m.

Members Present:

Mr *Groom*  
Mr *O'Halloran*  
Mrs *Petrusma*  
Ms *White*  
Mr *Wightman*

### ORDER OF THE HOUSE

The Secretary took the Chair and read the Order of the House of Assembly appointing the Committee.

### ELECTION OF CHAIR

The Secretary called for nominations for the position of Chair of the Committee, Mr *Wightman* nominated Mr *O'Halloran*, who consented to the nomination.

There being no other candidates nominated, the Secretary declared Mr *O'Halloran* elected as Chair.

Mr *O'Halloran* took the Chair.

### ELECTION OF DEPUTY CHAIR

The Chair called for nominations for the position of Deputy Chair of the Committee, Mr *Groom* nominated Mr *Wightman*, who consented to the nomination.

There being no other candidates nominated, the Chair declared Mr *Wightman* elected as Deputy Chair of the Committee.

### PARLIAMENTARY RESEARCH OFFICER

*Resolved*, That unless otherwise ordered Officers of the Parliamentary Research Service be admitted to the proceedings of the Committee whether in public or private session. (Mrs *Petrusma*)

### NOMENCLATURE

The Committee discussed the nomenclature of the Committee.

*Resolved*, That the Committee be known as the "Select Committee on Child Protection". (Mr *Groom*)

### ADVERTISEMENT OF INQUIRY

The draft advertisement having been previously circulated by the Secretary was taken into consideration by the Committee.

The Committee deliberated.

*Resolved*, That the advertisement be agreed to with such advertisement to be placed in the three daily newspapers on Saturday, 23 October next.

### INVITATIONS TO PROVIDE SUBMISSIONS

The Committee considered the question of whether organisations and individuals should be directly invited to provide submissions to the Committee.

*Resolved*, That the Chair provide the Secretary with a list of prospective witnesses for circulation to other Committee Members and Members of the Committee provide any additional names of any further organisations/individuals to the Secretary. (Mr *O'Halloran*)

### COMMITTEE SPOKESPERSON

*Resolved*, That the Chair be the spokesperson in relation to the operations of the Committee. (Ms *White*)

### FUTURE MEETINGS

The Committee deliberated upon dates for future meetings.

*Resolved*, That the Committee meet from:-

- 10:00 a.m. until 6:00 p.m., 8 November next; and
- 10:00 a.m. until 2:00 p.m., 15 November next. (Mr *O'Halloran*)

*Ordered*, That the Chair provide a list of prospective dates to the Secretary for distribution to the other Members of the Committee.

At 2:28 p.m. the Committee adjourned until 10:00 a.m., Monday, 8 November next.

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MONDAY, 8 NOVEMBER 2010

The Committee met in Committee Room 2, Parliament House, Hobart at 10:00 a.m.

Members Present:

Mr *O'Halloran* (Chair)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*  
Mr *Wightman*

Ms Jayne McPherson, Parliamentary Research Officer was in attendance.

#### **WITNESSES**

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Mrs Joanne Shreeve

#### Paper

Mrs Shreeve circulated a document dated 8 November 2010.

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Mrs Corrie Bartle

#### Paper

Mrs Bartle circulated a hand written document undated.

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Ms Deborah Charlton, Family Inclusion Network; and
- Mr Greg Barns

The witnesses withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Mr John Ward

The witness withdrew.

Suspension of Sitting 11:55 a.m. until 12:17 p.m.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Ms Tina Tarrant

The witness withdrew.

Suspension of Sitting 12:45 p.m. until 2:00 p.m.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Mr Brett Galbraith

#### Papers

Mr Galbraith circulated the following documents:-

- a document entitled 'Child Protection Committee';
- DHHS memo relating to Current Vehicle Details;
- Application for "Occasional User Status";
- Correspondence dated 17 September 2009 from Mary Antoney, Child Protection Worker and Rosie Crumpton-Crook, Manager, Child Protection Services – SW to Brett and Tracey Galbraith; and
- DHHS Remittance Advice dated 7 January 2009.

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee *in camera*:-

- Mr Terry Moran

The witness withdrew.

Ms Jayne McPherson briefed the Committee on the services offered by the Parliamentary Research Service.

#### **RECEIPT OF DOCUMENTS**

*Resolved*, That the following papers tabled this day be received and taken into evidence and reported:-

- Document dated 8 November 2010 (Mrs Shreeve);
- Hand written document undated (Mrs Bartle);
- a document entitled 'Child Protection Committee' (Mr Galbraith);

- DHHS memo relating to Current Vehicle Details (Mr Galbraith);
- Application for "Occasional User Status" (Mr Galbraith); and
- DHHS Remittance Advice dated 7 January 2009 (Mr Galbraith). (Ms White)

*Resolved*, That the following papers tabled this day be received and taken into evidence and not reported:-

- Correspondence dated 17 September 2009 from Mary Antoney, Child Protection Worker and Rosie Crumpton-Crook, Manager, Child Protection Services – SW to Brett and Tracey Galbraith (Mr Galbraith). (Mr Groom)

#### **CONFIRMATION OF MINUTES**

*Resolved*, That the Minutes of the meeting held on 20 October last were read and adopted as an accurate record. (Ms White)

#### **INVITATION TO WITNESS**

The Committee deliberated upon the need to call other witnesses.

*Ordered*, That the Editor of the 'Mercury' be invited to appear before the Committee to explain the process for the placement of advertisements in the 'Mercury'. (Mr O'Halloran)

*Ordered*, That the Ministers responsible for the Agencies specified in the Terms of Reference be invited to make written submissions to the Committee and nominate appropriate representatives from such Agencies to appear before it. (Mr O'Halloran)

#### **REPORTING DATE**

The Committee deliberated.

*Ordered*, That the Chair of the Committee move an extension of the reporting date of the Committee until the first sitting day of 2011. (Mr O'Halloran)

#### **MEDIA RELEASE**

The Committee deliberated.

*Resolved*, That the Committee not issue a Media Release prior to each meeting. (Mr O'Halloran)

At 3:38 p.m. the Committee adjourned until 10:00 a.m., Monday, 15 November next.

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**MONDAY, 15 NOVEMBER 2010**

The Committee met in Committee Room 2, Parliament House, Hobart at 9:00 a.m.

Members Present:

Mr O'Halloran (Chair)  
Mr Groom  
Mrs Petrusma

Ms Jayne McPherson, Parliamentary Research Officer briefed the Committee.

#### **APOLOGIES**

Apologies were received from Ms White and Mr Wightman.

#### **WITNESSES**

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Mrs John Flack
- Mrs Tracey Flack

#### Papers

Mr Flack circulated the following documents:-

- Copy of a series of email communications the first of which dated 19 August 2008;
- Copy of a series of email communications the first of which dated 20 September 2007;
- an email communication dated 31 March 2008;
- an email communication dated 12 June 2008;
- Copy of a series of email communications the first of which dated 3 March 2010;
- Copy of a series of email communications the first of which dated 14 March 2010; and
- Copy of a series of email communications the first of which dated 18 February 2008.

The witnesses withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee *in camera*:-

- Ms Judith Clayton

Papers

Ms Clayton circulated the following documents:-

- Undated submission and supporting documentation entitled 'Private and Confidential'.

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee *in camera*:-

- Mrs Kirsten O'Halloran

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Mrs Jill Beech

Papers

Mrs Beech circulated the following documents:-

- Copy of correspondence dated 14 October 2009 from Mary Mulligan, Child Protection Worker to Ms Gill Beech;
- Copy of correspondence dated 9 November 2009 from Tegan Dwyer, Child Protection Worker to Ms Gill Beech;
- Copy of correspondence dated 17 August 2009 from Leah Woolford, Child Protection Worker to Ms Gill Beech;
- Copy of email communications dated 29 October 2009 between Tegan Dwyer and Ms Gill Beech;
- Copy of email communications dated 2 November 2009 between Bruce Kemp and Ms Gill Beech;
- Copy of correspondence dated 23 August 2010;
- Copy of correspondence dated 23 August 2010;
- Copy of correspondence dated 14 October 2009 from Dr Ian Stewart, Paediatrician to Tegan O'Dwyer
- Copy of email communications undated between Tegan Dwyer and Ms Gill Beech; and

- Copy of document dated 23 October 2009 entitled 'Beech Family Meeting Minutes'.

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Louise Stoward

The witnesses withdrew.

At 12:46 p.m. the Committee adjourned until 10:00 a.m., Monday, 23 November next in Burnie.

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**TUESDAY, 23 NOVEMBER 2010**

The Committee met in Braddon Hall, Burnie Arts & Function Centre, Burnie at 10:00 a.m.

Members present:-

Mr O'Halloran (Chairperson)  
Mr Groom  
Mrs Petrusma  
Ms White  
Mr Wightman

**WITNESS**

The following witness appeared, made the Statutory Declaration and was examined by the Committee *in camera*:-

- Terry Flanigan

Papers

Mr Flanigan tabled the following papers:-

- Copy of email communication dated 18 November 2010 from Terry Flanigan to Gina Ellis; and
- Copy of document entitled 'Memorandum – Child and Family Services North West Service Centre' dated 16 July 2010.

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Sam Ralph

Papers

Mr Ralph tabled the following papers:-

- Copy of document entitles 'Timeline';
- Copy of correspondence dated 11 February 2008 from Stuart Mackey, Crisp Hudson & Mann, Barristers and Solicitors to Verney Walker & Co;
- Copy of correspondence dated 17 April 2008 from Stuart Mackey, Crisp Hudson & Mann, Barristers and Solicitors to Helen Ralph;
- Copy of correspondence dated 14 May 2008 from Stuart Mackey, Crisp Hudson & Mann, Barristers and Solicitors to Cheree Eberhardt, Child Protection Unit, Department of Health and Human Services;
- Copy of correspondence dated 29 September 2008 from Stuart Mackey, Crisp Hudson & Mann, Barristers and Solicitors to Child Protection Unit, Department of Health and Human Services;
- Copy of document entitled 'Restraint Order' in the matter 85365/2007;
- Copy of correspondence dated 22 January 2009; and
- Copy of document entitled 'Preliminary Assessment Against Competencies'.

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee *in camera*:-

- Robyn Gay

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Cheryl Jones, Manager, Glenhaven Family Care; and
- Stuart Lee, Co-ordinator, Glenhaven Family Care.

The witnesses withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee *in camera*:-

- Michelle Blake; and
- Jennifer Macartney

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Christine Reynolds; and
- Ashley Reynolds

Papers

Mr Reynolds tabled the following papers:-

- Copy of email communication dated 22 November 2010 from Ashley Reynolds to Tony Poole;
- Copy of email communication dated 23 November 2010 from Ashley Reynolds to Sandy Wittison;
- Copy of email communication dated 23 November 2010 from Ashley Reynolds to the Ombudsman;
- Copy of email communication dated 6 November 2010 from Jennifer Thain to Ashley Reynolds; and
- Correspondence dated 16 February 2010 from Tony Byard, Senior Investigation Officer, Ombudsman Tasmania to Mr & Mrs Ashley Reynolds.

The witness withdrew.

**CONFIRMATION OF MINUTES**

The Minutes of the meetings held on 8 and 15 November last were read and confirmed as an accurate record.

At 1:58 p.m. the Committee adjourned until 10:00 a.m., Monday, 23 November next in.

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**FRIDAY, 26 NOVEMBER 2010**

The Committee met in the Conference Room, 4<sup>th</sup> Floor, Henty House, 1 Civic Square, Launceston at 10:00 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*  
Mr *Wightman*

**WITNESSES**

The following witness appeared, made the Statutory Declaration and was examined by the Committee *in camera*:-

- Ted Sherrin

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee *in camera*:-

- Sherilyn McQueen

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Debra Ashlin; and
- Paul Ashlin.

The witnesses withdrew.

The Honourable Member for Bass, Mr Gutwein appeared and was examined by the Committee in public.

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Ross Goodsell

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Pauline Roberts

The witness withdrew.

Suspension of meeting 12:30 p.m. to 1:00 p.m.

The following witness appeared, made the Statutory Declaration and was examined by the Committee *in camera*:-

- Christine Diedrichs

Papers

Ms Diedrichs tabled the following Paper:-

- Untitled 9 page document

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee *in camera*:-

- Tim Williams; and
- Christine Williams.

The witnesses withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Professor Sandra Taylor, Head of Social Work, School of Sociology and Social Work, University of Tasmania; and
- Dr Sonya Stanford, School of Sociology and Social Work, University of Tasmania.

Papers

Dr Stanford tabled the following Paper:-

- Copy of article entitled 'Leave No Stone Unturned: The Inclusive Model of Ethical Decision Making' by Donna McAuliffe and Lesley Chenoweth, appearing in 'Ethics and Social Welfare', Volume 2, Number 1 (April 2008).

The witnesses withdrew.



The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Mark Harris, President 'S.O.S.'

At 2:55 p.m. Mrs *Petrusma* withdrew.

#### Papers

Mr Harris tabled the following Paper:-

- Document entitled 'Mark Harris'.

The witnesses withdrew.

At 3:15 p.m., the Committee adjourned until 10:00 a.m., Monday, 29 November next.

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### **MONDAY, 29 NOVEMBER 2010**

The Committee met in Committee Room 2, Parliament House, Hobart at 10:00 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*  
Mr *Wightman*

#### **WITNESSES**

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Ken Abery

#### Papers

Mr Abery tabled the following papers:-

- Copy of email communication dated 28 November 2010 from Wayne & Stephanie Dank to Ken Abery;
- Time-line document commencing 'Mid-August';
- Copy of email communication dated 21 July 2010 from Michelle Williams to Tana McMullen;
- Copy of email communication dated 26 November 2010 from Andrew McCann to Ken Abery;

- Copy of 'Essential Information Record' for #1; and
- Copy of 'Essential Information Record' for #2.

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Lee Smith

#### Papers

Mr Smith tabled the following paper:-

- Brochure entitled 'Explaining Fragile X Syndrome'.

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Aileen Ashford, Commissioner for Children

The witness withdrew.

Mr *Wightman* took the Chair.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Dr Annette Hackett

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Michael Duval

#### Papers

- Main Chance Farm Incorporated Project Brief, October 2010;
- YNOT – Youth Network of Tasmania, Annual Report 2009-10;
- Principles for Evaluating Community Crime Prevention Projects, National Community Crime Prevention Programme – Attorney-General's

Department, Australian Government;  
and

- Pathways to Prevention – Developmental and Early Intervention Approaches to Crime in Australia – Full Report - National Community Crime Prevention Programme – Attorney-General's Department, Australian Government.

The witness withdrew.

Suspension of meeting 1:05 p.m. to 2:00 p.m.

The Chairperson took the Chair.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Ronda McIntyre, Manager of Child and Family Services, Salvation Army; and
- Stephen Nelthorpe, Program Manager – Therapeutic Residential Care, Salvation Army

The witnesses withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Garry Bailey, Editor, *The Mercury*

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Tom Lynch, Secretary, Community and Public Sector Union; and
- Emma Gill, Organiser, Community and Public Sector Union.

The witnesses withdrew.

Suspension of meeting 3:40 p.m. to 4:00 p.m.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Carmelita Henri; and
- James Henri.

The witnesses withdrew.

At 4:45 p.m., the Committee adjourned until 9:30 a.m., Thursday, 2 December next.

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#### THURSDAY, 2 DECEMBER 2010

The Committee met in the Long Room, Parliament House, Hobart at 10:00 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*  
Mr *Wightman*

#### WITNESSES

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Alison Jacob, Deputy Secretary, Human Services
- Mark Byrne, CEO, Children and Youth Services
- Mal Phillips, Area Director, North West
- Mike Willie, Area Director, North
- Andrea Sturges, Area Director, South West
- Angela McCrossen, Manager – Child Protection Services, South East
- Jeremy Harbottle, Assistant Director, Children and Youth Services

Suspension of meeting 11:15 a.m. to 11:30 a.m.

The witnesses were further examined.

#### Paper

Ms Jacob tabled the following Paper:-

- A personal statement from Alison Jacob, Deputy Secretary (Human Services)

The witnesses withdrew.

Suspension of meeting 12:50 a.m. to 2:00 p.m.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Vince McCormack

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Paul Mason

At 3:47 p.m. the Committee resolved to hear the witness *in camera*.

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Mary D'Elia, Bapcare State Operations Manager; and
- Trisha Males, Program Manager – South West Family Services

At 4:38 p.m. Mr *O'Halloran* withdrew.

Mr *Wightman* took the Chair.

The witnesses withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee *in camera*:-

- Di Hankin

The witness withdrew.

At 5:23 p.m., the Committee adjourned until 10:00 a.m., Monday, 6 December next.

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#### MONDAY, 6 DECEMBER 2010

The Committee met in Committee Room 2, Parliament House, Hobart at 10:00 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*

Mrs *Petrusma*  
Ms *White*  
Mr *Wightman*

#### WITNESSES

The following witness made the Statutory Declaration and was examined via telephone by the Committee in public:-

- Joe Tucci, Australian Children's Foundation

The witness withdrew.

The following witnesses made the Statutory Declaration and were examined via telephone by the Committee *in camera*:-

- Carolyn Pearson;
- Susan Reynolds; and
- Michelle Sharman.

The witnesses withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Wendi Gittus

The witnesses withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Michelle Swallow, Chief Executive Officer, Mental Health Council

The witnesses withdrew.

Mr *Wightman* withdrew.

Suspension of meeting 12:28 p.m. to 2:00 p.m.

The following witness made the Statutory Declaration and was examined via telephone by the Committee in public:-

- Yvonne Maxwell

The witness withdrew.

The Following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Berry Dunston

Paper

Ms Dunston tabled the following Paper:-

- Document entitled 'Parliamentary Committee on Child Protection'.

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Michael Stephens, Deputy Secretary, Department of Justice;
- Robyn Yaxley, Senior Consultant, Strategic Policy and Projects Branch, Department of Justice; and
- Jim Connolly, Administrator of Courts.

The witnesses withdrew.

**FURTHER EVIDENCE**

The Committee deliberated.

*Ordered*, That Mark Byrnes, CEO, Child Protection Services, Department of Health and Human Services be recalled to be examined *in camera* in relation to the details regarding outsourced residential service providers:-

- process for engagement;
- standards, including Occupational Health and Safety standards, specified in service agreements between the Government and such providers;
- how are such standards monitored and enforced; and
- what review mechanisms, if any, exist and what are the details; and
- reporting mechanisms, if any, for children in approved residential care who are charged with a criminal offence or appear in Court or who are otherwise involved in serious misconduct?

*Ordered*, That the following additional information be sought from the Minister for Children:-

- Regarding children in State care:-
  - what percentage of such children come from circumstances where:-

- poor mental health; and/or
  - drug and alcohol abuse; and/or
  - domestic violence
- has been identified as a contributing factor to their need for State care?

b. what percentage of such children come from circumstances where:-

- emotional; and/or
- physical; and/or
- sexual

trauma has been identified as a contributing factor to their care?

c. what is the breakdown, by percentage, of the highest level of education attained by such children?

2. Are statistics held concerning the highest level of education attained by the parents/grandparents of children in state care and if so, what are the details? (Mr O'Halloran)

The Committee deliberated.

**SITE VISITS**

*Resolved*, That the invitation of the Deputy Secretary of the Department of Health and Human Services to meet with employees at the service centres be accepted. (Mr O'Halloran)

*Ordered*, That arrangements be made to facilitate the visit of members of the Committee. (Mr O'Halloran)

At 4:28 p.m., the Committee adjourned until 10:00 a.m., Friday, 10 December next.

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**FRIDAY, 10 DECEMBER 2010**

The Committee met in Committee Room 1, Parliament House, Hobart at 10:00 a.m.

Members present:-

- Mr *Wightman* (Acting Chairperson)
- Mr *Groom*
- Mrs *Petrusma*
- Ms *White*

#### **APOLOGIES**

An apology was received from Mr O'Halloran.

#### **WITNESSES**

The following witness appeared made the Statutory Declaration and was examined by the Committee in public:-

- Sonja Vanderaa

#### Paper

Ms Vanderaa tabled the following Paper:-

- Australian Childhood Foundation – Discussion Paper 1 – “Responding to children who have experienced abuse related trauma – Ideas for school based treatment”.

The witness withdrew.

The following witness made the Statutory Declaration and was examined by the Committee in public:-

- Danielle Gale

The witnesses withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee *in camera*:-

- Dr Tracey Dean; and
- Darren Stops.

The witnesses withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Allan Clark, Director – Human & Executive Services, Catholic Education Office

The witness withdrew.

#### **CONFIRMATION OF MINUTES**

The Minutes of the meetings held on 23, 26 and 29 November and 2 December last were read and confirmed as an accurate record.

#### **CORRESPONDENCE**

Mrs *Petrusma* circulated an email communication from Ashley Reynolds dated 9 December last detailing concerns relating to evidence heard by the Committee in public.

The Committee deliberated.

*Ordered*, That the Secretary respond to such communication. (Mrs *Petrusma*)

#### **WITNESSES**

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Katrina Garth; and
- Deborah Charlton.

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Steven Bishop

The witness withdrew.

Suspension of meeting 1:10 p.m. to 2:20 p.m.

#### **RECEIPT OF SUBMISSIONS**

The Committee deliberated.

*Resolved*, That the submissions 1 to 44 be received and taken into evidence. (Mr *Wightman*)

#### **PUBLICATION OF SUBMISSIONS**

*Ordered*, That pursuant to Standing Order 363, the following submissions be published:- 3; 6; 8; 11; 12; 14; 17; 18; 19; 20; 22; 26; 29; 30; 32; 33; 34; and 40. (Mr *Groom*)

#### **INQUIRY PROGRESS**

The Committee deliberated upon the progress of the inquiry.

*Resolved*, That the following dates be set aside for future meetings:- 8 and 9 February next.

*Ordered*, That invitations to appear be issued to Mr Mark Byrne, CEO, Children and Youth Services, Department of

Health and Human Services and the Director of Legal Aid Commission of Tasmania. (Mr *Groom*)

**ORDER FOR DOCUMENTS**

*Ordered, That:-*

- (1) A copy of the document/s entitled "K&E combochronolgy", also known as "PN combochronolgy"; and
- (2) A copy of the document entitled be provided. (Mrs *Petrusma*)

**WITNESSES**

The following witnesses appeared made the Statutory Declaration and were examined by the Committee in public:-

- Elizabeth Little, Manager, Sexual Assault Support Service;
- Dianne Calderbank, Team Manager, Sexual Assault Support Service; and
- Morgen Hughes, Team Manager and Case Management Officer, Sexual Assault Support Service.

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Sharyn Lidster, General Manager, Strategic Policy and Performance, Department of Education;
- Katrina Beams, Manager School Support, Learning Services South, Department of Education;
- Jenny Leppard, Principal Mount Faulkner Primary School; and
- Jan Batchelor, Manager, State and National Programs, Department of Education.

The witnesses withdrew.

At 5:02 p.m., the Committee adjourned until 10:00 a.m., Friday, 17 December next.

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**FRIDAY, 17 DECEMBER 2010**

The Committee met in Committee Room 2, Parliament House, Hobart at 10:00 a.m.

Members present:-

- Mr O'Halloran (Chairperson)
- Mr *Groom*
- Mrs *Petrusma*
- Ms *White*

**APOLOGIES**

An apology was received from Mr *Wightman*.

**WITNESSES**

The following witness appeared made the Statutory Declaration and was examined by the Committee *in camera*:-

- Anthony Hadfield

The witness withdrew.

The following witnesses made the Statutory Declaration and were examined by the Committee in public:-

- Scott Tilyard, Acting Deputy Commissioner
- Sandra Lovell, Manager, Executive Support
- Sergeant Rebecca Bain

The witnesses withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Dr Michelle Williams
- Dr Fiona Wagg
- Anne Easterher
- Barbara Moerd

The witnesses withdrew.

The following witness was recalled and was examined by the Committee *in camera*:-

- Louise Stoward

The Committee continued hearing the witness in public.

The witness withdrew.

At 12:50 p.m., the Committee adjourned until 10:00 a.m., Tuesday, 21 December next.

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**MONDAY, 21 DECEMBER 2010**

The Committee met in Committee Room 2, Parliament House, Hobart at 10:00 a.m.

Members present:-

Mr O'Halloran (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*  
Mr *Wightman*

**WITNESSES**

The following witness made the Statutory Declaration and was examined by the Committee in public via telephone:-

- Carol Ronken, Bravehearts

The witness withdrew.

The following witness made the Statutory Declaration and was examined by the Committee in public:-

- Betty Roberts O.A.M., National Social Issues Convenor, Catholic Women's League Tas. Inc.

Papers

Mrs Roberts tabled the following Papers:-

- Newspaper clippings (9 pages);
- Biographical Information - Betty Roberts O.A.M.
- Copy of document entitled 'A Fundamentally Different Approach - Drug Strategy 2010';
- Copy of Document entitled 'Addiction is a Major Health Issue';
- Copy of "Letter to Bill Wilson from Dr. Carl Jung" dated 30 January 1961; and
- Copy of Document entitled 'Topic 1 - The Process of Addiction'.

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- John Flanagan

The witness withdrew.

The following witnesses made the Statutory Declaration and were examined by the Committee in public via telephone:-

- Talwyn Davies; and
- Jane Davies.

The witnesses withdrew.

The following witness made the Statutory Declaration and was examined by the Committee in public via telephone:-

- Jacqui Reed, C.E.O., Create Foundation

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee *in camera*:-

- Angela Miezitis, Principal, Moonah Primary School; and
- Barbarah Harrison, Teacher, Moonah Primary School.

The witnesses withdrew.

**ORDER FOR DOCUMENTS**

*Ordered*, That a copy of the document entitled "Be Heard" be provided. (Mrs *Petrusma*)

Suspension of Sitting 1:03 p.m. to 2:00 p.m.

**WITNESSES**

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Simon Paul, Coordinator, Clarendon Vale Neighborhood Centre

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Noel Mundy, Mission Australia

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Anne Hughes, Australian Association of Social Workers; and
- Virginia Allanby, Australian Association of Social Workers

The witness withdrew.

The following witness made the Statutory Declaration and was examined by the Committee in public via telephone:-

- Hal Fogg

The witness withdrew.

At 4:51 p.m., the Committee adjourned until 9:00 a.m., tomorrow.

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**TUESDAY, 22 DECEMBER 2010**

The Committee met in Committee Room 2, Parliament House, Hobart at 10:00 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*

The following witness made the Statutory Declaration and was examined by the Committee in public:-

- Colleen Cowen

The witness withdrew.

The following witnesses appeared, made the Statutory Declaration and were examined by the Committee in public:-

- Mark Taylor; and
- Rebecca Taylor

At 9:48 a.m. Mr *Wightman* took his seat.

The witnesses withdrew.

The following witness made the Statutory Declaration and was examined by the Committee in public via telephone:-

- Alanna Day

The witness withdrew.

The following witnesses were recalled:-

- Mark Byrne, CEO, Children & Youth Services
- Andrea Sturges, Area Director, DCYFS, South West
- Jeremy Harbottle, Assistant Director, Children & Youth Services

The following witness made the Statutory Declaration:-

- Julian Joscelyne, Manager, Family and Community Services

Such witnesses were examined by the Committee *in camera*

Papers

Mr Byrne tabled the following Papers:-

- Department of Health and Human Services Funding Agreement between the Crown and the Salvation Army (Tasmania) Property Trust;
- Amended Application to the Tasmanian Department of Health and Human Services – Therapeutic Residential Care Services for Children and Young People in the South West/South East of Tasmania 2010-2013;
- Draft Human Services Resource and Performance Agreement – Department of Health and Human Services;
- Document entitled “An outline of National Standards for Out-of-Home Care”;
- Department of Health and Human Services Funding Agreement between the Crown and Anglicare Victoria Inc.; and
- Department of Health and Human Services – Care and Support Services for Children and Young People: Residential Care Services – Application for Funding – North.

The witnesses withdrew.



The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- William Yabsley

#### Paper

Mr Yabsley tabled a document entitled "Brief to Parliamentary Select Committee on Child Protection".

The witness withdrew.

The following witness appeared, made the Statutory Declaration and was examined by the Committee in public:-

- Norman Reaburn, Director, Legal Aid Commission of Tasmania

The witness withdrew.

The following witness made the Statutory Declaration and was examined by the Committee *in camera* via telephone:-

- Megan Williams

The witness withdrew.

At 12:44 p.m., the Committee adjourned until a date to be fixed.

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#### **THURSDAY, 17 FEBRUARY 2011**

The Committee met in Committee Room 2, Parliament House, Hobart at 10:00 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*

#### **APOLOGY**

An apology was received from Mr *Wightman*.

#### **RECEIPT OF DOCUMENTS**

*Ordered*, That the following documents be received and taken into evidence:-

1. Create Foundation – Be.Heard Tasmania, July 2008-June 2010, Final Report;
2. Commissioner for Children Tasmania – Inquiry into the circumstances of a 12 year old child under the Guardianship of the Secretary – Final Report;
3. "Growing the strong, together: Promoting the Safety and Wellbeing of the Northern Territory's Children" – Summary report of the Board of Inquiry into the Child Protection System in the Northern Territory;
4. "Financial and Non-financial Support to Formal and Informal Out of Home Carers" – Final Report to the Department of Families, Housing, Community Services and Indigenous Affairs by the Social Policy Research Centre – November 2010; and
5. "Evaluation of the Child Protection Scheme of Income Management and Voluntary Income Management Measures in Western Australia" – Report to the Department of Families, Housing, Community services and Indigenous Affairs by Orima Research – September 2010. (Mr *Groom*)

#### **ISSUES PAPER**

The Issues Paper, as previously circulated was taken into consideration.

The Committee deliberated.

*Resolved*, That:-

1. the draft report structure as circulated by Mrs *Petrusma* be utilised for the final report; and
2. a further Issues Paper be prepared in accordance with such structure (Mr *O'Halloran*)

#### **REPORTING DATE**

*Ordered*, That the Chair seek an extension of the date for the bringing up of the final report of the Committee until Tuesday, 18 October next. (Mrs *Petrusma*)

At 12:13 p.m., the Committee adjourned until 11:00 a.m., Friday, 4 March next.

**FRIDAY, 4 MARCH 2011**

The Committee met in Committee Room 3, Parliament House, Hobart at 11:00 a.m.

Members present:-

Mr *O'Halloran* (Chairperson) (by telephone)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*

**DRAFT REPORT BROUGHT UP**

The Chairperson brought up a draft Progress Report which was taken into consideration by the Committee.

Paragraphs 1.1 to 1.3 agreed to.  
Paragraphs 2.1 to 2.6 agreed to.  
Paragraph 2.8 read and agreed to with an amendment.  
Paragraph 3.1 read and agreed to with an amendment.  
Paragraphs 3.2 to 3.4 agreed to.  
Paragraphs 3.5 to 3.6 postponed.  
Paragraphs 4.1 to 4.6 postponed.  
Appendices agreed to.

At 12:04 p.m. Mr *Wightman* took his seat.

Postponed paragraph 3.5 further considered and disagreed to.

New paragraph 3.5 brought up and agreed to.

Postponed paragraph 3.6 further considered and agreed to.

And a Motion being made and the Question being proposed - That the Progress Report includes the following:-

"Both the Commissioner for Children and the former Commissioner identified circumstances where they had not been provided information they considered necessary in the performance of their function.

This is of serious concern and requires immediate remedy.

That the Committee recommends that section 80 of the Children, Young Persons and Their Families Act (No. 28 of 1997) be clarified to remove any doubt that a request

by the Commissioner does not have to refer to a specific head of power but rather would be valid in circumstances where the Commissioner has a reasonable basis for believing that the information request is necessary or convenient in connection with the performance and exercise of his or her functions and powers as broadly stated under the Act or any other Act." (Mr *Groom*)

And the Question being put - That the motion be agreed to, the Committee divided.

**AYES**

Mr *Groom*  
Mrs *Petrusma*

**NOES**

Mr *O'Halloran*  
Ms *White*  
Mr *Wightman*

So it passed in the negative.

Postponed paragraphs 4.1 to 4.6 further considered and disagreed to.

Paragraph 5.1 agreed to.

Paragraph 5.2 disagreed to.

**PUBLICATION OF SUBMISSIONS**

The Committee deliberated.

*Ordered*, That the following documents be published:-

- Kate Mooney (Barrister) - Submission No. 4
- Blue (Klye, Hunnerup/Harris - social workers/psychologists - Submission No. 7
- AASW Tasmanian Branch - Submission No. 13
- Clarence City Council - Submission No. 15
- Eastern Shore Community Association - Submission No. 16
- Catholic Women's League Tas - Submission No. 21
- National Council of Women Coalition - Submission No. 24
- Bravehearts - Submission No. 28
- Michelle Williams - Submission No. 39
- Mission Australia - Submission No. 41
- CREATE - Submission No. 42 (Mr *O'Halloran*)

At 12:13 p.m., the Committee adjourned until a date to be fixed.

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**THURSDAY, 15 SEPTEMBER 2011**

The Committee met in Committee Room 2, Parliament House, Hobart at 10:00 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*

**APOLOGY**

An apology was received from Mr *Wightman*.

**DRAFT REPORT**

The Chairperson brought up a draft Report which was taken into consideration by the Committee.

Executive Summary postponed.

All Findings and Recommendations postponed.

Paragraphs 4.1 to 4.7 read and agreed to.

Paragraphs 5.1 to 7.48 read and agreed to with minor amendments.

Paragraph 7.49 postponed.

Paragraphs 7.50 to 7.75 read and agreed to with minor amendments.

Paragraph 7.76 disagreed to.

Paragraph 7.77 read and agreed to.

Paragraph 7.78 disagreed to.

Suspension of Sitting from 11:30 a.m. until 1:30 p.m.

Paragraphs 7.79 to 7.85 read and agreed to.

Paragraph 7.86 disagreed to.

Paragraphs 7.87 to 7.127 read and agreed to.

New paragraph added to follow paragraph 7.127.

Paragraphs 7.128 to 7.161 read and agreed to with minor amendments.

Paragraphs 8.1 to 8.5 postponed.

Paragraphs 8.6 to 8.18 read and agreed to.

Suspension of Sitting from 3:20 p.m. until 3:40 p.m.

Paragraphs 8.19 to 8.26 postponed.

Paragraphs 9.1 to 9.21 read and agreed to. Paragraph 9.22 disagreed to

**FUTURE MEETINGS**

*Resolved*, That the following dates be set aside for meetings of the Committee:- 2; 3; 4; 29; 30 November; and 1 December. (Mr *O'Halloran*)

**EXTENSION OF REPORTING DATE**

*Resolved*, That the Chair be authorised to move for an extension of the reporting date of the Committee until Thursday, 15 December next and that should the House not be sitting on such day, the Committee be authorised to report to Mr Speaker. (Mr *O'Halloran*)

At 5:45 p.m., the Committee adjourned until 9:30 a.m. tomorrow.

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**FRIDAY, 16 SEPTEMBER 2011**

The Committee met in Committee Room 2, Parliament House, Hobart at 9:35 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*

**APOLOGIES**

Apologies were received from Ms *White* and Mr *Wightman*.

**DRAFT REPORT**

The draft Report was again taken into consideration by the Committee.

Paragraphs 9.22 (A) to 11.17 read and agreed to with minor amendments.

Paragraphs 11.18 to 11.19 postponed.

Paragraphs 11.20 to 11.27 read and agreed to with minor amendments.

The Committee deliberated.

*Resolved*, That a copy of the advice of the Solicitor-General referred to by former Commissioner for Children, Paul Mason, in his evidence to the Committee of 2 December last relating to section 80 of the Children, Young Persons and Their Families Act 1997 be requested of the Premier. (Mr *Groom*)

*Resolved*, That the Minister for Children provide a progress report of the of the following matters:-

- alignment of DCYFS' geographical boundaries with those of DoE and DPEM to make collaboration in service delivery easier between agencies;
- regional AAGs and the SAG;
- whether a position has been established to have responsibility for all policy and strategic matters related to children across the three relevant agencies: Health and Human Services; Education; and Police and Emergency Management. (Mrs *Petrusma*)

Suspension of Sitting from 11:45 a.m. until 2:40 p.m.

Paragraphs 11.28 to 13.10 read and agreed to with minor amendments.

At 3:55 p.m., the Committee adjourned until 10:30a.m., Wednesday, 2 November next.

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**WEDNESDAY, 2 NOVEMBER 2011**

The Committee met in Committee Room 2, Parliament House, Hobart at 10:38 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*  
Mr *Wightman*

**DRAFT REPORT**

The draft Report was again taken into consideration by the Committee.

Paragraphs 13.11 to 13.19 read and agreed to.

Paragraphs 14.1 to 14.7 read and agreed to.

Paragraphs 15.1 to 15.4 read and agreed to.

Paragraphs 15.5 to 15.14 read and agreed to.

Paragraphs 16.1 to 16.5 agreed to with minor amendments.

Paragraphs 16.6 to 16.11 agreed to with minor amendments.

Paragraphs 16.12 to 16.13 agreed to.

Paragraphs 17.1 to 17.12 agreed to.

Chapter 18 postponed.

Paragraphs 19.1 to 19.6 agreed to with minor amendments.

Suspension of Sitting from 1:02 p.m. until 2:30 p.m.

Paragraph 19.7 disagreed to.

Paragraphs 19.8 to 19.9 agreed to.

Paragraphs 20.1 to 20.91 agreed to with minor amendments.

At 2:47 p.m., the Committee adjourned until 10:00 a.m. tomorrow.

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**THURSDAY, 3 NOVEMBER 2011**

The Committee met in Committee Room 2, Parliament House, Hobart at 10:10 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*  
Mr *Wightman*

**DISSENTING STATEMENTS**

The Secretary read the Dissenting Statement Guidelines to the Committee.

**DRAFT REPORT**

The draft Report was again taken into consideration by the Committee.

Pages 17 to 18 - Findings and Recommendations agreed to with amendments.

Pages 23 to 24 - Findings and Recommendations agreed to with amendments.

Pages 28 to 30 - Findings and Recommendations agreed to with amendments.

Pages 34 to 36 - Findings and Recommendations agreed to with amendments.

Suspension of Sitting from 1:00 p.m. until 2:05 p.m.

Pages 40 to 41 - Findings and Recommendations agreed to with amendments.

Pages 43 to 44 – Findings and Recommendations agreed to with amendments.

Pages 50 to 51 – Findings and Recommendations agreed to with amendments.

Pages 54 to 56 – Findings and Recommendations agreed to with amendments.

Pages 58 to 59 – Findings and Recommendations agreed to with amendments.

Pages 61 to 62 – Findings and Recommendations agreed to with amendments.

Page 67 – Findings agreed to with amendments.

#### **FUTURE MEETINGS**

*Resolved*, That the following dates be set aside for further meetings of the Committee: 29 and 30 November; 1 and 13 December next.

At 5:12 p.m., the Committee adjourned until 10:00 a.m., Tuesday, 29 November next.

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#### **TUESDAY, 29 NOVEMBER 2011**

The Committee met in Committee Room 2, Parliament House, Hobart at 10:10 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)

Mr *Groom*

Mrs *Petrusma*

Ms *White*

Mr *Wightman*

#### **DOCUMENTS RECEIVED**

The following documents were received:-

- Correspondence dated 16 November 2011 from the Minister for Health to the Chair of the Committee;
- A list of acronyms used throughout the report;
- Statistics for inclusion in the report; and
- Redrafted sections 8.19 to 8.23 and relevant Findings and Recommendations.

#### **DRAFT REPORT**

The draft Report was again taken into consideration by the Committee.

Pages 67 to 68 – Findings and Recommendations agreed to with amendments.

Pages 71 to 72 – Findings and Recommendations agreed to with amendments.

Pages 76 to 77 – Findings and Recommendations agreed to with amendments.

Pages 81 to 82 – Findings and Recommendations agreed to with amendments.

Pages 86 to 87 – Findings and Recommendations agreed to with amendments.

Pages 95 to 96 – Findings and Recommendations agreed to with amendments.

Pages 98 to 101 – Findings and Recommendations agreed to with amendments.

Suspension of Sitting from 12:25 p.m. until 1:07 p.m.

Pages 105 to 106 – Findings and Recommendations agreed to with amendments.

Pages 108 to 109 – Findings and Recommendations agreed to with amendments.

Page 113 – Findings and Recommendations agreed to with amendments.

Page 117 – Findings and Recommendations agreed to with amendments.

Postponed paragraphs 8.1 to 8.3 agreed to.

Postponed paragraph 8.4 disagreed to.

Postponed paragraph 8.5 agreed to.

Pages 119 to 120 – Findings and Recommendations agreed to with amendments.

Pages 122 to 123 – Findings and Recommendations agreed to with amendments.

Suspension of Sitting from 2:30 p.m. until 2:40 p.m.

Pages 122 to 123 – Findings and Recommendations agreed to with amendments.

Pages 124 to 125 – Findings and Recommendations agreed to with amendments.

Page 126 – Findings and Recommendations agreed to with amendments.

Postponed paragraphs 8.19 to 8.26 left out and new paragraphs inserted.

Pages 146 to 147 – Findings and Recommendations agreed to with amendments.

Pages 148 to 150 – Findings and Recommendations agreed to with amendments.

Page 153 – Findings agreed to with amendments.

Pages 154 to 155 – Findings and Recommendations agreed to with amendments.

Pages 156 to 157 – Findings and Recommendations agreed to with amendments.

Page 158 – Findings agreed to with amendments.

Pages 159 to 160 – Findings and Recommendations agreed to with amendments.

Pages 164 to 165 – Findings and Recommendations agreed to with amendments.

Pages 166 to 167 – Findings and Recommendations agreed to with amendments.

Pages 168 to 169 – Findings and Recommendations agreed to with amendments.

Paragraphs 11.18 to 11.24 reconsidered and disagreed to.

New paragraphs inserted.

Pages 177 to 178 – Findings and Recommendations agreed to with amendments.

At 5:22 p.m., the Committee adjourned until 9:00 a.m., tomorrow.

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### WEDNESDAY, 30 NOVEMBER 2011

The Committee met in Committee Room 2, Parliament House, Hobart at 9:12 a.m.

Members present:-

Mr *O'Halloran* (Chairperson)

Mr *Groom*

Mrs *Petrusma*

Ms *White*

#### **APOLOGY**

An apology was received from Mr *Wightman*

#### **DRAFT REPORT**

The draft Report was again taken into consideration by the Committee.

Page 182 – Findings and Recommendations agreed to with amendments.

Pages 186 to 188 – Findings and Recommendations agreed to with amendments.

Pages 189 to 190 – Findings and Recommendations agreed to with amendments.

Suspension of Sitting from 10:40 a.m. until 10:55 a.m.

Page 182 – Findings and Recommendations agreed to with amendments.

Pages 186 to 188 – Findings and Recommendations agreed to with amendments.

Pages 189 to 190 – Findings and Recommendations agreed to with amendments.

Page 196 – Findings and Recommendations agreed to with amendments.

Page 197 – Findings and Recommendations agreed to with amendments.

Page 198 – Findings and Recommendations agreed to with amendments.

Pages 201 to 202 – Findings and Recommendations agreed to with amendments.

Pages 204 to 205 – Findings and Recommendations agreed to with amendments.

Page 207 – Findings and Recommendations agreed to with amendments.

Pages 209 to 210 – Findings and Recommendations agreed to with amendments.

Pages 213 to 214 – Findings and Recommendations agreed to with amendments.

Pages 217 to 218 – Findings and Recommendations agreed to with amendments.

Suspension of Sitting from 12:40 p.m. until 1:18 p.m.

Pages 220 to 221 - Findings and Recommendations agreed to with amendments.

Pages 224 to 225 - Findings and Recommendations agreed to with amendments.

Page 228 - Findings and Recommendations agreed to with amendments.

Pages 234 to 235 - Findings and Recommendations agreed to with amendments.

Pages 240 to 241 - Findings and Recommendations agreed to with amendments.

Pages 243 to 245 - Findings and Recommendations agreed to with amendments.

Pages 247-248 - Findings and Recommendations agreed to with amendments.

Pages 252 to 253 - Findings and Recommendations agreed to with amendments.

Chapter 18 - tables inserted.

Pages 262 to 263 - Findings and Recommendations agreed to with amendments.

Chapter 20 deleted.

At 3:10 p.m., the Committee adjourned until Noon, Friday, 9 December next.

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**FRIDAY, 9 DECEMBER 2011**

The Committee met in Committee Room 2, Parliament House, Hobart at 12:10 p.m.

Members present:-

Mr *O'Halloran* (Chairperson)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*

**APOLOGY**

An apology was received from Mr *Wightman*.

**DRAFT REPORT**

The draft Report was again taken into consideration by the Committee.

The postponed Executive Summary was reconsidered.

The Executive Summary was deleted and a new Executive Summary brought up and agreed to with amendments.

*Resolved*, That a summary of Findings and Recommendations not be included in the report. (Mr *O'Halloran*)

Recommendations reconsidered and agreed to with further amendments.

At 1:00 p.m., the Committee adjourned until 9:00 a.m., Tuesday, 13 December next.

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**TUESDAY, 13 DECEMBER 2011**

The Committee met in Committee Room 2, Parliament House, Hobart at 9:00 a.m.

Members present:-

Mr *O'Halloran* (Chairperson) (by phone)  
Mr *Groom*  
Mrs *Petrusma*  
Ms *White*

**APOLOGY**

An apology was received from Mr *Wightman*.

**PUBLICATION OF SUBMISSIONS**

*Resolved*, That submissions 43; 45; and 47 be reported and submissions 44 and 46 be not reported. (Mr *O'Halloran*)

**CONFIRMATION OF MINUTES**

The Minutes of the Committee were confirmed as a true and accurate record of proceedings. (Mrs *Petrusma*)

**DOCUMENTS**

*Resolved*, That all submissions, documents and exhibits be received. (Mr *O'Halloran*)

**DRAFT REPORT**

The draft Report was again taken into consideration by the Committee.

Amendments made.

*Resolved*, That the draft report as amended be the report of the Committee. (Mr O'Halloran)

At 9:36 a.m., the Committee adjourned *sine die*.

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