



# COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

## ANNUAL PLAN

2018-2019

For further information about this document, please contact the Interim Commissioner for Children and Young People.

David Clements  
Interim Commissioner for Children and Young People  
Email: [childcomm@childcomm.tas.gov.au](mailto:childcomm@childcomm.tas.gov.au)  
Phone: (03) 6166 1366

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The Hon Roger Jaensch MP  
Minister for Human Services  
Parliament House, Hobart, 7000

## The role and functions of the Commissioner for Children and Young People (Tasmania)

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The Commissioner for Children and Young People (“the Commissioner”) is an independent statutory officer established under the *Commissioner for Children and Young People Act 2016* (“the CCYP Act”). The Commissioner’s appointment is “*for such term, not exceeding 5 years, as is specified in the instrument of appointment*” (Schedule 1 of the CCYP Act details the Commissioner’s terms of appointment).

The Commissioner’s general functions are described in Section 8 of the CCYP Act as follows:

- (a) advocating for all children and young people in the State generally;
- (b) acting as advocate for a detainee under the *Youth Justice Act 1997*;
- (c) researching, investigating and influencing policy development into matters relating to children and young people generally;
- (d) promoting, monitoring and reviewing the wellbeing of children and young people generally;
- (e) promoting and empowering the participation of children and young people in the making of decisions, or the expressing of opinions on matters, that may affect their lives;
- (f) assisting in ensuring the State satisfies its national and international obligations in respect of children and young people generally;
- (g) encouraging and promoting the establishment by organisations of appropriate and accessible mechanisms for the participation of children and young people in matters that may affect them.

Unless otherwise specified, the Commissioner must act independently, impartially and in the public interest when performing a function, or exercising a power, under the CCYP Act or any other Act.

## **The role and functions of the Commissioner for Children and Young People (Tasmania) (cont)**

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In performing any function or power under the Act, the Commissioner (or any other person performing a function, or exercising a power, under the Act), must –

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

Noting the importance of the overarching principles set out above, the CCYP Act is also to be administered according to the following principles:

- (a) children are entitled to live in a caring and nurturing environment and to be protected from harm and exploitation;
- (b) the interests and needs of children and young people who are disadvantaged for any reason or vulnerable should be given special regard and serious consideration;
- (c) the contributions made by children to the community should be recognised for their value and merit;
- (d) the views of children on all matters affecting them should be given serious consideration and taken into account;
- (e) parents, families and communities have the primary role in safeguarding and promoting the wellbeing of children and should be supported in carrying out their role.

The Commissioner may refer matters (received or identified as part of an inquiry) to relevant authorities, including Tasmania Police, the Ombudsman, the Integrity Commission, the Custodial Inspector and the Anti-Discrimination Commissioner.

The Commissioner may initiate an inquiry or investigation and has wide powers to compel the production of information and documents.

## **The role and functions of the Commissioner for Children and Young People (Tasmania) *(cont)***

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Section 13 of the CCYP Act requires the Commissioner to establish the:

- a) Children and Young People Consultative Council (comprised of children aged less than 18 years); and
- b) Children and Young People Advisory Council.

Schedule 2 of the CCYP Act describes:

- a) the matters to which the Commissioner is to have regard when determining the composition of these Councils; and
- b) terms, conditions and other matters relevant to these Councils.

The Commissioner may establish such other Committees as he/she sees fit to assist with the performance of his/her functions.

## Annual Plan 2018-2019

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Section 7 of the *Commissioner for Children and Young People Act 2016* ("the CCYP Act") requires that no later than 31 March in each year, the Commissioner for Children and Young People is to prepare an annual plan describing the Commissioner's proposed program of work and activities for the following financial year and provide a copy of that plan to the Minister. Production of this document fulfils that requirement.

| Major Activities   | Overview   |
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| <p>Health and Wellbeing of Tasmania's Children, Young People and Their Families Report</p>                     | <p>This Report brings together publicly available National and State data on all aspects of children and young people's health and well-being. It is designed to assist policy makers, government agencies, and service providers to better identify and pinpoint areas in need of improvement, in order to strengthen outcomes for Tasmania's children and young people.</p> <p>First published in 2017, this annual Report is scheduled for publication in mid-2018. Follow-up policy briefs may be developed to progress areas for improvement identified through this Report. The Commissioner notes the Tasmanian Government's ongoing development of the Child and Youth Wellbeing Framework and associated indicators. It is anticipated that future releases of this Report will be considered in light of this changing policy context.</p> |
| <p>Monitoring of out of home care (OOHC) in Tasmania (related to the entry on OOHC reform generally below)</p> | <p>In the 2017-18 State Budget \$250,000 p.a. over 4 years was provided to the Commissioner to undertake independent, systemic monitoring of out of home care ("OOHC") in Tasmania. This allocation of resources arose from the Tasmanian Government's decision to accept former Commissioner Morrissey's recommendations in his January 2017 report <i>Children and Young People in Out of Home Care in Tasmania</i> ("Commissioner Morrissey's report").</p>   |

## Annual Plan 2018-2019 (cont)

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|  | <p>Independent, systemic monitoring of OOHC is an important oversight function. This form of monitoring - which focuses on systemic issues in institutional and administrative practices - is distinct from complaint handling and individual advocacy, although these latter activities can inform the way in which systemic monitoring is undertaken.</p> <p>Work developing the Monitoring Program and associated foundational documents, including the drafting of a Monitoring Plan for 2018-2019, is underway. The Commissioner will begin implementing his Monitoring Program on 1 July 2018.</p>   |
| Children and Young People Consultative Council | <p>Section 13 of the CCYP Act requires the Commissioner to establish a Children and Young People Consultative Council.</p> <p>Schedule 2 of the Act states that the Commissioner must ensure that the members:</p> <ul style="list-style-type: none"><li>a) are children (i.e. people who have not attained the age of 18 years); and</li><li>b) are from groups which represent the diversity of the Tasmanian population.</li></ul> <p>The Consultative Council is constituted by three regional groups which meet with the Commissioner in Devonport, Launceston and Hobart. Council members for the 2018 calendar year were appointed following a statewide expression of interest process in February. The Council's 49 members range in age from 9 to 17 years.</p> <p>Meetings are planned on an annual calendar basis – the first meetings of the 2018 Council were held in March 2018 (in each region) and are due to be held again in June 2018 and December 2018. A statewide gathering of all Council members in Campbell Town is planned for 10 October 2018. Meetings will also be held in the first half of 2019 on dates to be determined.</p> |

## Annual Plan 2018-2019 (cont)

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|  | <p>By establishing the Council, the Commissioner aims:</p> <ul style="list-style-type: none"><li>• To ensure that children and young people in Tasmania have the opportunity to express their views and opinions on matters that affect them.</li><li>• To gain Tasmanian children and young people's ideas and opinions on issues of local, state and national importance to inform the Commissioner's ongoing work.</li><li>• To provide advice on programs and services that should be available to children and young people in Tasmania.</li></ul> <p>A major project for the Council in 2018 is to work with the Commissioner to develop a practical guide/resource on involving children and young people in decision making. Council members are working with the Commissioner to identify key considerations for decision makers when engaging with children and young people and facilitating their participation in decisions that affect them. Development of the guide/resource will be progressed at Council meetings (with the option for out-of-session input from those Council members who wish to have a greater level of involvement).</p> |
| Children and Young People Advisory Council | <p>Section 13 of the CCYP Act requires the Commissioner to establish a Children and Young People Advisory Council.</p> <p>Schedule 2 of the Act states that the Commissioner must have regard to the desirability of having as members of the committee, persons with a range of experience and backgrounds, including persons:</p> <ul style="list-style-type: none"><li>(a) from non-government organisations and community organisations; and</li><li>(b) from groups which represent the diversity of the Tasmanian population; and</li></ul>  |



## Annual Plan 2018-2019 (cont)

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|  | <p>(c) employed by government agencies concerned with the health, welfare, care, protection, development or legal rights of children; and</p> <p>(d) employed in a private practice that is relevant to the health, welfare, care, protection, development or legal rights of children.</p> <p>Plans for establishment of the 2018 Council are underway. The frequency of meetings and work undertaken by Council members is still being determined. It may be that a differently constituted Council is established to those established by previous Commissioners.</p> <p>By establishing the Council, the Commissioner aims:</p> <ul style="list-style-type: none"> <li>• To advance the work program of the Commissioner.</li> <li>• To receive comment and input into specific work and projects.</li> <li>• To be informed of current issues.</li> <li>• To involve members in the work of the Commissioner as appropriate.</li> </ul> |
| <p>Ashley Youth Detention Centre and Youth Justice generally</p> | <p>One of the key functions of the Commissioner is to provide advocacy to the young people detained under the <i>Youth Justice Act 1997</i> at Ashley Youth Detention Centre ("Ashley"). The Commissioner visits Ashley on a regular basis (usually every three weeks) to talk with young people who are detained there (including on an individual basis if that is what a young person requests). Young people detained at Ashley can also contact the Commissioner by telephone or letter to raise issues of concern. The Commissioner has initiated discussion with relevant Departmental staff to progress additional access via existing videoconferencing facilities for himself and potentially a wider range of stakeholders, including family members.</p>   |

## Annual Plan 2018-2019 (cont)

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|                          | <p>The Commissioner will monitor and provide comment as appropriate on the implementation of policy announced in the March 2018 State election for the redesign and upgrade of Ashley. This will be done in the wider context of monitoring implementation of the <i>Youth at Risk Strategy</i>.</p> <p>The Commissioner will also continue to monitor and provide comment as appropriate on work to implement a therapeutic approach to youth detention in Tasmania.</p> <p>The Commissioner will monitor and provide advice and comment as appropriate on initiatives or actions arising from the Australian Government's December 2017 decision to ratify the <i>Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> (OPCAT).</p> <p>The Commissioner's general advocacy role for children and young people in conflict with the law will be reflected through comments on draft Bills and in response to discussion papers/issues papers raising relevant policy issues.</p> |
| B4 Early Years Coalition | <p>The Commissioner is co-Chair of the B4 Early Years Coalition, which is a whole of community collaborative approach to ensuring every child is valued in the early years and has the best possible start in life.</p> <p>The B4 Early Years Coalition is co-chaired by Elizabeth Daly, former Chair of the Tasmanian Early Years Foundation, and a passionate supporter of Tasmania's children and young people. The Coalition recognises the importance of the early years in helping to shape the future of our young people.</p> <p>Secretariat support for the B4 Early Years Coalition is provided by the Department of Education.</p> <p>Membership of B4 provides an important focus for advocacy to promote improved understanding of the significance of the early years of children's lives.</p>   |

## Annual Plan 2018-2019 (cont)

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|   | <p>In 2018-19, the Commissioner will continue to contribute to the leadership of this whole of community initiative and work to promote the importance of the early years for individual children, their families and the wider community.</p>  |
| <p>Strong Families Safe Kids<br/>– Redesign of Child Protection Reforms</p> | <p>The Commissioner will continue to provide advice, comment, support and suggestions, consistent with the Commissioner’s independent role, to those tasked with implementing <i>Strong Families - Safe Kids</i> reforms to the child protection/child safety systems in Tasmania.</p> <p>The Redesign of Child Protection in Tasmania, <i>Strong Families - Safe Kids</i>, which was released in March 2016, provided recommendations to the Tasmanian Government to improve the delivery of Child Protection Services and ensure the safety and wellbeing of children and young people is the focus of the service response. The Report of the review provided a number of recommendations across six key domains:</p> <ul style="list-style-type: none"><li>• Child Safety and Wellbeing is Everyone’s Business</li><li>• Building a Common Understanding of Risk</li><li>• Growing Capacity and Getting Help Early</li><li>• Managing the Front Door</li><li>• Intensive Support for Children and Families at Risk of Statutory Action</li><li>• Refocusing Child Protection Services.</li></ul> <p>The <i>Strong Families-Safe Kids Implementation Plan</i>, which was released in May 2016, addresses the recommendations of the <i>Strong Families-Safe Kids</i> report.</p> |

## Annual Plan 2018-2019 (cont)

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|  | <p>The Commissioner is a member of the Redesign Cross Sectoral Consultative Committee. This Committee, comprised of individuals from the non-government sector with expertise on matters relevant to the child safety system, has been established to facilitate consultation between the Redesign implementation team and the community generally.</p> <p>Additionally, the Commissioner meets regularly with the <i>Strong Families - Safe Kids</i> Project Sponsor to monitor progress and provide advice that aims to support the successful implementation of the reforms.</p>   |
| <p>Reforms to the out of home care (OOHC) system in Tasmania (related to the entry on monitoring OOHC)</p> | <p>The Commissioner will continue to monitor the progress of reforms to the OOHC system in Tasmania and provide advice and comment consistent with the Commissioner's role as an independent statutory officer.</p> <p>Monitoring will include consideration of progress implementing the recommendations in Commissioner Morrissey's report. The Tasmanian Government's response to those recommendations is contained in the <i>Strategic Plan for Out of Home Care 2017-2019</i> which was publicly released in March 2017.</p> <p>The Commissioner understands that an implementation plan to accompany the Strategic Plan is being developed.</p> <p>The Commissioner will provide input and advice as appropriate on the following work that has been foreshadowed by the former Department of Health and Human Services:</p> <ul style="list-style-type: none"> <li>• Development of a Quality and Accountability Framework for OOHC;</li> <li>• Development of an Outcomes Framework for children and young people in OOHC, incorporating indicators;</li> <li>• Review of family based care (foster care and kinship care).</li> </ul> |

## Annual Plan 2018-2019 (cont)

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| <p>Royal Commission into Institutional Responses to Child Sexual Abuse</p> | <p>The Royal Commission handed down its Final Report in December 2017.</p> <p>At the 9 February 2018 COAG meeting First Ministers committed to responding to the recommendations of the Royal Commission's final report in June 2018. (The Commissioner notes that the Premier was represented by a Senior Official due to the Tasmanian Government being in caretaker mode). A high-level Steering Committee has been established to lead Tasmania's response to the Royal Commission's recommendations. The Commissioner has been asked to participate in an Expert Panel.</p> <p>The Commissioner will monitor progress and contribute to this important work in ways which are consistent with the Commissioner's status as an independent statutory officer.</p> |
| <p>The Australian Children's Commissioners and Guardians (ACCG)</p>        | <p>The Commissioner is a member of the Australian Children's Commissioners and Guardians (ACCG) which comprises State and Territory Commissioners for Children and Young People, Guardians and the National Children's Commissioner. The ACCG aims to promote and protect the safety, wellbeing and rights of children and young people in Australia. In the 2018-2019 financial year ACCG members will meet in November 2018 and May 2019.</p> <p>Between meetings, ACCG members progress advocacy on issues of common concern, including through the publication of Reports and Joint Position Papers.</p>  |
| <p>Ongoing Advocacy Work</p>   | <p>As advocate for all children and young people in Tasmania generally, the Commissioner will continue to undertake a substantial body of work to promote the best interests and wellbeing of children and young people in Tasmania, including by:</p> <ul style="list-style-type: none"> <li>• Reviewing and making comment on draft Bills and legislation (Tasmanian and National, where the relevant legislation has the potential to affect children and young people in Tasmania).</li> </ul>  |

## Annual Plan 2018-2019 (cont)

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|  | <ul style="list-style-type: none"><li>• Publishing submissions in response to inquiries, discussion papers, issues papers etc.</li><li>• Contributing to research undertaken by others, including by membership of Expert Reference Groups.</li><li>• Membership of other groups (eg Youth Action Priorities, Statewide Youth Coalition, Mental Health Council's Southern Regional Mental Health Group).</li><li>• Participating in forums, including as a presenter/guest speaker.</li><li>• Publishing opinion pieces and media releases.</li></ul> |
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David Clements  
Interim Commissioner for Children and Young People