

Your Ref:  
Our Ref: 865

1 October 2020

Review of Education Regulation Steering Committee  
Level 8, Parliament Square  
4 Salamanca Place  
HOBART TAS 7000

By email: [legislation@education.tas.gov.au](mailto:legislation@education.tas.gov.au)

Dear Chair

**Re: Review of Education Regulation**

Thank you for the opportunity to contribute to the review of education regulation in Tasmania (the review). As is noted in the Discussion Paper, education regulation is an important contributor to the quality of the education received by learners and to their safety.

I understand that in modernising the regulatory framework for education, the review seeks to achieve the following outcomes:

- the provision of independent cross sectoral advice as it relates to the entities' existing functions (education regulation)
- the strengthening of the governance framework for delivery of the entities' existing functions
- the sustainable funding of education regulation
- the adoption of better practice regulation with a focus on education outcomes.

While I do not intend to address each of the questions set out in the Discussion Paper, I do wish to make some comments regarding the importance of recognising student voice and agency as key contributors to a modern regulatory framework for education in Tasmania.

**The role of the Commissioner for Children and Young People (Tas)**

The office of Commissioner for Children and Young People is established under the *Commissioner for Children and Young People Act 2016* (CCYP Act). The Commissioner's functions include:



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

In performing these and other functions under the CCYP Act, I am required to:

- do so according to the principle that the wellbeing and best interests of children and young people are paramount; and
- observe any relevant provisions of the United Nations *Convention on the Rights of the Child* (UNCRC).<sup>1</sup>

Two of the four general principles of the UNCRC that guide my work inform my comment on the review of education regulation:

- The child's **right to have their best interests taken into account** as a primary consideration in all actions and decisions that affect them (Article 3 CRC).
- The child's **right to have a say** in all matters affecting them and for their views to be taken into account (Article 12 CRC).

## Comment

Respect for the right of the child to be heard in the context of education is fundamental to their right to education. This means that children and young people must be provided meaningful opportunities to influence their education including, in my view, by having a voice in the system which regulates it. As the Discussion Paper acknowledges, education regulators need to be accountable and transparent to those they regulate - including learners.

In my opinion, an education regulatory framework capable of delivering positive outcomes for children and young people must include processes through which their voices are heard and they are able to influence continuous improvement of the system.

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<sup>1</sup> CCYP Act, s3(1); UN *Convention on the Rights of the Child* (CRC) 1989, (resolution 44/25), opened for signature 20 November 1989, entered into force 2 September 1990, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>



It is therefore important that any modern governance model and performance framework for the regulation of education in Tasmania includes mechanisms which enable children and young people to have a say and influence outcomes.

I strongly recommend the establishment of mechanisms (perhaps by way of an advisory or reference group) through which children and young people can express their views and ideas and reflect on their experiences as learners and on the quality of their education. This would, in my view, include also providing opportunities for children and young people to comment on their experiences of how things are done in the regulation of their education (for example, whether child-friendly processes for making a complaint or raising concerns exist). Membership of such a group should include children and young people from across the three education sectors.

Finally, it is unfortunate that curriculum development is outside the scope of this review, given the clear link between curriculum development and the regulatory role performed by entities the subject of the review. Children and young people have often told me that they would value the opportunity to influence and have more of a say about the curriculum. It is clear to me that these children and young people are extremely interested in ensuring that the curriculum is relevant and otherwise appropriate to their needs as learners. In particular, given the disproportionate impact of the COVID-19 pandemic on current and future job prospects for Tasmanian young people, their engagement in the development of curriculum which is relevant to their needs and future job opportunities is more important than it has ever been.

I therefore encourage government to further consider how children and young people can meaningfully participate in the development of curriculum as well as in regulatory processes designed to ensure quality.

## **Conclusion**

Thank you for the opportunity to inform your review of education regulation in Tasmania. I would be pleased to discuss my submission in more detail should this be of assistance.

Yours sincerely

**Leanne McLean**

Commissioner for Children and Young People

cc *The Hon. Jeremy Rockliff MP, Minister for Education and Training*  
*The Hon Roger Jaensch MP, Minister for Human Services*  
*Tim Bullard, Secretary, Department of Education*