

**Commissioner for Children  
Tasmania**

**Annual Report  
2003 - 2004**



# COMMISSIONER FOR CHILDREN

## FOURTH ANNUAL REPORT

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2003 - 2004

Inquiries about this report, or any of the information or references contained within, should be directed to:

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The Hon. David Llewellyn  
Minister for Health and Human Services  
Level 1, Public Building  
Franklin Square  
HOBART TAS 7000.

Dear Minister,

In accordance with the requirement of section 83 (1) of the *Children, Young Persons and Their Families Act, 1997*, I have the pleasure of presenting the Annual Report of the Commissioner for Children for the financial year ending 30 June 2004 for presentation to Parliament.

Yours sincerely,

David K. Fanning  
Commissioner for Children.

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## ***A SNAPSHOT OF THE CHILDREN AND YOUNG PEOPLE IN TASMANIA:***

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- As of June 2003, the total population for Tasmania was 477, 094.<sup>1</sup>
- In June 2003, there were an estimated 117,947 children aged under 18 years in Tasmania - 60,473 were male and 57,474 were female <sup>2</sup>.
- In June 2003 there were an estimated 15, 779 children aged under 5 years in Tasmania.<sup>3</sup>
- In 2002 a total of 37 infants (aged under 1 year), died in Tasmania compared to 40 infant deaths in 2001. <sup>4</sup>
- In the year 2000 there were 775 divorces involving children, 58.3% of all divorces involved at least one child under 18 years.<sup>5</sup>
- In 2003-2004, 96.9% of Year 3 students obtained literacy outcomes of year 2 or better (compared to 97.3% in 2002-2003). In the same year, 90.3% of Year 5 students obtained literacy outcomes of Year 4 or better, (compared to 89.9% in 2002-2003).<sup>6</sup>
- In 2003-2004, 96.1% of Year 3 students achieved key intended numeracy outcomes at Year 2 or better, (compared to 95.0% in 2002-2003). Also 98.5% of Year 5 students were working towards key intended numeracy outcomes for Year 5 or better (compared to 97.6% in 2002-2003).<sup>7</sup>
- In 2003-2004 Years 7-12 had a retention rate of 74.5% in government schools (compared to 72.9%in 2002-2003) and 75.9 % in non government schools (compared to 71.8%in 2002-2003). <sup>8</sup>
- In 2003-2004, 438 students were participating in home education, compared to 424 in 2002-2003.<sup>9</sup>
- In 2003-2004 83% of local councils had a Youth Advisory Committee, an increase from 79% in 2002-2003.<sup>10</sup>

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<sup>1</sup> Aust Bureau of Statistics, Population by Age and Sex, June 2003. Catalogue 3201. p 33.

<sup>2</sup> Aust Bureau of Statistics, Population by Age and Sex, June 2003. Catalogue 3201. p 25 & 28.

<sup>3</sup> Aust Bureau of Statistics, Population by Age and Sex, June 2003. Catalogue 3201. p 25.

<sup>4</sup> Aus Stats: Infant Deaths, 2002 H[www.abs.gov.au](http://www.abs.gov.au)H

<sup>5</sup> Aus Stats: Divorce & Divorce involving children H[www.abs.gov.au](http://www.abs.gov.au)H

<sup>6</sup> Department of Education 2003-2004 Annual Report, p 26.

<sup>7</sup> Department of Education 2003-2004 Annual Report, p 26.

<sup>8</sup> Department of Education 2003-2004 Annual Report, p 80.

<sup>9</sup> Department of Education 2003-2004 Annual Report. p 28.

<sup>10</sup> Department of Education 2003-2004 Annual Report, p 80.

- A statewide service, CPAARS (Child Protection, Advice and Referral Service) provided by the Department of Health and Human Services, is responsible for accepting notifications of child abuse and/or neglect. In 2003-2004 there were a total of 7,248 notifications<sup>11</sup>, with 1,294 investigated and of these 427 were substantiated.<sup>12</sup>
- The 427 substantiated cases are to be compared with 213 in 2002-2003 and 158 in 2001-2002.<sup>13</sup>
- In the year 2002-2003 in Tasmania, substantiations of child abuse were categorised as follows: physical abuse (42%), sexual abuse (29%), neglect (24%) and emotional abuse (5%).<sup>14</sup>
- In 2003-2004 there were 302 children under the guardianship of the Secretary (Department of Health and Human Services) up to 18 years of age, compared to 275 in 2002-2003 and 272 in 2001-2002.<sup>15</sup>
- In 2003-2004 there were 218 children placed with foster carers, compared to 250 in 2002-2003 and 197 in 2001-2002.<sup>16</sup> There were 198 children on 'relatives allowance' (compared to 186 in 2002-2003)<sup>17</sup>, 9 children were receiving 'youth support', (compared to 7 in 2002-2003)<sup>18</sup> and 41 children were on 'voluntary care agreements' (compared to 35 in 2002-2003).<sup>19</sup>
- As of June 2003 600 children were placed on care and protection orders in Tasmania, compared to 463 in June 2002.<sup>20</sup>
- In June 2003 of these 600 children, 462 were placed on guardianship or custody orders/arrangements, 101 on interim and temporary orders and 37 on supervisory orders.<sup>21</sup>

<sup>11</sup> Under Section 16 (1) of the *Children, Young Persons and Their Families Act 1997* a notification " means information from a person who believes, suspects or knows that a child has been or is being abused or neglected of that there is reasonable likelihood of a child being abused or neglected."

<sup>12</sup> DHHS Annual Report 2003-2004, p 81. "A case is recorded as substantiated when there is reasonable cause to believe that the child had been, was being or was likely to be abused or neglected or otherwise harmed."

<sup>13</sup> DHHS Report 2003-2004, p 81.

<sup>14</sup> Child Protection Australia 2002-03, (AIHW) Table 2.4, p16.

<sup>15</sup> DHHS Annual Report 2003-2004, p 82.

<sup>16</sup> DHHS Annual Report 2003-2004, p 82. "The number of children in foster care has decreased because of a different method of recording was introduced in February 2004."

<sup>17</sup> DHHS Annual Report 2003-2004, p 81. Relatives allowance: "provided to relatives who care for the children who are not on a care and protection order".

<sup>18</sup> DHHS Annual Report 2003-2004, p 81. Youth support: "a voluntary status for up to twelve months and is used as an early intervention strategy when a young person lives independently."

<sup>19</sup> DHHS Annual Report 2003-2004, p 81. Voluntary care agreement: "made when the guardians of a child agree that the Secretary will have the care and custody of the child for a period not exceeding three months."

<sup>20</sup> Child Protection Australia 2002-03, (AIHW), Table 3.5, p 31.

- In June 2003 of these 600 children on care and protection orders, 331 were male, 267 were female and 2 were “unknown.”<sup>22</sup>
- In June 2003 the ages of these 600 children on care and protection orders ranged from under 1 year to 17 years of age. Specifically, 27 were under 1 year, 123 were from 1-4 years, 169 from 5-9 years, 185 from 10-14 years, and 95 from 15-17 years.<sup>23</sup>
- In June 2003 the type of living arrangements for these 600 children ranged from living with parents (142), relatives/kin (65), in foster care (247), in residential care (100) or in independent living arrangements (21), with 25 children living in “other/unknown” living arrangements.<sup>24</sup>
- In June 2003 there were 468 children aged 0 to 17 years in out-of-home care.<sup>25</sup>
- In 2003, out of home placements of the above 468 children were distributed as follows: foster care (53%), residential care (22%), relatives/kin (15%), independent living (5%), other home based care (1%) and ‘other’ (includes unknown living arrangements) (3%).<sup>26</sup>
- Custodial Youth Justice figures for the 2003-2004 year are as follows:
  1. Total of 167 admissions to Ashley, compared to 156 in 2002-2003,
  2. 159 admissions on remand, compared to 147 in 2002-2003 and 120 in 2001-2002,
  3. 8 admissions for a period of detention, same as in 2002-2003 and 9 in 2001-2002.
  4. 41 young people admitted to Ashley who identified as being of Aboriginal or Torres Strait Islander origin, compared to 25 in 2002-2003 and 10 in 2001-2002.

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<sup>21</sup> Child Protection Australia 2002-03, (AIHW), Table 3.6, p 31.

<sup>22</sup> Child Protection Australia 2002-03, (AIHW), Table A1.6, p 53.

<sup>23</sup> Child Protection Australia 2002-03, (AIHW), Table 3.7, p 32.

<sup>24</sup> Child Protection Australia 2002-03, (AIHW), Table 3.8, p 34.

<sup>25</sup> Child Protection Australia 2002-03, (AIHW), Table 4.3, p 39 & 42. “**Out of home placements**” are defined as follows: “*Home-based care* – where placement is in the home of a carer who is reimbursed for expenses involved in caring for a child (includes relative/kinship care, foster/community care and other home based arrangements. *Residential care* – placement is in a residential building to provide placements for children and young people and where there are paid staff, for eg a live-in carer. *Independent living* – such as private board arrangements. *Other* – placement does not fit into the above categories or is unknown.”

<sup>26</sup> Child Protection Australia 2002-03, (AIHW), Table 4.4, p 43.



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## *FROM THE COMMISSIONER FOR CHILDREN*

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I commenced as the Commissioner for Children from the 19<sup>th</sup> April, 2004.

I congratulate the previous Commissioner Patmalar Ambikapathy for her commitment and dedication to promoting the rights of children and young people in Tasmania. As the first Commissioner for Children it was no doubt a demanding task and she approached it with vigour and tenacity.

The remaining 10 weeks of the year to 30 June 2004 were spent familiarising myself with the role to date of the Commissioner in Tasmania over the previous three years, engaging with the range of stakeholders and individuals who provide services or have an interest in children and young people in Tasmania, as well as assessing the systematic issues that impact upon the lives of children and young people in this state.

Whilst the issues for children and young people in Tasmania are similar to other parts of Australia, it is also evident that there are specific issues for children and young people in Tasmania including such things as access to public transport, particularly on week-ends outside the principle cities, ranging through to the capacity of child protection services to respond to notifications of child abuse and neglect as well as the availability of family support services to struggling families.

I have been very pleased and grateful to the many people who I have met in Tasmania: Government Ministers and other members of Parliament; government officials; persons from a large range of non government organisations; professionals and many other persons, all who whom have been of significant assistance in enabling me to undertake the new role. I look forward to an ongoing productive relationship with government and non-government bodies and individuals.

A co-operative relationship is important and is not inconsistent with a key strength of the Commissioner for Children, namely its independence. It is both a challenge and of great importance that co-operation and independence co-exist.

I have had the opportunity of meeting many children and young people in Tasmania from a variety of backgrounds and personal circumstances. It is my privilege to work towards better outcomes for all Tasmanian children and young people, especially those who are disadvantaged in some way or who have been or may be subjected to abuse and neglect.

I have had the benefit of two skilled and highly professional staff, Rhonda Anthony and Jennifer Muirhead, both of whom have demonstrated a strong commitment and dedication to our work.

David K. Fanning.

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## *OUR TEAM*

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David K. Fanning  
Commissioner for Children  
*B.A, B. Soc. Sc. (S.W.), LL.B, Dip. Crim,*  
Member Vic Bar,  
Member AASW.

David was a barrister at the Victorian Bar for the past 15 years prior to taking up the appointment on April 19 2004. He worked primarily in child related areas of law including, Family Law, Children's Court, Coroners Court as well as Appeal work. In addition he provided advice to the government and non-government bodies on child related legal matters. He also conducted enquiries on behalf of various non-government organisations and was on the board of a number of non-government organisations. He also contributed to a wide range of policy development initiatives in Victoria. Prior to working as a barrister, David first worked as a social worker for nearly eight years in the areas of mental health, child protection and family support.

Rhonda Anthony  
Executive Assistant  
*B.A, GradDipPollaw.*

Rhonda has been with the Commissioner for Children from February 2001, four months after the office officially commenced in October 2000. She previously worked as an Industrial Relations Officer and Information Officer with employment law. Rhonda has been responsible for setting up the office and management of the office systems, public liaison, administration and management, financial and budgetary responsibility as well as attending conferences and meetings. Rhonda also manages the website of the Commissioner for Children. In addition, Rhonda supports and assists the Advisory Council and Consultative Council. As well as these responsibilities, Rhonda provides executive assistance to the Commissioner. Rhonda also has an active family (including a cat), does oil painting and is a volunteer at the Hobart Community Legal Service.

Jennifer Muirhed  
Research Officer  
*B.A, LL.B, Grad. Cert. Legal Practice*

Jennifer has qualifications in both psychology and law. She commenced employment with the Commissioner for Children in June 2003. She has previously worked as a Judge's Associate and as a project officer in the

Department of Justice. She has also had the opportunity to examine the operation of the Glasgow Children's Panel in Scotland.

In her role as the Research Officer at the Commissioner for Children's office, Jennifer assists the Commissioner in the examination of existing and proposed legislation relating to children, monitors policy development and investigates issues affecting the health, welfare, care, protection and development of children. She undertakes statewide and national consultation on child-related matters and is involved in the preparation of submissions and reports produced by the Commissioner.

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## *OUR MISSION*

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To promote the best interests of children as the paramount consideration in any decisions made affecting the health, welfare, care, protection, development and education of the children in Tasmania.

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## *OUR VALUES*

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We are committed to:

- Operating in a respectful, impartial and independent manner to all who contact this office.
- High standards of professionalism, integrity and conduct.
- Effective and efficient use of resources.
- Accountability and transparency for our actions and decisions.

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## *FUNCTIONS*

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Functions of the Commissioner under section 79 of the *Children, Young Persons and Their Families Act 1997*:

### **Functions of the Commissioner**

79. (1) The Commissioner has the following functions:
- (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;
  - (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.

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## *OUR STAKEHOLDERS*

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### Our Stakeholders in Tasmania include:

- the children, young people and their families of Tasmania,
- Aboriginal Legal Service,
- Alannah and Madeline Foundation,
- Anglicare,
- Ashley Youth Detention Centre,
- Association of Children with Disabilities,
- Big hART,
- Brain Injury Association of Tasmania,
- Centacare,
- Circular Head Aboriginal Corporation,
- Colony 47,
- CREATE,
- Department of Education,
- Department of Health and Human Services,
- Director of Public Prosecutions,
- Foster Carers Association,
- Glenorchy Action Interagency Network (GAIN),
- Good Beginnings,
- Guides Tasmania,
- Hobart Community Legal Service,
- Lady Gowrie,
- Law School, University of Tasmania,
- Laurel House, Launceston,
- Legal Aid Commission of Tasmania,
- Link Zone,
- Mersey Leven Aboriginal Corporation,
- Migrant Resource Centre,
- NAPCAN Tasmania Inc,
- NIFTeY (National Investment for the Early Years),
- Northern Youth Coordinating Committee (NYCC),
- North West Action for Youth (NWAY),
- North West Community Legal Centre (Tas),
- North West Centre against Sexual Assault (NW CASA),
- Office of Youth Affairs,
- Palawa
- Playgroup Association,
- Red Cross,
- Relationships Australia,
- Royal Hobart Hospital,
- Sexual Assault Support Service (SASS, Hobart),
- Southern Division of General Practitioners,
- TASCARE,
- TasCOSS (Tasmanian Council of Social Services),
- Tasmania Police,
- United Nations Association and United Nations Youth Association,
- Women's Karadi Aboriginal Corporation,
- Women's Legal Service,
- Youth Action Network Glenorchy (YANG),
- Youth Action Priorities (YAP),
- Youth Interagency Group (YIG),
- Youth Network of Tasmania (YNOT),
- Various other Government bodies, Parliamentary Committees, Councils, Youth Workers and Community Development Officers.

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## *COMMISSIONER ACTIVITIES*

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Activities of the previous Commissioner for Children, Ms Patmalar Ambikapathy.

- Memoranda of Advice to the Minister- see the link to our website: [www.childcomm.tas.gov.au](http://www.childcomm.tas.gov.au)
- Monthly Reports and Parent pages- see the link to our website [www.childcomm.tas.gov.au](http://www.childcomm.tas.gov.au)

Having met and spoken with a wide range of people across the state, it is evident that there are many and varied issues for children in Tasmania. With limited resources it is necessary to focus our activities on better outcomes for children, especially those who are most vulnerable.

Whilst there are ongoing requests for advice, assistance and responses from government and non-government organisations, it is important that our role is not just reactive but that it also has a strong pro-active component.

In May 2004, advice was requested from the Solicitor-General in relation to this office accepting and dealing with complaints from individual persons, in the absence of a specific request from the Minister of Health and Human Services in relation to an individual matter as provided in section 79 (1) (a) of the *Children, Young Persons and Their Families Act 1997*. In the light of the Solicitor-General's advice the practice of accepting complaints of individual matters ceased. However individuals who wish to make a complaint about a government department are assisted in lodging their complaint with the Ombudsman. The Ombudsman has also agreed to advise this office of matters that suggest shortcomings in the policies or practices of government departments coming from individual complaints that relate to children, whether or not they have been referred to the Ombudsman by this office or have lodged their complaint directly with the Ombudsman. This will undoubtedly prove to be a valuable source of information and will ensure that all complaints are dealt with in a systematic manner, providing for a 'one stop shop' approach to handling complaints. Liaison between the Ombudsman and this office may require legislative change to formalise these arrangements in the future.

It is evident that there is not a well developed, readily understood and accepted complaints procedure within the Division of Children and Families, especially in Child and Family Services. Not only does this detract from an individual's capacity to voice their concerns and have their complaint dealt with in a transparent way, the organisation suffers from not having the benefit of a ready source of valuable feedback as to how best to deliver services. I look

forward to working with the Division of Children and Families on this and other issues.

Another issue identified is the high number of youth on remand in Tasmania. Based on the most recent statistics available from the Australian Institute of Criminology <sup>27</sup>, in 2002 the rate of all persons aged 10-17 in juvenile detention per 100,000 relevant population in Tasmania was 47.3. The only jurisdiction with a higher rate than Tasmania was the Northern Territory, with a rate of 83.6. Amongst the larger jurisdictions New South Wales had a rate of 27.9 while Victoria had a rate of 10.7, the lowest of all jurisdictions.

The research is unequivocal in relation to the detention of children especially under 15 years of age. Quite simply the likelihood of these children turning into recidivists and continuing to commit offences into adulthood is very high. Not only is this a poor outcome for the individual child, it is a poor outcome for the community since the community suffers the consequences of ongoing offending and costs of incarceration of repeat offenders. The apparent short-term benefits of the incarceration of children are far outweighed by the poor outcome for the individual as well as public safety and significant long term costs implications for the community. The increasing number of adult prisoners is unlikely to decline whilst high numbers of children are detained in custody. This situation requires careful and thorough examination.

It is also of significance that there has been a four fold increase in the numbers of youth who have identified as Aboriginal or Torres Strait Islander origin in the last two years, from 10 to 41 admissions at the Ashley Youth Detention Centre.<sup>28</sup>

As an issue affecting all children in this State, I will be examining the issue of employment screening for people who work or seek to work with children. In some areas of government departments and organisations the use of screening procedures is a common practice. However it is unclear and mixed as to the screening of persons who work with children in Tasmania. Other states in Australia have in place or are proposing employment screening policies, practices and procedures and it is vital that Tasmanian children and young people are also offered protection from abuse.

I intend that this issue be a priority for this office in the forthcoming year.

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<sup>27</sup> Bareja, M & Charlton, K. (2003) *Statistics on Juvenile Detention in Australia: 1981-2002*, Technical and Background paper Series No.5, Australian Institute of Criminology, Canberra.

<sup>28</sup> DHHS Annual Report 2003-2004, p 82.



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### COMMISSIONER'S CHILDREN'S CONSULTATIVE COUNCIL

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Established under section 81 (1) (a) of the *Children, Young Persons and Their Families Act 1997* " to assist the Commissioner in the performance and exercise of his or her functions and powers under this or any other Act."

#### Statewide Meetings:-

Children and young people ranging in age from 12 to 17 years. The participation of children and young people is greatly valued and their contribution is significant in shaping the future direction of the Commissioner for Children. It is expected that additional members will be sought by advertising vacancies later in the year as a number of the original members of the Council have reached 18 years.

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### COMMISSIONER'S ADVISORY COUNCIL

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Established under section 81 (1) (b) of the *Children, Young Persons and Their Families Act 1997* to assist the Commissioner in the performance and exercise of his or her functions and powers under this or any other Act. The Council met on 14 occasions during the year ending 30 June 2004. The 14 occasions included a number of regional meetings of Council members. Commonly the Council met monthly in the three regions of the state and occasionally met together as a complete Council in Hobart, including three times in March and April 2004.

Special thanks are owed to Dr Ian Lewis who chaired the Council for the first three years and his contribution is greatly appreciated. I would like to acknowledge the support and expertise given by other Council members that have contributed to the work achieved by this office. Advisory Council members as of 30/6/04 :-

- Ken Abery
- Ros Atkinson
- Sheila Banks
- Richard Baxter
- Marita Bool
- Tracey Bradley
- Dr Graham Bury
- Cheryl Davis
- Kerry Degrassi
- Laraine Donnelly
- Jennifer Dunbabin
- Catherine Edwards
- Melody Finnerty
- Mike Gaffney
- Caroline Graves
- Laurene Kelly
- Bernard Knight
- Tonia Kohl
- Gillian Matson Johnston
- Ronda McIntyre
- Arlette Mercae
- Marilyn Pitchford Brown
- Julian Punch
- Professor Margaret Reynolds
- Karen Ritchie
- Vicki Russell
- Dr Mark Stranger
- Ian Stokes
- Kim Strachan
- Cheryl Thompson
- Yabbo Thompson
- Kathy Turner
- Professor Rob White
- Leah Willis
- Bernadette Zeeman

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## ***FINANCIAL STATEMENT***

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### **2003/04 Financial Statement - Office of the Commissioner for Children**

	\$'000	\$'000	\$'000
Budget allocated by Parliament 2003-04			291
Less Allocation for share of Departmental Corporate Overheads (Indirect Costs)			(45)
Budget available to Business Unit for 2003-04			<u>246</u>

#### **EXPENDITURE (Direct Costs)**

##### **Salaries and Related Expenditure**

Salaries and Wages	186		
Other Employee Related Expenses	<u>46</u>	232	

##### **Operating Expenditure**

Communications	6		
Staff Travel	9		
Motor Vehicle Expenses	10		
Consultants	1		
IT Leases and Licenses	4		
Client Expenses	1		
Office Requisites	4		
Rental of Equipment	4		
Other Expenses	<u>6</u>	45	<u>277</u>
OPERATING DEFICIT			<u>(31)</u>

#### Notes

1. All amounts rounded to nearest \$1,000
2. This Financial Statement has been prepared on a cash basis.
3. The operating deficit is attributable to the payout of accrued entitlements to the outgoing Commissioner of \$18,000 and recruitment expenses of \$12,000.

Prepared by: Dean Chatwin, Business Analyst

Approved by : Michael McIntyre, Finance Manager Dated :

11<sup>th</sup> October 2004