

10 November 2010

Hon Paul O'Halloran MP
Chairperson
Select Committee on Child Protection
House Of Assembly
Tasmania

Dear Mr O'Halloran,

I appreciate the opportunity to make a submission on the effectiveness and quality of the child protection system in Tasmania. The Australian Childhood Foundation is a national not for profit organisation which delivers specialist therapeutic programs for children and young people who have been affected by trauma arising from abuse and family violence. It has partnered with eighteen organisations in Victoria, South Australia, Western Australia, ACT and Tasmania to provide therapeutic foster care and therapeutic residential care services for children in the care or under supervision of state government departments. The Foundation is a Registered Training Organisation and runs professional education activities reaching 6000 health, welfare and education professionals each year nationally. It also conducts research with Monash and Deakin Universities.

In Tasmania, the Foundation has run a statewide Child Trauma Service for children and young people under the care or supervision of the Department of Health and Human Services since October 2009. In partnership with the Salvation Army, the Foundation is currently delivering state contracted therapeutic residential care programs in the South Western and South Eastern regions of the state.

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.

In a relatively short period, the Department has initiated and completed a number of reviews that have delivered contemporary policy platforms in out of home care, targeted family support services and sexual assault services. Accordingly, the Government has invested urgent funds into priority areas, such as the establishment of the Child Trauma Service, Gateway Family Support Services, Intensive Youth at Risk Services and Therapeutic Residential Care Programs.

However, 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 co-ordinated 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.

I have listed in turn a summary of the critical issues that require attention.

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There is a need to strengthen legislative provisions of the Tasmanian Children, Young Persons and Families Act 1997.

In specific areas, the Tasmanian Children, Young Persons and their Families Act 1997 does not reflect contemporary legislative provisions which should be used to underpin the outcomes of the system for children, young people and families.

Firstly, the definition of abuse needs to be clarified. The Act does not provide enough specificity about the different forms of abuse that are covered within its focus. Whilst it already makes reference to children forced to live family violence, it is recommended that the Act at a minimum also specify physical abuse, sexual abuse, psychological abuse and neglect as the core grounds for State intervention.

It is also recommended that a new ground be added to the Act that defines the need for protection for children where “grave concerns” are held for the child’s safety, wellbeing and development. This new ground allows for circumstances where children are likely to have been abused or neglected but it is not possible to identify an individual as responsible for the abuse. This will enable intervention in situations where abuse is suspected but not able to be confirmed. It will enable the recording of information that can be used in subsequent protective assessments to identify patterns of victimisation of children that can lead to more substantial intervention.

There are no formal provisions in the current Act for the statutory child protection service to take a long term view of repeated reports of abuse of a child and young person over an extended period of time. 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 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.

The Act also requires stronger provisions to facilitate earlier intervention for sibling groups where there are clear patterns of abuse leading to the removal of and placement in care of some but not all children in the family.

A review of the principles of the Act is required in order to ensure that it more clearly articulates its core objective to protect children from abuse, neglect and violence at the hands of their parents/guardians or adults with the responsibility to care for them.

These principles should also be rewritten to give clearer direction within the legislation to prioritise the rights and needs of children over all other considerations. These rights and needs include: protection from abuse, violence and neglect; accountability of adults who hurt their children; stability and continuity of planning; and establishing reparative environments that resource the recovery of children from the trauma associated with their experiences of abuse, violence and neglect.

This revised and clarified frame would strengthen the responsibility of the Court to make a determination to prove an application that a child is in need of protection from abuse and neglect. The determination itself acts as a record in law which confirms the experiences of trauma, disruption and violence experienced by the child. The clarity of the determination defines and communicates the mandate of the State to intervene in the child and family’s life. Having made this determination, it must then consider the recommendations made by a protective intervener about the most effective way to ensure the protection of the child. Its role is to make Orders available in the Act and set out processes for review where appropriate.

The focus of the Court and thereby the system should be on ensuring that the Orders made in relation to children and young people achieve the following:

- children and young people are not subject to any further abuse, neglect or violence;
- parents are clear, through the use of contracts, about the expected changes they are required to make before a child is considered safe enough to live in their care without statutory supervision or a child who has been removed for his/her own protection is returned to the care of their parents;
- the matter has been or will be referred to the Police for investigation if evidence is provided to the Court or the Secretary that a crime against a child has or is likely to have been committed; and,
- children and young people are provided with opportunities for reparative intervention that leads to a reduction in trauma based stress and be supported to achieve normative developmental milestones.

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.

3. Inadequate resource base for child protection.

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.

4. Lack of integration between child protection, safe at home services, police, health, education and youth justice.

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 co-ordination around the needs of children and young people will more likely result from top down policy and management leadership. It is recommended that Senior Child Protection Policy Officers be employed within each of the core government departments/units of Police, Health, Education, Youth Justice and Safe at Home to work together under the leadership of the CEO of Children and Youth Services, DCYFS to develop and implement a whole of government policy platform aimed at reducing the incidence and harm of child abuse and neglect. This policy led integration had some success in Queensland immediately following the release of the recommendations of the Crime and Misconduct Commission Inquiry into Child Protection.

5. Impoverished out of home care system

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.

6. Structural conflicts in the provision of out of home care.

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.

7. Lack of Safeguarding Children agenda in Tasmanian organisations.

There is currently limited emphasis placed on standardizing the capacity of organizations/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 organizations 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 organizations/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.

8. Insufficient resourcing of child trauma services for children and young people in out of home care.

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 or supervision of the Department who require specialist therapeutic intervention and support. In addition, there are increasing number 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 integrate 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 developmental 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.

I would welcome the opportunity to provide additional information if required by the Committee in its deliberations. I can be contacted via email at jtucci@childhood.org.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Joe Tucci', with a stylized flourish at the end.

Dr Joe Tucci
CEO

