

Your Ref:  
Our Ref: 892

26 July 2021

Department of Social Services  
By email: [NationalFrameworkfeedback@dss.gov.au](mailto:NationalFrameworkfeedback@dss.gov.au)

To whom it may concern

**Re: Comment on *Implementing the successor plan to the National Framework for Protecting Australia's Children 2009-2020 Consultation Paper***

Thank you for the opportunity to respond to the *Implementing the successor plan to the National Framework for Protecting Australia's Children 2009-2020 Consultation Paper* (the Consultation Paper). I understand that the focus of this consultation is to inform the development of the first five-year implementation plan of the successor plan to the *National Framework for Protecting Australia's Children 2009-2020* (the National Framework).

As Tasmania's Commissioner for Children and Young People, I have a strong interest in the development and successful implementation of a national plan to promote and improve the safety and wellbeing of Australia's children. Clearly, there is still much work to do to ensure that all children in Australia grow up free from harm and neglect and reach their full potential. It is my hope that the successor plan to the National Framework (the successor plan) will consolidate and build upon the achievements of the National Framework by coordinating a national agenda for reducing childhood abuse and neglect. I note that the successor plan is being co-designed with the Aboriginal and Torres Strait Islander Leadership Group, SNAICC – National Voice for our children, and state and territory governments to ensure the Aboriginal and Torres Strait Islander community is central to the development of the successor plan and first five-year implementation plan. I commend this approach. The knowledge and lived experience of Aboriginal and Torres Strait Islander people is central to improving outcomes for Aboriginal and Torres Strait Islander children.

It is also crucial that the views and experiences of children and young people inform and are reflected in the development and implementation of the successor plan. I note that the National Children's Commissioner is undertaking targeted consultations with children and young people, including with those living in Tasmania. Children and young people have the right to be actively engaged and their views sought and considered when developing legislative or policy measures that may affect their lives. Really listening to children and young people about these matters and genuinely considering what they have to say will lead to better informed and more sustainable decision-making.

The development of the successor plan comes at an opportune time given the additional challenges faced by children, young people and families arising from the COVID-19 pandemic. Now, more than ever, we should collectively commit to improving and sustaining positive outcomes for all children and young people, and to further addressing any gaps in services and supports to assist in the achievement of those outcomes.



## Role of the Commissioner for Children and Young People

The Commissioner for Children and Young People is an independent statutory office established under Tasmania's *Commissioner for Children and Young People Act 2016* (the CCYP Act).

The Commissioner's functions, which are set out in section 8(1) of the CCYP Act, include:

- advocating for all children and young people in the State generally;
- acting as an advocate for a detainee under the *Youth Justice Act 1997* (Tas);
- researching, investigating and influencing policy development into matters relating to children and young people generally;
- promoting, monitoring and reviewing the wellbeing of children and young people generally;
- 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; and
- assisting in ensuring the State satisfies its national and international obligations in respect of children and young people generally.

In performing these and other functions under the CCYP Act, the Commissioner is required to do so according to the principle that the wellbeing and best interests of children and young people are paramount and must observe any relevant provisions of the UNCRC.<sup>1</sup> The Commissioner is also required to give special regard to the needs and interests of children and young people who are vulnerable or disadvantaged for any reason.<sup>2</sup>

## General Comments

Consistent with my general functions, my comments below focus on matters that have the capacity to affect the rights and wellbeing of children and young people in Tasmania. I have not addressed all the questions posed in the Consultation Paper. However, I have made comments relevant to each of the Strategic Priorities identified in the Consultation Paper. My comments are not intended to be exhaustive.

### ***Tasmanian context***

In February 2020, I released a report entitled [\*Investing in the Wellbeing of Tasmania's Children and Young People\*](#) which proposed improving the wellbeing of children and young people in Tasmania by bringing it to the centre of the Tasmanian Government's policy and decision-making processes. The report included recommendations aimed at overcoming some of the factors that have hampered efforts to improve the wellbeing of Tasmania's children and young people to date. I believe this report has relevance to the implementation of the successor plan at the national level. Many of the challenges experienced in Tasmania are also experienced in other jurisdictions and nationally. The key messages in my report (that I believe are relevant to the development of the successor plan) include:

- Despite significant efforts over time by successive governments and decision makers, many of the measures of child wellbeing show that outcomes have remained stagnant or worsened in Tasmania.
- The wellbeing of children and young people should be at the centre of the Tasmanian Government's policy and decision making and investing in the wellbeing of children and young people today is an investment in Tasmania's future.

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<sup>1</sup> CCYP Act, s3(1)

<sup>2</sup> CCYP Act, s3(2).



- Data collected for monitoring children’s wellbeing should be publicly available, simple, concise, and relevant to populations locally and state-wide.
- The Tasmanian service system for supporting children, young people and their families is fragmented across federal, state and local government; within and between government departments; and across age groups and target groups.
- Despite there being significant, long standing international evidence supporting early intervention and investment in services and supports that promote children’s wellbeing – including through primary, universally accessible programs and supports – Tasmania’s health and human services systems remain largely geared towards later, tertiary, crisis-driven intervention.

In March 2020, the Tasmanian Premier, the Hon Peter Gutwein MP announced that the Tasmanian Government would progress the development of Tasmania’s first child and youth wellbeing strategy including a specific focus on the first 1,000 days of children’s lives. I was subsequently asked by the Tasmanian Government to undertake targeted consultations with children and young people to ensure the voices of young Tasmanians aged 0-17 years are able to contribute to the co-design and development of the child and youth wellbeing strategy. In May and June 2021, I launched the following reports and resources based on these consultations:

- A children’s picture book of wellbeing ([When I Wake Up I Smile](#))
- An [educational resource](#) to accompany *When I Wake Up I Smile*
- A report of the consultations with children, young people and parents/carers ([We Call It Happy: CCYP Wellbeing Consultations with 0 to 18 Year Old Tasmanians](#)).

I also draw to your attention my written [submission](#) to the Tasmanian Government’s consultation process ([Tasmania’s Child and Youth Wellbeing Strategy Discussion Paper - January 2021](#)). In June 2021, the Premier released a report of the consultations, [Consultation Report on Tasmania’s Child and Youth Wellbeing Strategy](#). Tasmania’s Child and Youth Wellbeing Strategy will be released later this year to coincide with the 2021-22 Budget.

### **Governance and accountability**

The 2020 evaluation of the National Framework highlighted the need to revise the governance structure for the successor plan to ensure increased collaboration across the whole service system, from the universal services that have early contact with families and children and can intervene early to provide timely supports, through to the statutory child protection system.<sup>3</sup> It also recommended that the successor plan should focus on policy and system levers at the national level to ensure greatest impact, rather than focusing on the operational details of child protection related services at the state and territory level (which continue to vary across jurisdictions).<sup>4</sup> The Consultation Paper does not explicitly address issues of governance and accountability (particularly in the consultation questions). However, I see these issues as critical to getting the successor plan right from the start.

If we are to achieve improved collaboration across portfolios, all levels of government, and between government and non-government agencies in the implementation of the successor plan, then robust governance and accountability mechanisms must be established. It is important that shared responsibility for effort to achieve the goal and vision of the successor plan underpins the development of the first five-year implementation plan.

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<sup>3</sup> PWC, *Department of Social Services, Evaluation of the National Framework for Protecting Australia’s Children 2009-2020, June 2020*, pV.

<sup>4</sup> Ibid.



The evaluation of the National Framework noted that changes to the governance arrangements for the National Framework in 2014 from a standing Coalition of Australian Governments (COAG) committee to Children and Families Secretaries (CAFS) meant that the National Framework:

“became less of a priority for governments as a result and that CAFS was not able to influence broader governmental priorities to the same extent as the COAG committee. The membership of the Working Groups under the Third and Fourth Action Plans was mostly constituted of state and territory child protection agency representatives which limited the Framework’s ability to influence actions in other policy areas and commit to system wide reforms. The result was that the activities delivered under the action plans increasingly became focused on statutory child protection systems and smaller initiatives and trials, and less on comprehensive, system-wide change to address the drivers of child abuse and neglect.”

The governance framework for the successor plan is also integral to embedding early intervention as a priority strategy for reducing child abuse and neglect. Providing early supports to children and families should be a focus of the whole service system, not just that of statutory child protection services. This also reinforces that the safety and wellbeing of children is everyone’s responsibility and all parts of the service system at the universal, secondary and tertiary levels have a role to play in achieving improved outcomes. Early intervention is discussed in more detail below under the relevant Strategic Priority.

I note the use of national partnership agreements in other contexts to promote accountability and drive improved outcomes. I see no reason why such an agreement could not be considered in the context of progressing a national agenda for reducing childhood abuse and neglect.

Given the importance of the successor plan to promoting and improving the safety and wellbeing of Australia’s children, and therefore its relevance to ensuring our obligations under the United Nations *Convention on the Rights of the Child* are met, I would endorse a level of independent oversight in the governance and accountability mechanisms under consideration at the national level.

### ***Strategic Priority: Addressing the over-representation of Indigenous children in child protection systems***

In Tasmania in 2019-20, the rate of Indigenous children receiving child protection services in Tasmania was 55.9 children per 1,000 compared to 12 children per 1,000 for non-Indigenous children.<sup>5</sup> This means that Indigenous children are 4.7 times more likely to receive child protection services in Tasmania than non-Indigenous children. Section 10G of the *Children, Young Persons and Their Families Act 1997* (Tas.) (the CYPTF Act) acknowledges the major self-determining role that Aboriginal families, kinship groups, Aboriginal organisations and communities have in promoting the wellbeing of Aboriginal children in Tasmania, including through contributing to the making of a decision under the CYPTF Act in relation to a child. As mentioned in the Consultation Paper, all Australian Governments have committed to implementing four Priority Reforms to improve the lives of Aboriginal and Torres Strait Islander people as part of the National Agreement on Closing the Gap. These reforms, and their associated targets and activities, are integral to achieving tangible changes in the lives of Aboriginal and Torres Strait Islander children.

In 2019, I released my first report of my Out-of-Home Care (OOHC) Monitoring Program titled [\*Monitoring Report No. 1: The Tasmanian Out-of-Home Care System and “Being Healthy”\*](#). This report, whilst not focusing solely on Tasmanian Aboriginal children in OOHC, made several recommendations for improving outcomes for Aboriginal children and young people and their families in contact with Tasmania’s OOHC system. The report identified the potential for much greater involvement by Aboriginal organisations in ensuring that the wellbeing and best interests of Aboriginal children and young people are promoted and protected. To harness this potential, I

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<sup>5</sup> Australian Institute of Health and Welfare, *Child Protection in Australia 2019-20*, Table S2.3



recommended the need to embrace Aboriginal leadership, foster genuine partnerships and build capacity to enable a new and different approach.

Recommendation 4 of my report recommended that the Tasmanian Government:

- a. Ensures that the Aboriginal and Torres Strait Islander Child Placement Principle is embedded in legislation, policy and practice, including an increased focus on cultural planning.
- b. Ensures the participation of representatives of Aboriginal communities and organisations in service design, delivery and individual case decisions, and otherwise promotes and invests in genuine partnerships with Aboriginal communities to support self-determination.
- c. Ensures all those involved in decisions regarding Tasmanian Aboriginal children and young people in out-of-home care are appropriately trained to ensure they have an understanding and appreciation of Tasmanian Aboriginal history, heritage and culture.
- d. Ensures the Aboriginal identity of children and young people in out-of-home care is appropriately and promptly ascertained and communicated to carers and to non-government out-of-home care providers.
- e. Funds and develops, in collaboration with representatives of Aboriginal communities and organisations, the establishment of a therapeutic 'on country' residential program for Aboriginal children and young people which is delivered in Tasmania by Aboriginal people.

There is still a long way to go to turn the tide of the increasing numbers of Aboriginal and Torres Strait Islander children in contact with child protection systems across Australia. Consistent with the consultation outcomes identified by SNAICC in its [consultation guide](#), it is clear that transformative change is needed to turn the tide. I agree that greater recognition and implementation of legislation, policies and processes that affirm the right of Aboriginal and Torres Strait Islander communities to self-determination, and improved transparency and oversight would contribute substantially to reducing the overrepresentation of Aboriginal and Torres Strait Islander children in the child protection system.

***Strategic Priority: A national approach to early intervention and targeted support for children and families experiencing vulnerability or disadvantage***

I am a strong advocate for investing early in the life of a child, particularly in the first 1,000 days. As mentioned above, there was a strong focus on early intervention efforts to improve the wellbeing of Tasmanian children and young people in my report, *Investing in the Wellbeing of Tasmania's Children and Young People*. Responding early and providing evidence-based supports to children and young people and their families can prevent or reduce the severity of difficulties that children and young people experience, which in turn reduces the demand for high-intensity and crisis interventions throughout their lifetime. I acknowledge there will always be a need for resources dedicated to late intervention, as inevitably, some children and young people will require additional supports during challenging periods in their lives.

Early intervention was a key strategy under both the Third and Fourth Action Plans of the National Framework. However, the evaluation of the National Framework found a lack of investment in early intervention and prevention by jurisdictions, in part due to challenges in redirecting funds from a large and growing child protection system. This was exacerbated by the siloed approach adopted by the Framework, an issue which I understand will be addressed in the successor plan. However, the Consultation Paper does not clearly outline how improved integration across Commonwealth and state and territory government services, as well as portfolios, will occur under the successor plan.





Through my recent consultations with children, young people and their parents and carers to inform the development of the Tasmanian Government's forthcoming child and youth wellbeing strategy, I heard that Tasmanian families face a number of barriers when trying to access the supports they need when they need them. This is particularly the case for those living in rural and remote areas. Adult participants told me that timely access to relevant family support services, particularly in the first 1,000 days of a child's life, is a critical issue in Tasmania, and more so for those living in both remote and under-served (for example, peri-urban) communities. Of particular note, lack of access to affordable and reliable childcare was one of the concerns most frequently raised by adults. Adult participants also identified that the inability to access these services can adversely affect the wellbeing of every family member, either through stress from being on caring duties 24/7 or the inability to increase household income by taking on work outside the home.

"There's a psychologist that visits the doctor's clinic every third Tuesday of every month and she's booked out till March (5 months away)."

"We can't access child health nurses as much as we would like."

"There's no government housing here and the waiting list is 18 months to two years. We have a child with ADHD and another with autism and we are long-term unemployed."

[\*We Call It Happy: CCYP Wellbeing Consultations with 0 to 18 Year Old Tasmanians\*](#)

Children and their families access a complex system of specialised supports and services both during the first 1,000 days, and as the child grows – from primary health care, midwifery, child health services, mental health services, childcare, education, family support and social services.

In the absence of integrated systems or appropriate information sharing, children and families experience siloed contact with several different providers and receive an increasing number of referrals without necessarily getting the support they need. The co-location of services in accessible locations would promote a more holistic approach to service delivery that focuses on the whole child, rather than on specific aspects of their health or wellbeing. Breaking down the barriers between services would lead to improved experiences and outcomes for children and families. One way of achieving these outcomes – especially a reduction in fragmentation of service delivery – might be through the establishment of community-led child development and wellbeing centres. The location and operation of these hubs could be community-led, with the community empowered to drive services and initiatives in response to their own wellbeing needs (through access to place-based data). Services need to be co-designed to meet the needs of families and should be accessible, supportive, and coordinated (to ensure services are not duplicated or undermined).

### ***Strategic Priority: Improved information sharing, data development and analysis***

The evaluation of the National Framework recommended the adoption of an outcomes framework to guide and measure the effectiveness of the successor plan. This is not clearly described in the Consultation Paper. The development of an outcomes framework is the first, and perhaps most important step to understanding the effectiveness of government and non-government initiatives under the successor plan. An outcomes framework should be complemented by a measurement framework setting out how and when progress towards achieving the desired outcomes will be measured. The development of outcomes measures should recognise that child, young people and family wellbeing is a multi-faceted concept, and any singular measure will at best be a proxy and incomplete. Individual measures should be complemented by cumulative measures to tell us whether children and young people are vulnerable across different domains. This cumulative measure should be as comprehensive as possible; it should be constructed from as many of the



individual child, youth and family wellbeing measures as possible. This would require administrative datasets to be merged at the individual level. If possible, this measure should also be constructed at disaggregated levels, thereby allowing place-based data to be collated and analysed across different regions.

There should be monitoring and reporting against the outcomes framework of the successor plan. This should be undertaken by a body with specialist expertise and resources with the ability to undertake data linkage, data analysis and provide advice on the best measures to support the implementation and monitoring of the successor plan. In Tasmania, the ability of government to fully utilise and link administrative data is a current weakness. Monitoring and reporting against the successor plan should take into account the current ability of state and territory governments to report, and factor in additional support to jurisdictions to ensure they are not overburdened. Integrated administrative data can provide information about the cumulative challenges experienced by some children and young people and whether it is the same children and young people experiencing vulnerability across multiple measures. There is also the possibility to integrate datasets across government agencies, between government and non-government programs, and between state and federal government agencies to gain a more holistic picture of children and young people's wellbeing across several domains.

It is important that Aboriginal and Torres Strait Islander people lead the development of measures related to the wellbeing of Aboriginal and Torres Strait Islander children and young people. The *Mayi Kuwayu National Study of Aboriginal and Torres Strait Islander Wellbeing* is a good example of a study that was created by and for Aboriginal and Torres Strait Islander people to explore how culture affects their health and wellbeing.

The availability of quality publicly accessible data continues to be a challenge in Tasmania. It is therefore important that any data which is collected and analysed as part of the successor plan is made available publicly, as ownership of data should be a collective responsibility. Making data available to the public allows communities to recognise achievements, identify challenges to improving outcomes for children and young people and to be active participants in decision-making processes. Communities should also have input into the selection and adoption of measures so that they accurately reflect their context.

It is beyond the scope of this submission to provide detailed indicators or measures of success to monitor the effectiveness of the successor plan, particularly given the outcomes framework and implementation plan are yet to be developed. In the short to medium-term, a measure of success might be that there is increased investment in universal and secondary support services to families, including innovative approaches to providing family support at various levels of intensity. In the longer-term, a reduction in the number of children in the statutory child protection system, particularly Aboriginal and Torres Strait Islander children should be seen, and ultimately a reduction in the rates of child abuse and neglect.

### ***Strategic Priority: Strengthening child and family sector workforce capability***

I acknowledge the dedication and care of those who work in the child and family sector and their commitment to improving the safety of children. There is a need to ensure we have creative solutions to challenges experienced by those working in the sector so that children and families receive the best services they deserve, and the workforce is best supported to continue to provide quality care. In addition, Aboriginal and Torres Strait Islander families should have access to culturally competent and responsive services, including through an expansion of the community-controlled sector.



## Conclusion

Thank you again for the opportunity to comment on the implementation of the successor plan to the National Framework. If the consultation team has any questions about my submission, please do not hesitate to contact me on (03) 61661366 or via email to [childcomm@childcomm.tas.gov.au](mailto:childcomm@childcomm.tas.gov.au).

Yours sincerely

**Leanne McLean**

Commissioner for Children and Young People

*cc The Hon Sarah Courtney MP, Minister for Children and Youth*