



ANNUAL REPORT 09



**COMMISSIONER
FOR CHILDREN**
T A S M A N I A

Our Aim

TO PROMOTE THE INTERESTS OF
CHILDREN AND YOUNG PEOPLE IN
ANY DECISIONS AFFECTING THEIR
HEALTH, WELFARE, CARE, PROTECTION,
DEVELOPMENT AND EDUCATION.



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The Commissioner for Children is an independent, statutory office responsible to the Parliament of Tasmania. The Commissioner's functions include promoting the rights and well-being of children and young people, examining and advising Government on policies, practices and services provided for children and laws affecting their health, welfare, care, protection and development

15 September 2009

The Hon Lin Thorp MLC
Minister for Human Services
Level 8, 10 Murray Street
HOBART TAS 7000

Dear Minister,

In accordance with the requirements of section 83 (1) of the *Children, Young Persons and their Families Act 1997*, I have the pleasure of enclosing the Annual Report of the Commissioner for Children for the financial year ending 30 June 2009 for presentation to the Parliament of Tasmania.

Yours sincerely,

Paul Mason
Commissioner

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Introduction

2008-2009 saw some strategic changes of direction for Tasmania's Children's Commissioner. Our themes for the year have been Rights, Participation, Reform, and "Tassie Kids are Aussie Kids".

Rights

November of this year marks the 20th Anniversary of the day the United Nations Convention on the Rights of the Child (UNCROC) was opened for signature. It is an important recognition that children and young people are not just vulnerable creatures who need paternalistic protection, but capable citizens with opinions of their own that can actually help "adult society" create better government and services for everybody.

One of the universal rights of children and young people is to have their opinion heard and valued in government decisions that affect them (UNCROC Article 12).

An adult's view of the "Rights" of children will depend on what they think children actually are. Are they imperfect adults? Are they small adults? Are they intellectually disabled adults? Are they adornments or handbags created to satisfy a need of their parent? Are they fully fledged people from day one?

The UNCROC is the sextant by which I and my fellow Commissioners steer our course. The reason for any action or policy that affects children or young people must be to enhance the best interests of the whole group as well as of the individual.

The outcome must be to enhance the capacity of children to exercise their human rights.

This year I have continued to focus on the rights of children subjected to assaults in the name of "correction" or "discipline". It is legal to hit children in situations that it is not legal to hit adults. The expert evidence is overwhelming that children learn to disrespect authority and avoid getting caught, they learn to hit people smaller and weaker than themselves, they grow up to regard hitting as a normal part of conflict solving and as a normal parenting tool. This situation infringes the human rights of children and must end. Government can take a teaching lead by legislating to make the justifications for hitting children the same as those allowed for hitting adults.

Participation

One of the main focus areas for this past year has been on the participation of children and young people in their lives and communities and the work of my Children and Young Person's Consultative Council (the self named CCC).

We have had young people from the CCC, supported by the Youth Liaison Officer, on staff selection panels; the extended research of one member about school bullying was presented to a National Conference of School Guidance Counsellors (AGCA); we instituted a "Commissioner for a Day" scheme where one person is selected on application to stand in my shoes for a day; and one CCC member sits on a Steering Group developing, with the TEYF, a tool for developing direct participation for children in their communities.

In May the Parliament amended the *Children Young Persons and Their Families Act 1997* to include for the Commissioner a function of "advocating for young people in Ashley Youth Detention Centre" (AYDC or "Ashley") and the Department provided funding for a permanent part-time advocate within the CFC office who is independent of AYDC Management and the Secretary. The Resident Advocate visits Ashley once a week and listens to anything a young person might raise. Through the unique relationship this position has developed with the residents we were able to consult the residents in Ashley about what they thought could be done to improve the *Youth Justice Act* as part of the review of that Act. Their considerable experience will help the Government design the youth justice system to be more effective at heading off criminal careers before they start, and find other ways to engage children and young people in society before they wind up at Ashley. This was a very good example of how we can ask children and young people about what is important in their lives and then listen to what they have to say and take it seriously.

Reform

An enormous amount of work is going into redeveloping the Tasmanian child protection system from "Child Rescue" to true "Child Protection" which is "state of the art" in Australia, preventing a child's life from spiralling into abuse and neglect. Setting it up not only redirected the Government's response to vulnerable children, but led to a wholesale shake-up of Disability Services and from there to the design of the financial relationship and accountability of non-Government service providers for families and children.

I have involved myself in tracking every part of the redevelopment and emphasising a child-focus at every turn. The big issue from my perspective

is whether children who need a Government safety response and who would have been filtered through the previous Child Protection net will be identified in the new system.

During the year I delivered my report on children with disabilities whose parents cannot continue to provide for them without other support "*Parens Patriae - Who Will Take Responsibility?*" referring to the ancient authority and obligation on the King to care for those unable to care for themselves. The Department of Health and Human Services has responded with proposals to examine how families can be better assisted and how parental duties can be shared so that children can remain with those who love them as much as possible. That remains work for the coming year. The proof of the pudding will now be in the eating.

Tassie Kids Are Aussie Kids

Since July 2008 every State and Territory has either a Children's Commissioner or a Guardian of Children in Government care. Each one has a different statutory list of functions, but all are united by one belief that underlies those functions: to promote the rights and needs of children. We meet as the ACCG (Australian Children's Commissioners and Guardians) twice a year and as committees to respond to national issues. The role and value of the ACCG is increasingly being recognised as Government advisers who sit outside the State and Territory Governments and outside the NGO service sector. The Federal Government is increasingly involved in coordinating a common response to children's needs across the whole country. The way these issues are approached directly affects Tasmanian children.

A long standing office focus is a State-wide system to check the criminal histories of people who work with children. There is still no system in place in Tasmania, but I am assured that a clear plan of action is before the Government. There remain for me concerns about clear evidence that a Police check on its own gives a false sense of security and that inevitable decisions about borderline cases may be made by someone in direct line of authority of a Government Minister. My view and that of the 2007 Council of Australian Governments (COAG) reports is that a Child Safety program must go far beyond Police checks to change the way community and other organisations think and for decisions to be made by a statutory officer independent of the elected Government of the day.

At the end of a very busy and productive year, I would like to sincerely thank my staff for their hard work and good humour which provides the strong, loyal and

stable foundation for my work and also thank our energetic Children's Council who remind us every day to listen!



Paul Mason
Commissioner

15 September 2009



Paul Mason, Children's Commissioner, face painting at the Foster Carers 'Big Day Out', Perth Tasmania, Sunday 15 March 2009

'The Commissioner for Children's Consultative Council has given me and many others, the opportunity to have our opinions heard and to raise our concerns about the issues that matter the most to us. It is a wonderful feeling to know that someone is willing to listen to us, take our ideas, opinions and concerns seriously, and try to use them or find potential solutions. It is also a good feeling, when you have given your time and effort, and you feel that you have contributed something that will have a good effect. I am very grateful, and I always will be, that I have the opportunity to be on this wonderful Council.'

Marcus

A Snapshot of Children and Young People in Tasmania

Population

- The total population of Tasmania, as estimated by the Australian Bureau of Statistics as at December 2008 was 500,300.
- The total number of children and young people (aged 0 – 19 years) in Tasmania was approximately 131,553 (26.3% of the population).

Education¹

- In 2008 there were 81,591 full time primary and secondary school students in Tasmania, including 5,017 Indigenous students.
- In 2008 71.4% of all full time school students in Tasmania attended Government schools.
- In 2008 the Year 12 retention rate for students in Tasmania was 64.8%. This is well below the national average of 74.5%, and is the second lowest rate of retention in Australia following the Northern Territory.

Child Protection²

- Between July 2008 and June 2009, 2424 notifications were referred to service centres for investigation.
- As at 30 June 2009, 807 children were in out of home care in Tasmania.

Youth Justice³

From July 2008 to April 2009, police reported 3990 cases involved young offenders. Of these 62% were dealt with using diversionary procedures including informal caution, formal caution and community conference with 38% proceeding to prosecution.

Mission Australia Survey of Young Australians 2008

Mission Australia conducted a survey of 42,787 Australian young people (aged 11 – 24 years) in 2008 including 2377 young Tasmanians⁴. Of this sample:

- 93.3% of young people from Tasmania spoke only English at home. The most common languages spoken by the remaining young people were Japanese, French, German, Italian, Afrikaans, Chinese, Hindu, Indonesian, Mandarin and Spanish.
- 93.8% of young people from Tasmania were living with family.

¹ Australian Bureau of Statistics, Catalogue 4221.0 (2008), Schools Australia.

² Department of Health and Human Services (2009) Your Health and Human Services Progress Chart, May 2009.

³ Department of Police and Emergency Management (2009), Corporate Performance Report, May 2009.

⁴ Mission Australia, National Survey of Young Australians 2008.

- 71.1% of young people from Tasmania stated that parents/family were their main source of income. This is comparable with the national rate of 72%. In contrast, 6.5% of young people from Tasmania stated that a Government allowance was the main source of income, higher than the national rate of 3.7%.
- 33.1% of young people in Tasmania were unemployed and looking for work, higher than the national rate of 26.2%.
- Issues that most concerned young people from Tasmania included physical/sexual abuse (27.4%), body image (27.1%) drugs (26.3%) and suicide (25.9%).
- Activities that young people in Tasmania were most likely to engage in included sports (69.9%), arts/cultural activities such as drama, music and dance (44.3%) and youth groups and clubs (24.6%).

What Does the Commissioner for Children Do?

The Commissioner for Children was established under section 78 of the *Children, Young Persons and Their Families Act 1997*, proclaimed in July 2000.

The philosophy of the United Nations Convention on the Rights of the Child (UNCROC) is expressed in the fundamental principles of the Act, namely:

- that the best interests of the child are paramount;
- that the family is primarily responsible for the care of children unless it is not able to meet those responsibilities; and
- that children’s views about their care and protection must be sought and given serious consideration.

Sections 79 & 80 Functions & Powers of the Commissioner

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, care, protection and development of children placed in the custody, or under the guardianship, of the Secretary under this or any other Act;

(fa) on the Commissioner's own initiative or on the request of the Minister, to act as an advocate for a detainee under the *Youth Justice Act 1997*;

(fb) to advise the Minister on any matter relating to the health, welfare, education, care, protection and development of detainees under the *Youth Justice Act 1997*;

(g) any other functions imposed by this or any other Act.

It is CFC policy to use these powers persuasively rather than by compulsion of legal process in recognition of the principle that the interests of children and young people are best served by the community acting collaboratively and with improved understanding of the paramountcy of those interests.

In carrying out these legislative functions, the CFC acts independently, impartially and in the public interest. Where there is a conflict between the interests of children and young persons and the interests of Government and other groups in society the Commissioner considers it an obligation to advocate for the interests of the former.

Requests from the Minister for Human Services, the Honourable Lin Thorp MLC

"Parens Patriae - Who Will Take Responsibility - Inquiry into the Circumstances of Certain Children Living in Disability Respite Centres"
February 2009

In October 2007 the CFC was asked by the then Minister for Health and Human Services to inquire into the circumstances of children living in disability respite facilities in Tasmania and to provide policy and practice advice on the care of such children in the future. The Minister nominated 7 children, each of whom had spent varying periods "living" in Government run disability respite facilities, as children whose circumstances brought them within the Inquiry's terms of reference. The CFC delivered an Interim Report to the Minister in

March 2008 and the Final Report in February 2009. On 7 May 2009 the Minister made the Final Report publicly available along with the response by the Department of Health and Human Services to the 29 Recommendations contained in the Commissioner's Report.

Children and Young Persons Consultative Council (CCC)

The Children and Young Persons Consultative Council (made up of children and young people and now called the CCC) and the Children and Young Persons Advisory Council (adults) were established under section 81(1) (a) and (b) of the *Children, Young Person's and Their Families Act 1997*.

The development of the first of the two statutory committees designed to support my work has been our focus this year and with the creative use of email, web forums, SMS and MSN, it is much easier to establish a more two-way conversation between the Council and the Commissioner. To coordinate this I have this year, within existing budget, appointed a part-time Youth Liaison Officer (YLO) who has developed a very real rapport with the CCC. An early task was to recruit a fresh CCC because members have a habit of growing up and reaching their 18th birthday when they must cease being CCC members.

We have recruited a CCC of 31 young people aged 8 to 17 from the South, the North, the North-East and the North West, and from "all walks of life". Diversity was our catch-cry in the recruitment.

The new CCC is designed to build participation and consultation into the fabric of the CFC's work and to encourage Government to build such collaborative work into the fabric of Government policy formation and evaluation.

'I decided to join the council because it sounded interesting and like something I hadn't done before. I thought it would be a good way to meet new people and make a difference. I thought the statewide meeting was interesting and fun.'

Alexandra

Report from the YLO

As the YLO, I have been really busy getting the Children's Consultative Council off the ground. The Commissioner for Children's Consultative Council (CCC) has had a strong year of great growth and development and we have been doing some really exciting things, which have ensured the CCC has played a strong part in the work of the Commissioner for Children and has highlighted just how important the participation of children and young people really is.

In January we had our inaugural "Commissioner for a Day" competition. CCC

member Metika was chosen to be the “Commissioner for a Day” as she had displayed strong commitment and leadership towards the CCC. This is Metika’s experience of the day:

“First off my day started with getting up at 5:30 to travel down to the Commissioners Office in Hobart from Launceston. I arrived at the office at around 9ish, after meeting the staff; I started my day as the Commissioner with checking, reading and replying to Paul’s emails. Next I went through with Hayley the questions I was going to ask the Minister of Human Services, Lin Thorp. Then off to my meeting with the Minister, I was quite nervous talking and asking her questions (I also had my photo taken with her and Paul for the Examiner newspaper). At the meeting I showed her a summary of the bullying responses that the Council has been working on.

In the afternoon went to the PCYC in Hobart and we got to meet two police officers and we walked around the streets with a youth worker Adam who helps homeless kids. I learnt a lot and we had a look around and learnt what goes on and all the things they do to help.” Metika

The “Commissioner for a Day” competition was a great success, and we hope to see another young Commissioner in the coming months.

In March the Youth Liaison Officer began the recruitment process for the CCC with the hope of recruiting a larger and more diverse CCC to reflect the demographics of children and young people in Tasmania. Recruitment packs were sent to every school and Youth Development Officer in the state plus a wide range of sporting associations and not for profit organisations. We received an overwhelming response, and now have 31 CCC Members, from all around our state.

After the recruitment period, we brought our old and new CCC members together for our Statewide Meeting, to develop some goals and expectations around the future work of the CCC for the next twelve months.

The Statewide meeting was held in Campbell Town, and was a great event with lots of activities which allowed the Members to get to know one another. It was also decided that the three key issues the CCC would work on were bullying, healthy eating, and smoking, drinking and drugs. CCC members have also been involved in the development of the Charter of Rights for Children and Young People in out of home care and the redesign of our website.

We are looking at implementing an Ambassador Program, to allow members on our Council to develop meeting, leadership, and facilitation skills, to then act as leaders on our Council with stronger links to the CFC Advisory Council. This new program should be up and running early in 2010.

I am really looking forward to the next year working alongside the CCC!

'I loved the statewide meeting, its great to meet so many new people, and represent my school and my community.' **Brooke**

Children and Young Persons Advisory Council

There has been an emphasis on the use of the new web based Forum for the Advisory Council (AC) in the past year. There has been mixed reaction to using technology for the AC to communicate with the CFC and this, along with further development of the focus of the AC, is a priority over the next year.

In April 2009, the Commissioner for Children convened an AC meeting and provided an update on recent projects, submissions and activities undertaken by the office.

Members of the AC were invited to provide input into the Charter of Rights for Children and Young People in out of home care and the CFC website redevelopment. Council Members were also invited to attend the Launch of the Charter of Rights for Children and Young People in Out of Home Care by the Hon Lin Thorpe MLC, Minister for Human Services at Parliament House and to attend two Colloquia hosted by the Commissioner for Children, with invited Guest Speakers from overseas and interstate.

Ashley Youth Detention Centre Residents' Advocate

Following the resignation of the previous Residents' Advocate (RA) earlier this year, a new RA has now been appointed and commenced visiting Ashley Youth Detention Centre (AYDC) on 22nd April 2009. The RA visits Ashley on a weekly basis and connects with as many residents as possible each week. The RA also meets with Ashley Management on a fortnightly basis to raise resident issues as they arise. All information is forwarded to the CFC to inform his ongoing work.

The position has been increased from 5 hours, to one full day per week and the additional hours will allow the RA to conduct consultations with residents on issues of relevance to them.

The first formal consultation with AYDC residents was conducted in May 2009 as part of the review of the *Youth Justice Act*. The residents reported that this was a positive experience and were eager to provide their opinions on the functioning of the Act and were keen to be kept informed. There are plans for regular and ongoing consultations with residents over the next year to ensure that their issues and opinions inform the work of the CFC and policy development around case management within AYDC and Youth Justice more broadly.

...“So we said that and now it’s actually been written up in a report...that’s cool...” Resident, Ashley

Projects and Other Work Undertaken by the Commissioner for Children

Enquiries from Government Agencies, Non-Government Organisations and the Public

In 2008-2009, the Commissioner for Children’s office (CFC) received approximately 100 enquiries from individuals, organisations and Government agencies. The CFC receives enquiries by telephone, email and letter. Some enquirers simply request general information on issues related to children and young people or the role of the Commissioner, while others wish to make a formal complaint about a service or agency. This advice and referral work consumes a large fraction of the work time of the staff of the CFC.

The CFC does not have the power to investigate individual complaints, other than when requested to do so by the Minister. Where the office is unable to assist, enquirers are referred to relevant Government agencies or non-Government organisations that are able to provide further information or have complaints handling functions. The office commonly refers callers to the following services:

- Child Protection Services, DHHS
- Tasmanian Ombudsman
- Legal Aid Commission of Tasmania
- Tasmania Police
- Department of Education
- Hobart Community Legal Service
- Kids Helpline.

Child Protection and Human Services reforms

Tasmania has embarked on a “Future Communities” public health model of child protection, drawing on the experiences of Victoria’s Child FIRST model. The major changes are the merging of Child Protection and Disability Services under the same line of management, the creation of Community Based Intake for child welfare concerns via a Gateway linked on the one hand to NGO and Government Family Support Services and on the other to statutory Child Protection.

The CFC has requested that the Department include him as a member of

the Advisory Group establishing a common assessment framework for this Community Based Intake system to ensure that the measure of protection is not debased in the process.

The CFC has accepted an invitation from ARACY and from the Hon Jenny Macklin MP, Federal Minister for Families, Housing, Community Services and Indigenous Affairs to be a member of the National Common Assessment and Referral Framework Taskforce due to report to FAHCSIA in August 2010.

Charter of Rights for Children and Young People in Out of Home Care

In March 2008, the Commissioner for Children convened a steering group comprised of the Foster Carers' Association (Tasmania), CREATE Foundation and a representative from the Tasmanian Department of Health and Human Services to develop a Charter of Rights for Children and Young People in Out of Home Care. All other States have a Charter of Rights for children and young people in out of home care; Charters do not exist in the Northern Territory or in the Australian Capital Territory.

After extensive consultation with children and young people (members of the Commissioner's Children's Consultative Council and children who have been or are in care), child protection workers, foster carers and NGO service providers, Charter documentation has been developed with assistance from a graphic designer who also participated in consultations with children and young people. The Charter documents consist of a poster, an illustrated booklet for younger children and a business card size "back pocket" booklet for older children. The Charter documents were launched by the Minister for Human Services the Hon Lin Thorp MLC on 5 June 2009 at Parliament House. The Department of Health and Human Services is responsible for developing a strategy to distribute Charter documents and material and to integrate the Charter into practice.

'I really enjoyed working on the Charter of Rights for Children and Young people in out of home care, it was good to get to share my thoughts on what should and shouldn't be included and how it should look.' **Genevieve**

Development of Childrens Participation

The CFC is working with the Office of Children and Youth Affairs within the Department of Premier and Cabinet to develop a Childrens Participation Kit (based on the NSW *Taking Participation Seriously* toolkit) to provide advice to Government policy bodies and NGO service organisations about how to include children and young people in activities, events and decision making that affects them.

The project is currently in the initial phase with a steering committee established to oversee the project. The project is funded by a grant from the Tasmanian Early Years Foundation and is being conducted with children and young people from the CFC's Children's Consultative Council (CCC).

The CFC has adopted a practice of asking every steering committee/working group attended across Government what plans they have to consult with children and young people and what plans they have to invite children and young people onto each committee/group to participate in the decision making process. Many raised eyebrows, but there is increasing acceptance.

National Human Rights Consultation

The CFC co-hosted Human Rights workshops with the Australian Human Rights Commission in Tasmania during 21-23 April 2009. These workshops included specific workshops for children and young people in Hobart and Devonport as well as workshops for those working/advocating in the community sector. The workshops for children and young people were a particular success with 30-40 enthusiastic attendees at each of the 2 workshops. The CFC also attended the National Human Rights Consultation Community Roundtable in Hobart on 4 May 2009 as part of his ongoing advocacy for better protection of the human rights of children and young people at all levels of Government and on an international level.

Corporal Punishment

The CFC is engaged in ongoing advocacy for legislative amendment within the context of the human rights of children including:

- media releases on notable occasions eg. World No-Smacking Day, Child Protection Week
- locating corporal punishment in the home within every debate and policy about primary approaches to family violence against women and children, child protection systems, and school bullying.

Right of Genital Autonomy – opposition to non-therapeutic surgery on children's genitals

The CFC is engaged in ongoing advocacy within the context of the human rights of children to:

- protect girls, boys and intersex children from medically unnecessary genital surgery
- address issues surrounding the sterilisation of girls with disabilities

- ensure boys are not subjected to non-therapeutic circumcision. In the latter respect, in June 2009 the Tasmanian Law Reform Institute (TLRI) released an Issues Paper *Non-Therapeutic Male Circumcision* after the matter was referred by the Commissioner for Children to the TLRI for consideration
- develop a national coalition of organisations and individuals to promote legislative protection for all children's Right of Genital Autonomy analogous to State and Territory legislation that prohibits female genital mutilation
- liaise with the international initiative for a Right of Genital Autonomy under development in the UK, the USA and Europe.

Preparation of the Non Government Shadow Report to the United Nations Committee on the Rights of the Child about Australia's compliance with the United Nations Convention on the Rights of the Child

Preparation of the next non-Government Shadow Report has just commenced following the release of the Fourth Australian Report on Implementation of the Convention on the Rights of the Child in Australia. The NGO Shadow Report is being prepared by the Child Rights Taskforce jointly convened by the National Children's and Youth Law Centre and UNICEF Australia. The Commissioner for Children is participating in this process.

Kids Come First Subjective Wellbeing Indicators

As part of the development of an outcomes framework to evaluate the health and wellbeing of children and young people by the Kids Come First Steering Committee, the CFC is proposing to conduct a series of focus groups with children and young people from around Tasmania to identify what factors they use to evaluate their own health and wellbeing.

The aim is to identify subjective indicators of personal wellbeing (i.e. which cannot be derived from other routine data sets or parent surveys) that children and young people consider important to their wellbeing and for inclusion in the framework.

Commissioner for Children Colloquia

As part of his community awareness function, the CFC devised a series of 2 Colloquia on the following topics:

1. "FGM and Children's Rights" – 27 April 2009, special guest speaker Dr Comfort Momoh OBE who also presented a Clinical Master Class to medical and allied health professionals on the same day;

2. “Visiting Children- Perspectives of Independence” – 25 May 2009, a full day of distinguished Guest Speakers with Michael Piraino (CEO of the National Association of Court Appointed Special Advocates, Seattle, USA) attending as Keynote Speaker.

Overview of Submissions and Reports produced by the Commissioner for Children

National Human Rights Consultation

In June 2009 the Commissioner made a submission to the National Human Rights Consultation by the Federal Government through a committee chaired by Father Frank Brennan. In that submission the Commissioner noted that although children and young people benefit from the protections and rights contained in Conventions such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Cultural and Social Rights, the Convention on the Rights of the Child contains core rights of particular relevance to children and young people which are not replicated in those other Conventions.

Consequently, the Commissioner’s submission concluded that because the Convention on the Rights of the Child constitutes the standard in promotion and protection of the rights of the child, any Human Rights Act or other structure should incorporate particular protection and promotion of the child-specific rights elaborated in that Convention.

Concluding Observations Committee Against Torture

In August 2008 the CFC responded to an invitation from the Federal Attorney General to comment on the Concluding Observations of the United Nations Committee Against Torture after its consideration of Australia’s periodic report under the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Concluding Observations included a recommendation that Australia adopt and implement legislation banning corporal punishment at home and in schools and in all alternative care settings. Section 50 of the *Criminal Code Act 1924* (Tas) provides that it is lawful for a parent (or person in place of a parent) “to use, by way of correction, any force towards a child in his or her care that is reasonable in the circumstances”.

Productivity Commission Inquiry into Paid Parental Leave

In November 2008 the CFC responded to the Productivity Commission’s Draft Inquiry Report “*Paid Parental Leave: Support for Parents with Newborn*”

Children". In this submission the CFC argued that although the Productivity Commission's proposed 18 weeks publicly funded parental leave was a step in the right direction, a scheme of at least 12 months duration is required to achieve optimum health and development outcomes for children. This approach is consistent with expert opinion and scientific research into early childhood development.

Comment on Draft Policy "*Routine Circumcision of Newborn and Infant Males*"

In August 2008, the CFC responded to an invitation by the Royal Australasian College of Physicians to comment on the above draft Policy. The CFC indicated general support for the draft Policy's position that "[i] ideally circumcision should be delayed until males can make an informed choice unless there are net benefits of childhood circumcision of sufficient magnitude to override both loss of function and the ethical issues of loss of choice".

Development of a National Plan to Reduce Violence Against Women and Children

In July 2008 the CFC wrote to the National Council to Reduce Violence Against Women and Children Taskforce to indicate his support for the development of the above plan. The CFC noted the importance of nationally consistent family violence legislation and the desirability of including violence against children in any uniform definition of "family violence". He commended Tasmania's model of implementation of family violence legislation via the "Safe at Home" Program. Additionally, it was argued that any national program to reduce family violence should explicitly recognise that corporal punishment - or "reasonable chastisement" - is a form of violence against children and promoting awareness of positive, non-violent forms of discipline is consistent with a non-violent environment for children.

Department of Education Disability Action Plan

In July 2008 the CFC made a submission to the Department of Education in relation to the development of a Disability Action Plan. That submission strongly supported the Government's endorsement of the Disability Standards for Education made under the *Federal Disability Discrimination Act 1992* and made specific recommendations about the education of children with autism spectrum disorders.

Overview of Australian Children’s Commissioners and Guardians (ACCG) Joint Submissions

National Disability Strategy

In December 2008 the above joint submission on behalf of Commissioners and Guardians across Australia made various recommendations for actions to be included in the Strategy. They included improved access to early diagnostic services and to early intervention services, improvements to the range of and access to community and centre-based support for families with a child with disability and improved services to support the educational needs of children with disability.

National Preventative Health Strategy

In December 2008 a submission was made by the Commissioners and Guardians supporting the development of a targeted approach to improve the health of children and young people and tackle preventable disease. The strategy focussed on issues related to obesity, alcohol and tobacco.

Draft Children’s Television Standards

In October 2008 Commissioners and Guardians made a submission on Draft Children’s Television Standards developed by the Australian Communications and Media Authority. Recommendations made included:

- the introduction of incentives to encourage the production and broadcasting of children’s programs above the minimum quotas
- that children’s programs should not be displaced where a major sporting event runs over time unless children are participants in that event
- the appointment of an assessment panel of independent child development professionals and children’s television experts to classify programming, as well as children
- extending the ban on the use of animated characters, celebrity endorsements or toy giveaways in commercial advertisements targeted at children from C and P periods to the broader C and P bands.

ABC and SBS : Towards a Digital Future

This December 2008 submission to the Department of Broadband, Communications and the Digital Economy was informed by Australia’s obligations under Article 17 of the United Nations Convention on the Rights

of the Child, which recognises the important function the mass media plays in promoting the social, spiritual and moral well-being and physical and mental health of children. Key recommendations included:

- establishing a dedicated digital ABC children’s channel broadcasting from 6am to 9pm and comprising at least 50% local content
- ABC1 programming increases preschool content
- SBS programming includes children’s content
- SBS develops and broadcasts programs with a particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous.

Comment from the Commissioner for Children on Bills and Legislation

Review of the Youth Justice Act 1997

A full review of the *Youth Justice Act 1997* has commenced, with a steering committee that includes the CFC, Police, relevant NGOs, Magistrates, academics and Legal Aid.

The Review includes consideration of issues such as the range of diversionary and sentencing options available and the viability of the development of a youth parole board to promote the rehabilitation focus of the Act.

In his response to the public consultation paper the CFC recommended a series of measures designed to provide assistance and services to the young people involved with the Youth Justice system to address the causes of their offending behaviour with the aim of keeping them out of AYDC. The response was informed by comments from consultation with the residents of Ashley Youth Detention Centre (AYDC).

Review of the Children, Young Persons and Their Families Act 1997

As a result of the October 2006 “Report on Child Protection Services in Tasmania” (co-authored by the former Commissioner for Children, David Fanning, and Alison Jacob the Deputy -Secretary Human Services within the Tasmanian Department of Health and Human Services) there is an ongoing program of legislative reform of the *Children, Young Persons and Their Families Act 1997*. The CFC has been consulted about Phase 1 amendments to the Act, which were incorporated in a Bill introduced into Parliament in March 2009.

The amendments contained in the Bill came into effect on 1 August 2009.

Work is underway on Phase 2 amendments and the CFC will be consulted on proposals for further reform and for legislative amendment. The CFC has established a Reference Group of legal practitioners with experience and expertise in child protection matters to assist with the formulation of the Commissioner's recommendations for reform.

Poisons Amendment Bill 2008

In October 2008 the CFC provided comment on the above Bill from the perspective of promotion and protection of the safety of children and young people. The CFC recommended that there be further detailed consideration of relevant issues via a Discussion Paper that would explain the proposed changes in more detail. In February 2009 the CFC provided further comment based on this Discussion Paper issued by the Department of Health and Human Services to facilitate debate on proposed amendments to the legislative scheme. The CFC comment raised issues such as the level of training required of non-familial carers of children and young people, for example in out of home care or in detention under the *Youth Justice Act*.

Draft Model Spent Convictions Bill

In February 2009 the CFC commented on the Draft Model Spent Convictions Bill developed by the Standing Committee of Attorneys General (SCAG).

CFC comments were limited to those matters relevant to the welfare and well being of children and young people in Tasmania and from this perspective, the CFC focussed on the following issues:

- the extent to which the Bill would promote the protection of children and young people from abuse by providing that “spent convictions” may still be relevant in certain circumstances
- the Bill's impact on young offenders, particularly those convicted of sex offences that have attracted a minimal penalty.

Teachers Registration Act 2000

In September 2008 the CFC commented on several proposals made as part of a review of the *Teachers Registration Act 2000*. These comments focused on issues designed to provide protection to children and young people including the types of checks that should be conducted before a person can be registered as a teacher and the frequency with which these checks should be repeated.

Commissioner for Children's Committee Membership

Common Assessment Referral and Support (CAARS) Taskforce (National) (Member)

Tasmanian Early Years Foundation Board (Member)

Kids Come First Steering Committee (Member)

CRIN (Child Rights Information Network) (Member)

ISPCAN (International Society for Prevention of Child Abuse & Neglect) (Member)

Paediatric Mortality and Morbidity Sub-Committee (Member)

Council of Obstetric and Paediatric Mortality and Morbidity (Member)

Child Death Review Steering Committee (Member)

ANZCRT (Australian and New Zealand Child Death Review Team) (Member)

ACCG (Australian Children's Commissioners and Child Guardians) (Member)

APACC (Asia Pacific Association of Children's Commissioners) (Member)

Review of the *Youth Justice Act 1997* Steering Committee (Member)

Children, Young Persons and Their Families Act 1997 Reference Group (Member)

Family Law Practitioners Association Tasmania (Member)

Separate Child Representative Training Steering Committee (Member)

Childhood Injury Prevention Coalition (Member)

Ashley Advisory Group (Member)

Complaints in Care Monitoring Group (DCYFS) (Member)

Charter of Rights for Children and Young People in Out of Home Care Steering Group Meetings (Chair)

Financial Statement

2008/09 Financial Statement Commissioner for Children Tasmania

\$'000

Income

Revenue from Government	
Annual appropriation	559
Retained Revenue	31

Total

590

Expenditure (Direct Costs)

Employee Entitlements	
Salaries and Wages	379
Other Employee Expenses	42

Operating Expenditure

Consultants	0
Property Services	45
Communications	15
Information Technology	0
Travel and Transport	43
Advertising and Promotion	2
Other Supplies and Consumables	31
Other Expenses	29

Total	586
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Net Operating Outcome (Deficit) / Surplus

4

Notes:

1. All amounts have been rounded to nearest \$1 000.
2. The Financial Statement has been prepared on a cash basis.

Prepared by: Joellen Cowden, Business Analyst

Approved by: Penny Egan, Chief Financial Office

Dated: 15 July, 2009

APPENDIX 1

SPEECHES, MEETINGS, CONFERENCES, FORUMS, WORKSHOPS ATTENDED AND LAUNCHES

SPEECHES

WORKING IN PARTNERSHIPS CONFERENCE - 12 July 2008 (*Wrest Point*)

YOUTH CULTURES FORUM PUBLIC PANEL - 18 September 2008 (*Hobart*)

FaCHSIA (DEPARTMENT OF FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS) - 24 September 2008 (*Hobart*)

CHILDREN'S PHOTOGRAPHY EXHIBITION - 24 September 2008 (*Side Space Gallery, Salamanca*)

FRIENDS SCHOOL - 3 October 2008 (*North Hobart*)

RESEARCH NETWORK EXHIBITION, "SAFE AND BELONGING. WHO IS THE I THAT WE ARE?" - 3 October 2008 (*Long Gallery, Salamanca*)

ROTARY - 21 October 2008 (*North Hobart*)

CERTIFICATE IV IN OUT OF SCHOOL HOURS CARE STUDENTS - 31 October 2008 (*Clarence TAFE Campus*)

LAUNCH INFORMATION CARD FOR YOUNG PEOPLE - 3 November 2008 (*New Norfolk*)

CHILD & FAMILY FRIENDLY BUSINESS AWARD PRESENTATIONS - 3 December 2008 (*Burnie*)

THE HOOLEY DOOLEYS IN CONCERT - 3 December 2008 (*Burnie*)

SCHOOL SOCIAL WORK CONFERENCE - 2 February 2009 (*Clarence High School, Howrah*)

AUSTRALIAN GUIDANCE AND CONSELLING ASSOCIATION - 16 April 2009 (*Hobart*)

THIS IS Y - YOUTH SERVICES FORUM - 29 June 2009 (*Devonport Entertainment and Convention Centre, Devonport*)

CHILD AND YOUTH SECTOR MEETINGS

YOUTH ACTION PRIORITIES (YAP) - 7 July 2008 (*Hobart*)

PROJECT PHOENIX - 10 July 2008, 14, 22 & 28 August, 25 September, 16 October, 12 December 2008 (*Kingborough Council*)

DERWENT VALLEY COMMUNITY HOUSE - 18 July 2008 (*New Norfolk*)

STATEWIDE MEETING CHILDREN AND YOUNG PERSON'S PROGRAM OF THE FAMILY VIOLENCE COUNSELING AND SUPPORT SERVICE - 1 August 2008 (*Campbelltown*)

GLENORCHY ACTION INTERAGENCY NETWORK (GAIN) - 7 August 2008 (*Glenorchy*)

MULTICULTURAL YOUTH FORUM MEETING - 11 August 2008 (*Hobart*)

END CORPORAL PUNISHMENT COALITION TELECONFERENCE - 5 September 2008 (*Hobart*)

GRADUATION CEREMONY U TURN COURSE - 18 September 2008 (*Moonah*)

COMMUNITIES SUPPORTING FAMILIES - COLONY 47 - 24 September 2008 (*Glenorchy*)

DEVELOPMENT OF CHILD REPRESENTATIVE TRAINING PROGRAM - 27 November (*Hobart*)

SAFE AT HOME MEETING - 4 December 2008 (*Hobart*)

LEAVING CARE AND OVERNIGHT STAY GUIDELINES - 18 December 2008 (*Hobart*)

TELECONFERENCE - DRAFT NATIONAL FRAMEWORK ON CHILD PROTECTION - 20 February 2009 (Hobart)

TASMANIAN EARLY YEARS FOUNDATION GRANTS CRITERIA WORKSHOP - 26 February 2009 (Hobart)

TELECONFERENCE - CRC/CONVENTION ON THE RIGHTS OF THE CHILD TASKFORCE - 26 February 2009 (Hobart)

COMMUNITIES FOR CHILDREN FAMILY CONNECTIONS DAY - 18 March 2009 (Brighton)

WHITELION BREAKFAST - 25 March 2009 (Hobart)

CHANCE ON MAIN BBQ - 27 March 2009 (Hobart)

YOUTH LEADERSHIP TOOLKIT - 12 April 2009 (Glenorchy Civic Centre)

TELECONFERENCE ON CORPORAL PUNISHMENT - 17 April 2009 (Hobart)

HOBART COMMUNITY SECTOR WORKSHOP - 21 April 2009 (Hobart)

CHINESE CULTURAL DAY - 8 May 2009 (Hobart)

GRANDPARENTS RAISING GRANDCHILDREN, A NATIONAL FAMILIES WEEK CELEBRATION - 12 May 2009 (Glenorchy)

CULTURAL CHANGE STRATEGY - 19 May 2009 (Hobart)

TEYF 2009-10 GRANTS CRITERIA WORKSHOP - 19 May 2009 (Hobart)

CHILD INJURY PREVENTION COALITION MEETING - 28 May 2009 (Hobart)

INAUGURAL MEETING GLENORCHY SETTLEMENT NETWORK - 28 May 2009 (Glenorchy Civic Centre)

YOUTH ACTION PRIORITIES (YAP) - 1 June 2009 (Hobart)

LEGAL AID COMMISSION TASMANIA, SEPARATE CHILD LEGAL REPRESENTATIVE TRAINING PROGRAM - 4 June 2009 (Hobart) STATEWIDE

CONFERENCES

NATIONAL CHILD POLICY TELECONFERENCE WITH COMMISSIONER FOR CHILDREN, CHILD GUARDIANS AND FaCHSIA - 11 July 2008 (Hobart)

WORKING IN PARTNERSHIPS CONFERENCE - 11 July 2008 (Wrest Point)

TELECONFERENCE CHILD DEATH REVIEW MEETING - 15 August 2008 (Hobart)

FUTURE COMMUNITIES INDUSTRY FORUM - 20 August 2008 (Hobart)

FOSTER CARERS CONFERENCE - 23 August 2008 (Burnie)

10th INTERNATIONAL SYMPOSIUM ON CIRCUMSION, GENITAL INTEGRITY AND HUMAN RIGHTS - 4, 5 & 6 September 2008 (University of Keele, UK)

XVIIth ISPCAN (INTERNATIONAL SOCIETY FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT) INTERNATIONAL CONGRESS ON CHILD ABUSE & NEGLECT, TOWARDS A CARING & NON-VIOLENT COMMUNITY, A CHILD'S PERSPECTIVE - 7,8,9 & 10 September 2008 (Hong Kong)

CONVENTION ON THE RIGHTS OF THE CHILD (CROC) TELECONFERENCE - 15 September 2008 (Hobart)

MEETING THE NEEDS OF VULNERABLE CHILDREN AND FAMILIES: DREAMING THE EXTRAORDINARY, DOING THE EXTRAORDINARY - 16 & 17 October 2008

CHILD ADVOCACY CENTRES - 20 & 21 October 2008 (Perth)

UNDERSTANDING THE NEUROBIOLOGY OF COMPLEX TRAUMA - 27 & 28 October 2008 (Hobart)

NATIONAL OPERATORS FORUM (WORKING WITH CHILDREN CHECK) - 12, 13 & 14 November 2008 (Sydney)

INDEPENDENT CHILDREN'S LAWYER'S CONFERENCE - 19 November 2008 (Hobart)

ASIA PACIFIC ASSOCIATION OF CHILDREN'S COMMISSIONERS - 24 & 25 November 2008 (Brisbane)

4TH NATIONAL MEETING OF THE AUSTRALIAN & NEW ZEALAND CHILD DEATH REVIEW TEAMS (ANZCRT) - 1 December 2008 (Adelaide)

NIFTEY CONFERENCE, "GETTING IT TOGETHER FOR AUSTRALIA'S CHILDREN" - 15-17 February 2009 (Melbourne)

ADVANCING FORENSIC PSYCHOLOGY CONFERENCE - 26, 27 & 28 February 2009 (Melbourne)

AUSTRALIAN INSTITUTE OF FAMILY STUDIES 2009-2012 RESEARCH PLAN - 6 March 2009 (Hobart)

KINSHIP CARE WORKSHOP - 2 April 2009 (Hobart)

PARENTING IN THE EARLY YEARS - 13 May 2009 (Hobart)

FORUMS & WORKSHOPS ATTENDED

AUSTRALIAN LAW STUDENTS MOOT CHAMPIONSHIPS, UNIVERSITY OF TASMANIA - 8 July 2008 (Hobart)

AUSTRALIAN LEGAL EDUCATION FORUM BREAKFAST - 9 July 2008 (Hobart)

JUDGING MOOT - 24 September 2008 (Hobart)

ASSOCIATION OF CHILDREN WITH A DISABILITY ANNUAL GENERAL MEETING - 30 September 2008 (Hobart)

UNDERSTANDING LOCAL DIVERSITY WORKSHOP - 16 October 2008 (Glenorchy)

TASMANIAN EARLY YEARS FOUNDATION SPEAKER, DR DOROTHY SCOTT - 24 October 2008 (Derwent Entertainment Centre)

TASMANIAN EARLY YEARS FOUNDATION ACHIEVEMENT AWARD ANNOUNCEMENT - 25 October 2008 (Hobart)

UNDERSTANDING THE NEUROBIOLOGY OF COMPLEX TRAUMA (AUSTRALIAN CHILDHOOD FOUNDATION) - 27 & 28 October 2008 (Hobart)

COMMUNITY SECTOR SOCIAL INCLUSION FORUM - 23 January 2009 (Hobart)

THE STATE OF THE STATE SERVICE PRESENTATION, PREM D. BARTLETT - 27 February 2009 (Hobart)

HUMAN RIGHTS CONSULTATION, YOUNG PEOPLE - 21 April 2009 (Hobart)

HUMAN RIGHTS CONSULTATION, COMMUNITY SECTOR - 21 April 2009 (Hobart)

HUMAN RIGHTS CONSULTATION, COMMUNITY SECTOR - 22 April 2009 (Devonport)

HUMAN RIGHTS CONSULTATION, YOUNG PEOPLE - 23 April 2009 (Devonport)

NEW DE FACTO PROPERTY REGIME SEMINAR - 24 April 2009 (Hobart)

AUSTRALIAN HUMAN RIGHTS CONSULTATION - 4 May 2009 (Hobart)

FORUM, GLENORCHY CITY COUNCIL EARLY YEARS STRATEGY - 27 May 2009 (Glenorchy Civic Centre)

FORUM, IMPROVING OUTCOMES FOR YOUNG PEOPLE WHO ARE MOST AT RISK - 28 May 2009 (Glenorchy Civic Centre)

REFUGEE WEEK - RACISIM FORUM - 9 June 2009 (Hobart)

NSW OMBUDSMAN SYMPOSIUM, "WORKING TOGETHER: ADVANCING CHILD PROTECTION IN THE WORKPLACE" - 25 & 26 May 2009 (Sydney)

LAUNCHES

BE. HEARD LAUNCH (CREATE) - 24 July 2008 (Hobart)

RELATIONSHIPS AUSTRALIA SETTLEMENT GRANT LAUNCH - 7 August 2008 (Newtown)

TASMANIAN INSTITUTE OF LAW ENFORCEMENT STUDIES (TILES) POST GRADUATE SYMPOSIUM - 13 August 2008 (University of Tasmania)

CHILD PROTECTION WEEK BBQ - 10 September 2008 (St Johns Park)

CHILD PROTECTION AWARDS - 12 September 2008 (Hobart)

"NOW I CAN MOVE FORWARD" DOCUMENTARY - 16 October 2008 (North Hobart)

FORGOTTEN AUSTRALIAN'S MEMORIAL - 26 November 2008 (Hobart)

EXPO OF FAMILY SERVICES - 12 March 2009 (Hobart)

LAUNCH INTO LEARNING "CELEBRATING CHILDREN AND FAMILIES DAY" - 13 March 2009 (Hobart)

FOSTER CARERS BIG DAY OUT - 15 March 2009 (Perth, Tas)

WHITELION - 25 March 2009 (Hobart)

OUR STORIES LAUNCH - 7 April 2009 (Glenorchy)

INVERTING THE PYRAMID, AUSTRALIAN RESEARCH ALLIANCE FOR CHILDREN AND YOUTH (ARACY) - 28 April 2009 (South Melbourne)

OFFICIAL OPENING BAHAI CENTRE BY HON P. UNDERWOOD - 29 May 2009 (Hobart)

LAUNCH CHARTER OF RIGHTS OF CHILDREN AND YOUNG PEOPLE IN OUT OF HOME CARE BY MINISTER THORP - 5 June 2009 (Parliament House, Hobart)

MEDIA CAMPAIGN FOR FOSTER CARER RECRUITMENT LAUNCH BY MINISTER THORP - 12 June 2009 (Moonah)

TASMANIAN EARLY YEARS FOUNDATION LAUNCH - 30 June 2009 (Bellerive Primary School)

APPENDIX 2

MEDIA RELEASES BY THE COMMISSIONER FOR CHILDREN

18 AUGUST 2008

CHILD'S RIGHT TO GENITAL AUTONOMY

16 SEPTEMBER 2008

NEW CABINET PRIORITIES: ONGOING COMMITMENT TO CHILDREN

19 FEBRUARY 2009

RECENT EVENT IN ROSTERED CARE

20 FEBRUARY 2009

DISABILITY CHILD YOUTH AND FAMILY SERVICES (DCYFS) QUARTERLY PERFORMANCE REPORT

24 MARCH 2009

GATEWAY AND INTEGRATED FAMILY SUPPORT SERVICES

30 MARCH 2009

CHILDREN'S "COMMISSIONER FOR A DAY" ANNOUNCED

27 APRIL 2009

FGM AND CHILDREN'S RIGHTS

29 APRIL 2009

WORLD NO SMACKING DAY

30 APRIL 2009

A NATIONAL 'FIRST' FOR CHILD PROTECTION

7 MAY 2009

"PARENS PATRIAE" - "PARENTS OF A NATION" COMMISSIONER FOR CHILDREN'S STATEMENT ON GOVERNMENTS RESPONSE TO DISABILITY RESPITE REPORT

13 MAY 2009

COMMISSIONER'S COLLOQUIUM - RESPONSIBILITY FOR KIDS IN CARE

25 MAY 2009

TRANSITIONING FROM CARE SURVEY 25 MAY TO 30 JUNE 2009

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