

A child is seen from behind, holding a large, glowing paper lantern. The lantern is lit from within, casting a warm orange light. The child is wearing a dark t-shirt. The background is a soft, colorful sunset sky with a blue and orange gradient. The entire scene is framed by a large, semi-circular cutout in a solid orange background.

COMMISSIONER FOR CHILDREN
AND YOUNG PEOPLE TASMANIA

ANNUAL REPORT 2017-18



CCYP

Commissioner for Children
and Young People Tasmania

The Commissioner for Children and Young People Tasmania Annual Report 2017-18

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The Big Draw: A partnership project with Contemporary Art Tasmania



President
Legislative Council
Parliament House
HOBART TAS

Speaker
House of Assembly
Parliament House
HOBART TAS

August 2018

Dear Mr President
Dear Madam Speaker

Annual Report for 1 July 2017 to 30 June 2018

The Commissioner for Children and Young People Annual Report is presented to Parliament in accordance with the *Commissioner for Children and Young People Act 2016*, section 19(2).

Yours sincerely

David Clements
Interim Commissioner for Children and Young People

CC: Hon Roger Jaensch MP, Minister for Human Services

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MESSAGE FROM THE INTERIM COMMISSIONER

What happens in childhood is important as our experiences during this time have lasting effects on our lives. All children and young people deserve and have the right to grow up being and feeling loved, safe and healthy, to have a say in decisions that affect them, and to be protected from harm or exploitation. Parents, families and communities all play a vital role in promoting children's health and wellbeing, and in creating and maintaining the supportive environments necessary for children to grow and thrive. Positive childhood experiences and attachment can establish lifelong health and wellbeing. Adverse childhood experiences such as poverty, and exposure to harm or trauma may have detrimental and long-lasting impacts for children.

The role of the Commissioner for Children and Young People is, at its very essence, to independently advocate for the rights and wellbeing of all children and young people in Tasmania to be considered, protected and promoted in the development of legislation, policies, programs and services that may affect them. This key objective is reflected in the major activities of the office during 2017-18.

This year has seen some significant changes within the office of the Commissioner for Children and Young People.

Firstly, I express my gratitude to former Commissioner, Mark Morrissey, who retired from the role in September 2017. I have no doubt that the strategic program of work implemented by Commissioner Morrissey during his tenure, including his advocacy to promote improved understanding of children's unique experiences of family violence, the need to strengthen our efforts to safeguard children within organisational settings, and to improve outcomes for children and young people in out-of-home care, will make a continuing and positive contribution to the health and wellbeing of Tasmania's children and young people.

In October 2017, the CCYP team welcomed two additional staff members to assist in the development and implementation of an independent monitoring program aimed at promoting and protecting the rights and wellbeing of children and young people in out-of-home care in Tasmania. This extra staffing resource was made possible by an allocation of an additional \$250,000 per annum in the 2017-18 State Budget.

Since commencing as Interim Commissioner on 11 September 2017, I have sought to construct a work program that balances competing priorities and targets activity where I believe this office is best able to influence positive outcomes for Tasmania's children and young people.

It's been my great pleasure to meet with and listen to the stories of many different groups of children and young people – from the very young in Child and Family Centres, to young people at Ashley Youth Detention Centre, to those advocating for children with an out-of-home care experience, those at child-specific events hosted by organisations across the state, and through informal conversations with young people in public spaces. I particularly thank the members of my Children and Young People's Consultative Council from around the State who have generously assisted me to better understand the issues that matter to children and young people in Tasmania, and shared their ideas for how things could be changed or improved.

Notably over the nine or so months in the role I have:

- Continued to promote the participation of children and young people in the making of decisions, and the expressing of opinions, on matters which may affect them.
- Released *Laying the Foundations: A Conceptual Plan for Independent Monitoring of Out-of-Home Care in Tasmania* to inform the commencement and implementation of an independent out-of-home care monitoring program from July 2018.
- Advocated for individual children and young people detained under the *Youth Justice Act 1997*, and made regular visits to Ashley Youth Detention Centre.
- Monitored and contributed, where appropriate, to the implementation of a range of government strategies and initiatives, such as the *Strong Families – Safe Kids* implementation, and provided comment and policy advice on a broad range of State and Commonwealth Government matters.
- Advocated for the implementation of the recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse*.
- Collaborated with other organisations to host a forum to consider the challenges for unaccompanied homeless children.
- Undertaken the majority of work required in preparation for the release of *The Health and Wellbeing of Tasmania's Children and Young People Report 2018*.

In highlighting these activities, I acknowledge and thank each of the dedicated staff in the Commissioner for Children and Young People's office for their commitment and the wise advice they have provided to support me to promote the health and wellbeing of children in Tasmania.

I also wish to acknowledge and thank the many committed individuals, agencies and organisations with whom my staff and I have collaborated in 2017-18, and extend an invitation to all parties to continue this collaboration across government, across the non-government sector, and across Tasmanian communities.

The children and young people of Tasmania are our future. They require our focussed efforts to promote their ability to self-determine, and to advance their active engagement in their own lives and in the betterment of the Tasmanian community.

David Clements

Interim Commissioner
for Children and Young People





ABOUT THE COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

The Commissioner for Children and Young People (the Commissioner) is an independent statutory office responsible to the Parliament of Tasmania and established under the *Commissioner for Children and Young People Act 2016* (Tas) (the CCYP Act). The statutory office of Commissioner for Children was first established in 2000 by the *Children, Young Persons and their Families Act 1997* (Tas).

The CCYP Act sets out the guiding principles, functions and powers of the Commissioner and includes specific provisions which acknowledge the independent and impartial role of the Commissioner.

The Commissioner's general functions are:

- a) advocating for all children and young people in the State generally;
- b) acting as advocate for a detainee under the *Youth Justice Act 1997*;
- c) researching, investigating and influencing policy development into matters relating to children and young people generally;
- d) promoting, monitoring and reviewing the wellbeing of children and young people generally;
- e) promoting and empowering the participation of children and young people in the making

of decisions, or the expressing of opinions on matters, that may affect their lives;

- f) assisting in ensuring the State satisfies its national and international obligations in respect of children and young people generally; and
- g) encouraging and promoting the establishment by organisations of appropriate and accessible mechanisms for the participation of children and young people in matters that may affect them.

Unless otherwise specified, the Commissioner must act independently, impartially and in the public interest.

The CCYP Act provides a strong mandate for the Commissioner to perform his or her functions and exercise powers through the lens of a child-rights framework. When performing a function or exercising a power, the legislation requires the Commissioner to:

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

Importantly, the CCYP Act gives the Commissioner the power to initiate an inquiry or investigation into systemic matters and makes it clear that the Commissioner has wide powers to compel the production of information and documents.

The CCYP Act also clarifies the circumstances in which the Commissioner may refer information to relevant authorities, including Tasmania Police, the Ombudsman, the Integrity Commission and the Custodial Inspector.

The Commissioner is not permitted to deal with individual complaints made by or on behalf of an individual, and does not have the authority to investigate or review the circumstances of individual children (unless requested to do so by the Minister). The Commissioner may, however, investigate or otherwise respond to an issue that affects the wellbeing of children more generally even if it is raised through a matter relating to a specific child.

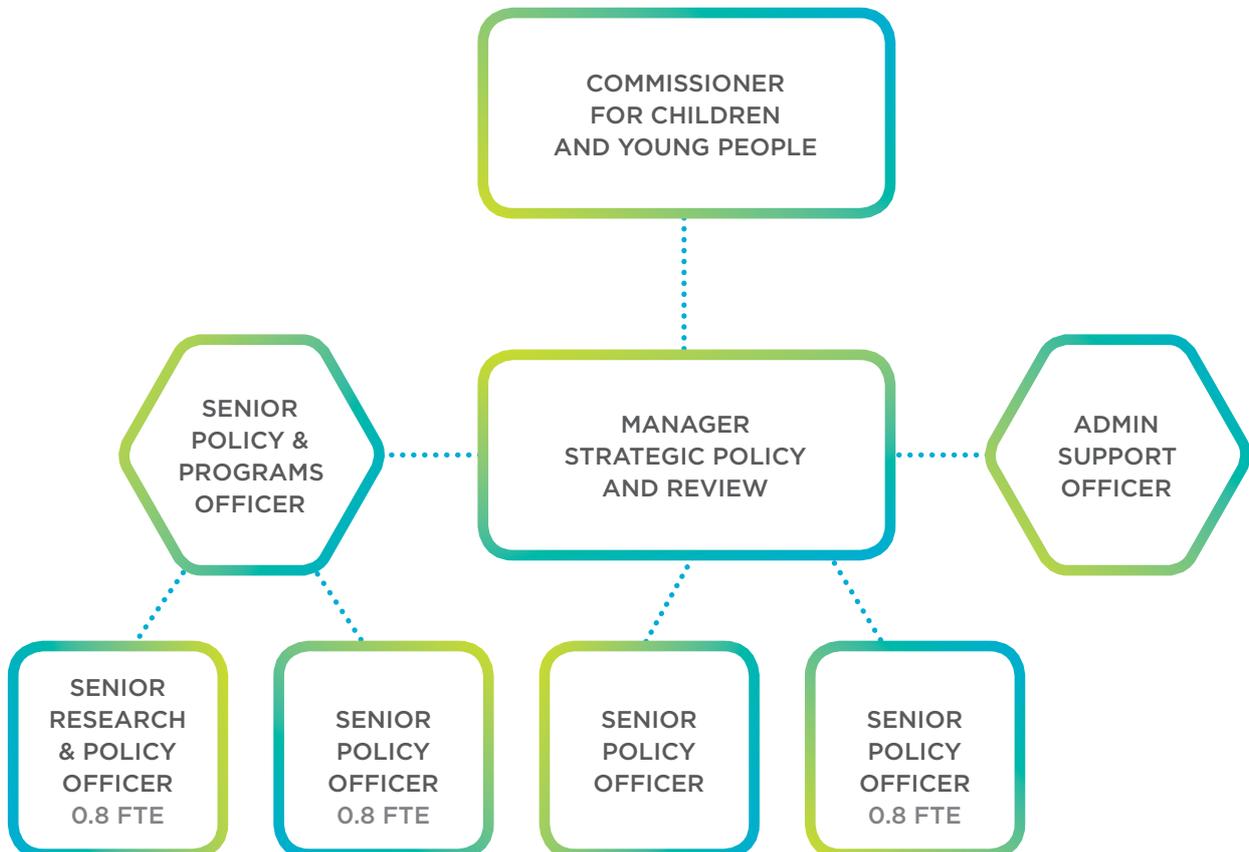
Staffing/Office Structure

The Commissioner is supported by a small number of staff who are State Service Employees.

In the 2017-18 State Budget, the Commissioner for Children and Young People was allocated an additional \$250,000 per annum to monitor out-of-home care in Tasmania. This funding enabled the Commissioner to employ two Senior Policy Officers to assist with the out-of-home care monitoring function. From 1 July 2017, the structure of the office of the Commissioner for Children and Young People was as outlined in the diagram below.

In 2017-18, all staff were provided with the opportunity to complete the Aboriginal and Torres Strait Islander Cultural Competence Course, an online training program made available by the Centre for Cultural Competency Australia.

Diagram 1: Structure of the office of the Commissioner for Children and Young People





MAJOR ACTIVITIES IN 2017-18

Participation of Children and Young People

The Commissioner's work is informed by the views of children and young people across Tasmania. The Commissioner consults and engages regularly with children and young people through the Children and Young People Consultative Council established under s13(1)(a) of the CCYP Act.

Considerable work was undertaken in the early part of 2018 to review and update CCYP policies for engaging with children and young people, particularly those relating to participation and ethical consultation. These policies are available on the Commissioner's website.

Children and Young People Consultative Council

Section 13 of the CCYP Act requires the Commissioner to establish a Children and Young People Consultative Council comprising members below the age of 18 from a diverse range of backgrounds.

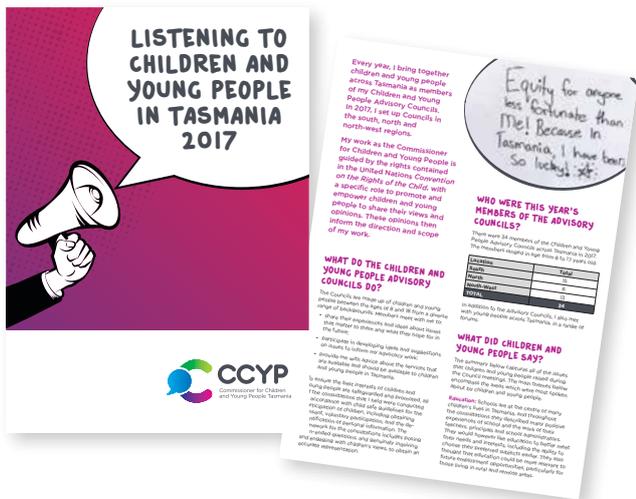
The Council is constituted by three regional groups which meet regularly in Devonport, Launceston and Hobart. Council members meet with the Commissioner to:

- share their experiences and ideas about issues that matter to them and what they hope for in the future;
- participate in developing ideas and suggestions on issues to inform the Commissioner's advocacy work; and
- provide advice about the services that are available and should be available to children and young people in Tasmania.

In the 2017 calendar year, the Council (then known as the Children and Young People Advisory Council) comprised of 34 children and young people ranging in age from 8 to 17 years. Council members for the 2018 calendar year were appointed following a statewide expression of interest process in February 2018. The Council's 49 members range in age from 9 to 17 years.

Council meetings are planned on an annual calendar basis. Regional meetings of the 2017 Council were held in July/August 2017 and December 2017. Meetings of the 2018 Council were held in March 2018 and June 2018 in each region. A statewide gathering of all Council members and invited guests is planned for October 2018 in Campbell Town with regional meetings due to be held again in December 2018.

Published in September 2017, the *Listening to Children and Young People in Tasmania 2017* report provides a summary of the thoughts and ideas communicated by members of the 2017 Council. This report is arranged by the key themes which arose from Council members' discussions. These themes were: education, equality, equity and respect, the natural environment, the voices of children and young people and access (to programs and services). The report is available in hard copy from the Commissioner's office or can be downloaded from the Commissioner's website.



In 2018, the Council is working with arts organisation Big hART to co-design and develop a 3 minute short film highlighting the importance of involving children and young people in decision making. Development of this resource is being progressed during Council meetings with options for members to provide out-of-session input. The film will be launched in late 2018 together with an accompanying written resource for adults on the importance of involving children and young people in decisions that affect them.

The Big Draw

The Big Draw was a partnership project between the Commissioner and Contemporary Art Tasmania (CAT) which was registered as part of the international The Big Draw festival.

On 12 July 2017, approximately 60 children and young people participated in drawing workshops with three professional contemporary artists in the gallery space at Contemporary Art Tasmania (CAT). Participants collaborated on three huge drawings inspired by their responses to the theme - 'The Future World'. Projections and sound filled the gallery to encourage an atmosphere of exploration, experimentation and fun.

Students participate in an activity as part of the Hear See Speak creative engagement project.

The Big Draw was showcased in a video which was launched on 17 November 2017 during a family event in CAT's gallery space. Sections of the children and young people's vibrant and futuristic drawings are on display in the Commissioner's office.

Hear See Speak

Facilitated by youth arts facilitator Brooke Everingham on behalf of the Commissioner, this creative engagement project involved the participation of six grade 5 students from Campbell Street Primary School in eight weeks of creative workshops. During the workshops, students learned about children's rights (particularly the right to be heard), and developed skills in photography, film making and journalism.

Using their new skills and equipment available, the students formed a mini-media team to create a multi-art form exposé featuring three young Tasmanians from diverse backgrounds.

Hear See Speak supported the participants to express their views and to share their opinions on issues that affect their lives. It provided them with the ability to share their stories, and the stories of others, using digital technologies, and offered a safe and supportive space for them to test and grow their creative and leadership skills.





*Children and Young People Consultative Council
Southern Regional Group, 2018*

The *Hear See Speak* exhibition of photographs and film was officially launched on 27 July 2017 by the Hon Jacque Petrusma MP, then Minister for Human Services, at an event at Parliament House hosted by the Hon Elise Archer MP, then Speaker of the House of Assembly. The launch was attended by a number of State and Federal politicians, government officials, parents, family members and school community members. The event included an interactive panel during which children involved in the project interviewed Andrew Wilkie MP (Federal Member for Denison), Senator Carol Brown (Senator for Tasmania), the Hon Jacque Petrusma MP (then Minister for Human Services), and Commissioner Morrissey.

The film and photographs produced as part of the *Hear See Speak* project can be viewed on the Commissioner's website and the photographs are displayed in the Commissioner's office.

Health & Wellbeing Monitoring

One of the Commissioner's key functions is to promote, monitor and review the wellbeing of Tasmania's children and young people generally.

Regular reporting

In 2017-18 the Interim Commissioner began the process of establishing regular reporting from the Department of Health and Human Services on performance data (particularly as it relates to children and young people who are disadvantaged or vulnerable), and on progress implementing major initiatives relevant to these children and young people.

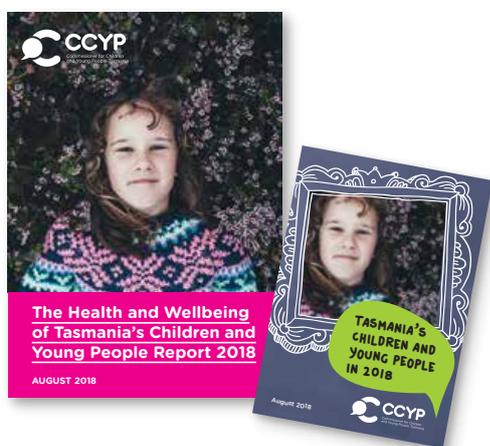
The Health and Wellbeing of Tasmania's Children and Young People Report 2018

It is important that key data pertaining to children and young people's wellbeing are identified, and reported on, so that the circumstances of children and young people in Tasmania are transparent and well understood. Access to quality data provides government and non-government entities with essential information to transform services and supports to improve the lives of children and young people in Tasmania.

In 2015-16, Commissioner Morrissey committed to developing a resource on the health and wellbeing of Tasmania's children and young people. It was intended that this resource would collect, in one place, a range of publicly available data, illuminating key aspects of the lives of Tasmania's children and young people.

In July 2016, Commissioner Morrissey released Part 1 of the *Health and Wellbeing of Tasmania's Children, Young People and their Families Report*, which focussed on the demographics of Tasmania's children and young people, and provided key data pertaining to early childhood and the transition to school. In March 2017, Commissioner Morrissey released Part 2 of the Report, which focussed on middle childhood and adolescence.

In September 2017, the Commissioner released the full Report, containing an update of Parts 1 and 2, and an additional Part 3, providing key data regarding parents, families and communities. This full version of the report is publicly available, and can be downloaded from the Commissioner's website.



During 2017-18, the Interim Commissioner has progressed work to refresh the Report released in September 2017, updating existing data sets and including new data sets on emerging issues. It is envisioned that the updated version will be released in early 2018-19, to provide government and non-government entities with up-to-date data on the health and wellbeing of Tasmania's children and young people.

The Commissioner's Children and Young People Advisory Council

Section 13(1)(b) of the CCYP Act requires that the Commissioner establish, as a committee, a Children and Young People Advisory Council. In appointing the members of the Advisory Council, the Commissioner must have regard to the desirability of having as members of the committee persons with a range of experience and backgrounds.

The Advisory Council which was established by former Commissioner Morrissey met on

13 November 2017 as an informal opportunity for the Interim Commissioner to meet with members. The Interim Commissioner led a discussion with members regarding the purpose of the Council, its constitution, its work program, and potential future arrangements for the Council.

In light of the changing strategic priorities of the Commissioner's role, the forward work plan and current resourcing, the Interim Commissioner determined to reconfigure the Advisory Council in 2018-19. As such, existing arrangements for the Advisory Council ceased on 30 June 2018.

In early 2018-19, the Interim Commissioner will convene the inaugural meeting of the Children and Young People Expert Advisory Council (CYPEAC).

The CYPEAC will be comprised of members with recognised expertise in fields relevant to the Commissioner's functions. Members will be engaged to provide high-level, strategic, independent and expert advice to the Interim Commissioner on specific issues or matters determined by the Interim Commissioner.

B4 Early Years Coalition

Since commencing in the role, Interim Commissioner Clements has continued on from Commissioner Morrissey as co-chair of the B4 Early Years Coalition. The B4 Early Years Coalition is co-chaired by Elizabeth Daly, former Chair of the Tasmanian Early Years Foundation, a highly respected educator and a passionate supporter of Tasmania's children and young people.

The B4 Early Years Coalition is a whole of community collaborative approach to ensure every child is valued in the early years and has the best possible start in life. It is based on the 'collective impact' model, where organisations and individuals from across diverse sectors work together to address complex social issues.

The name B4 represents the early years of a child's life from birth to four years of age as well as being a phonetic representation of 'before', acknowledging these are the years before a child begins formal schooling.

The B4 Early Years Coalition brings together individuals, businesses, communities and organisations that are committed to the early years and who want to work collectively to achieve better outcomes for children and their families in Tasmania.

Independent Monitoring of Out-of-Home Care In Tasmania

Resources for Monitoring

In the 2017-18 State Budget, the Tasmanian Government allocated \$250,000 per annum over four years to the Commissioner, commencing in July 2017, for monitoring of out-of-home care (OOHC) in Tasmania. This commitment arose from the Tasmanian Government's acceptance of Commissioner Morrissey's recommendations in his January 2017 report into OOHC, *Children and Young People in Out-of-Home care in Tasmania*. In October 2017, two Senior Policy Officers (1.8 FTE) were appointed to support the Commissioner to design the Monitoring Program in 2017-18 and deliver its implementation from 1 July 2018 to 30 June 2021.

Expert advice for OOHC Monitoring

In December 2017, Interim Commissioner Clements appointed an Expert Panel for the Monitoring Program, initially for a term of twelve months, to provide high-level technical expertise and strategic advice for this program. Members of the panel were appointed because of their expertise in the areas of: child protection; education (particularly alternative education programs and programs for children at risk of disengagement from the education system); engagement with and participation of children and young people; and monitoring and evaluation.

Expert Panel members are:

- Interim Commissioner David Clements (Chair);
- Professor Daryl Higgins, Institute for Child Protection Studies, Australian Catholic University;
- Professor Kitty te Riele, Peter Underwood Centre, University of Tasmania;
- Professor Sharon Bessell, Crawford School of Public Policy, Australian National University; and
- Dr Greet Peersman, the Australia and New Zealand School of Government (ANZSOG).

The Monitoring Program

In April 2018, Interim Commissioner Clements released *Laying the Foundations: A Conceptual Plan for Independent Monitoring of Out-of-Home Care in Tasmania*. This document details the conceptual foundation for the Interim Commissioner's program of independent, systemic monitoring of OOHC in Tasmania. It also describes the policy and program

context in which the Commissioner's OOHC Monitoring Program is being developed.

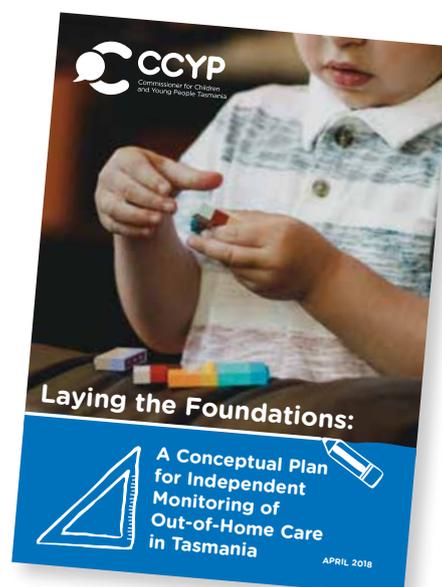
During April and May 2017 the Interim Commissioner consulted with service providers and advocacy organisations to ascertain their views about the provision of OOHC and potential focus areas for the Monitoring Program. This process was undertaken to maximize the value of the Monitoring Program by ensuring that its focus and products will be useful and relevant, thereby facilitating the engagement of stakeholders in monitoring or other activities aimed at practice-based learning and decision making.

Seven principles have been identified which will guide the design and implementation of the Monitoring Program. Firstly, the monitoring will be **child centred**. This principle is foundational to the program: it emphasises the vital importance of taking a child rights approach to monitoring, such that children and young people in OOHC are viewed as individuals with their own rights and agency.

The other six principles guiding the Monitoring Program are:

- useful and contributory;
- relevant;
- robust;
- responsive and flexible;
- feasible; and
- ethical.

The Monitoring Program is envisaged as a fully interconnected tripartite framework. It is anticipated that all three components of the Monitoring Program



will be implemented concurrently, where necessary. The different yet interrelated elements of the Program are as follows:

Part A: Regular Data Monitoring

This monitoring will entail the regular, routine flow of a discrete set of information to the Interim Commissioner on specified matters relevant to OOHC. At the end of the reporting period for this Annual Report, work is underway to identify appropriate data and indicators, pending finalisation of the Tasmanian Government's *Out-of-Home Care (OOHC) Outcomes Framework* and associated indicators. Information gathered through this component may inform the focus of Part B and Part C of the Monitoring Program. Discussions regarding the regular collection of data from relevant Tasmanian Government agencies have commenced.

Part B: Thematic Monitoring

A thematic approach to monitoring entails undertaking an in-depth exploration of a particular theme of significance to children and young people in OOHC. Each year, thematic monitoring activities

will focus on a different theme, based on the six domains specified in the ARACY 'Nest' and the Tasmanian Child and Youth Wellbeing Framework. These themes, or domains, are being loved and safe, being healthy, participating, having material basics, learning and having a positive sense of culture and identity. In each year of the Monitoring Program, a different domain will be determined as the focus for Thematic Monitoring activities, taking into account the views of stakeholders. The Commissioner may also return in subsequent years to a previous theme, in order to track progress and implementation of earlier recommendations. A mix of qualitative and quantitative data will be used and then supplemented with the collection of new data where significant gaps have been identified.

Part C: Responsive Investigations

Whether utilising 'own motion' investigatory powers or undertaking an investigation at the request of the Minister, the Commissioner may dedicate resources to undertake a targeted, in-depth investigation of a particular issue in OOHC in Tasmania.

Commissioner Morrissey with members of his 2017 Children and Young People Advisory Council



The *Out-of-Home Care Monitoring Plan 2018-19* was drafted in May and June 2018. This document, which is the second major publication of the Monitoring Program, will provide detail about the focus and implementation of the Commissioner's Monitoring Program for 2018-19. The Monitoring Plan builds on *Laying the Foundations: A Conceptual Plan for Independent Monitoring of Out-of-Home Care in Tasmania*.

In 2018-19, the focus of Thematic Monitoring will be: **'being healthy'**. Improving the health outcomes of children and young people in OOHC is a significant contributor to their overall wellbeing.

In addition to the annual focus, thematic monitoring will focus on the important cross-cutting issue of **'children and young people's participation'**. In the Monitoring Program, 'participation' is understood as referring to children and young people having their voices heard and being actively engaged in decision making processes around matters that affect their lives or are important to them.

The Interim Commissioner has engaged CREATE Foundation to assist with the development of a resource to inform children and young people in OOHC about the Commissioner's Monitoring Program and explain the principles and focus of the Monitoring Program in 2018-19.

Because the release of the Monitoring Plan for 2018-19 is outside of the reporting period, no further detail is provided in this Annual Report. Those wishing to obtain more detail about the Monitoring Program for 2018-19 are encouraged to access the Monitoring Plan on the Commissioner's website or contact the Commissioner's office to obtain a hard copy.

Redesign and reprint of the Charter of Rights in Out-of-Home Care

In 2017-18, at the request of the Hon Jacqui Petrusma MP, then Minister for Human Services, the *Charter of Rights for Tasmanian Children and Young People in Out-of-Home Care* resources received a graphic design makeover. This was done in consultation with children and young people with a care experience, through CREATE (Tas). A new booklet incorporates a series of images of a breakdancer that animates when its pages are flipped rapidly. A new colourful poster also incorporates the breakdancer images. The new resources were endorsed by the Tasmanian Government, the Commissioner for Children and Young People,

CREATE Foundation, and the Foster Carers and Kinship Association Tasmania (FKAT). The resources were printed in October 2017 and passed on to Children and Youth Services, Department of Health and Human Services, for distribution to children and young people in out-of-home care and to service providers.

Youth Justice

Advocate for children and young people detained under the Youth Justice Act 1997 (Tas)

Section 8(1)(b) of the CCYP Act provides the Commissioner with an individual advocacy role for young people detained under the *Youth Justice Act 1997* (YJA).

When acting as an advocate for a young person detained under the YJA, the Commissioner has a number of specific functions. Those functions, which are set out in section 10(1) of the CCYP Act, are:

- listening to, and giving voice to, the concerns and grievances of the detainee and facilitating the resolution of those concerns and grievances;
- seeking information about, and facilitating access by the detainee to, support services appropriate to the needs of the detainee;
- assessing whether the detainee has been provided with adequate information about his or her rights; and
- assessing, in the Commissioner's opinion, the physical and emotional wellbeing of the detainee.

In acting as an advocate for a young person, section 10(2) of the CCYP Act provides that the Commissioner must, as far as practicable in the circumstances, preserve the privacy of the young person, respect the wishes of any young person who does not wish to communicate with the Commissioner, and accept and consider the views or wishes of a young person in any form the Commissioner thinks fit.

Pursuant to section 135A of the YJA and regulation 6(a) of the Youth Justice Regulations 2009, the Commissioner is allowed access, at any reasonable time, to any detention centre (as established under s123 of the YJA) and any detainee at the centre, for the purpose of performing and exercising his or her functions and powers under the CCYP Act. Section 135A of the YJA also ensures that any

direct or documented communication between the Commissioner and a young person remains confidential. Section 10(2) of the CCYP Act provides that the Commissioner may, after taking account of the views and wishes of the young person, ask a staff member a question about the young person, or inspect or take copies of a document relating to a young person.

Ashley Youth Detention Centre (AYDC) is Tasmania's only youth-specific detention centre. AYDC is located in Deloraine in the North of the State.

The Interim Commissioner visited AYDC on 12 occasions during the reporting period. During these regular visits, the Interim Commissioner made himself available to speak with young people in groups as well as individually. From June 2018, young people detained at AYDC also had the opportunity to communicate with the Interim Commissioner via video conferencing on two occasions. Regular visits to AYDC and the additional video conferencing arrangements will continue in 2018-19.

Young people detained at AYDC can also contact the Commissioner by telephone during business hours or communicate by letter.

The Interim Commissioner provided advocacy services to individual young people detained under the YJA on 22 occasions during the reporting period. This figure does not incorporate miscellaneous conversations held between the Interim Commissioner and young people during the course of his visits to AYDC. Visits to AYDC also provide opportunities for the Interim Commissioner to better understand its operations and to comment on policy issues or operational matters.

Reporting of suicide and self-harm (SASH) incidents to the Commissioner for Children and Young People has been strengthened under a new AYDC procedure: *Suicide and Self-harm Prevention*. This procedure requires the Detention Centre Manager or the Duty On-Call Manager, on receipt of a Risk Treatment Plan (RTP) to provide the Commissioner with the name of the young person, if they are on SASH Level 1 or 2 observations. The young person is to be provided with contact details and information regarding the Commissioner's role so that the young person is able to contact the Commissioner should they wish to do so.

It is important to note that the Commissioner may refer any matter to the Custodial Inspector if the Commissioner considers it is appropriate to do so.

The Custodial Inspector is an independent statutory office established under the *Custodial Inspector Act 2016* (Tas). The Custodial Inspector provides independent external scrutiny of all aspects of prisons and youth justice detention centres in Tasmania. The Custodial Inspector can inspect AYDC at any time and make recommendations on any systemic issues which may arise.

In June 2018, the Interim Commissioner was invited to provide feedback in relation to the Custodial Inspector's draft *Inspection Standards for Young People in Detention*. Once finalised, these inspection standards will provide a framework against which the conduct within youth detention centres such as AYDC can be examined.

The Interim Commissioner acknowledges the commitment of policy and operational staff within Children and Youth Services to improving transparency around operational matters in the interests of promoting better outcomes for young people in youth justice detention.

ACCG Statement on Conditions and Treatment in Youth Justice Detention

In November 2017, the Australian Children's Commissioners and Guardians (ACCG), of which the Commissioner is a member, released a position statement on the conditions and treatment of young people in youth justice detention. This position statement affirms ACCG's commitment to the fundamental principles of youth justice. It articulates a set of 13 positions or principles to be applied in youth justice detention centres to safeguard the rights of children and young people and to support their rehabilitation.

These positions or principles recognise the individual trauma experiences of many children and young people in youth justice detention, and aim to support their development and re-integration into the community.

The full position statement is available for download from www.childcomm.tas.gov.au.



Monitoring of Government Strategies and Initiatives

Child Protection Redesign: *Strong Families - Safe Kids*

In August 2015, the Tasmanian Government announced a system redesign of Child Protection Services (CPS) aimed at examining the culture, processes and structures in order to deliver long-term sustainable improvement. Commissioner Morrissey was invited to contribute to the redesign through the Redesign Reference Group alongside senior government representatives and the Chair, Professor Maria Harries.

The Redesign of CPS in Tasmania, *Strong Families - Safe Kids*, was released in March 2016 and provided recommendations to the Tasmanian Government to improve the delivery of CPS and ensure the safety and wellbeing of children and young people is the focus of the service response. The Report noted that there is a range of services within government agencies and non-government organisations that are intended to care for the wellbeing of children and support adults and families, but that these services tend to be fragmented and often work in silos.

The Report provided a number of recommendations across six key domains:

- Child Safety and Wellbeing is Everyone's Business
- Building a Common Understanding of Risk
- Growing Capacity and Getting Help Early
- Managing the Front Door
- Intensive Support for Children and Families at Risk of Statutory Action
- Refocusing Child Protection Services.

The *Strong Families - Safe Kids Implementation Plan*, which was released in May 2016, addresses the recommendations of the *Strong Families - Safe Kids Report* by outlining five fundamental interconnected strategies and the actions to be taken moving forward.

The Strategies are:

Strategy 1

Placing the wellbeing of children at the centre of our services

Strategy 2

Building a common, integrated risk assessment and planning system

Strategy 3

Creating a single front door

Strategy 4

Providing better support for children and their families

Strategy 5

Redesigning the Child Protection Service (CPS) with additional support

The Interim Commissioner is a member of the Cross-Sectoral Consultative Committee. This Committee, which is comprised of individuals from the community sector with expertise on matters relevant to the child safety system, has been established to facilitate consultation between the implementation team and the community generally.

The Interim Commissioner has also attended a number of Key Stakeholder Forums convened throughout the reporting period by those tasked with implementing elements of the Redesign process.

The importance and complexity of the Redesign process cannot be underestimated. It provides Tasmania with a valuable and important opportunity to design a child safety system that promotes the wellbeing of children and young people in Tasmania. Through mechanisms such as the Cross-Sectoral Consultative Committee, Key Stakeholder Forums and regular meetings with key officials from the Department of Health and Human Services, the Interim Commissioner has provided advice, comment, support and suggestions, consistent with the independence of the role, to the Redesign Implementation Team.

OOHC Reforms - Implementation of recommendations by Commissioner Morrissey

All seven recommendations made by Commissioner Morrissey in his January 2017 report *Children and Young People in Out-of-Home Care in Tasmania*, were accepted by Government and are in various phases of implementation. For ease of reference those recommendations are set out overleaf.

Recommendations

Tasmanian Government Progress

Recommendation One	
<p>Prioritise the development of a strategic plan and implementation plan for the OOHC reform. Ensure the strategic plan incorporates strong governance and oversight mechanisms</p>	<p>This recommendation has been partially implemented.</p> <p>In early 2017, the <i>Strategic Plan for Out of Home Care in Tasmania 2017-2019</i> was released.</p> <p>Children and Youth Services, Department of Health and Human Services, has indicated that an Implementation Plan has been developed. However, this document has not been made publicly available.</p> <p>Children and Youth Services advises that strategic implementation of out-of-home care reform is governed by the Strong Families – Safe Kids Oversight Committee. It is understood this Committee receives regular progress reports on OOHC Reforms.</p>
Recommendation Two	
<p>More closely integrate the OOHC Reform and the CPS Redesign, and provide the resourcing required for successful and ongoing implementation, including by providing dedicated funding for implementation teams</p>	<p>This recommendation has been implemented.</p> <p>Children and Youth Services advises that this recommendation has been implemented by establishing the Out of Home Care Foundations Project in the <i>Strong Families – Safe Kids</i> reforms.</p> <p>Children and Youth Services advises that strategic implementation of Child Safety Redesign and Out of Home Care Reform is reflected in the Child Protection Redesign (Strong Families – Safe Kids) Oversight Committee receiving regular progress reports on both of these major agendas.</p> <p>While it is understood that dedicated funding has been provided, it is difficult to assess the adequacy of the resourcing provided at this point in time.</p>
Recommendation Three	
<p>Establish an independent expert oversight committee to provide assistance and guidance to those implementing the child protection and OOHC reforms, accompanied by robust reporting arrangements on progress</p>	<p>This recommendation has been partially implemented.</p> <p>Governance and oversight arrangements for the <i>Strong Families – Safe Kids</i> reforms including the OOHC reforms are undertaken by the Child Protection Redesign Oversight Committee. Its membership is comprised of senior executives of government departments including Health and Human Services, Education, Police, Fire and Emergency Management, and Justice. Further, Prof. Maria Harries has been appointed as an Expert to the Committee.</p> <p>It is understood that the Child Protection Redesign Oversight Committee receives regular progress reports on Child Protection Redesign and Out of Home Care Reform.</p> <p>Additional to the Oversight Committee, the Government has established a Cross-Sectoral Consultative Committee comprised of individuals from the non-government sector with acknowledged expertise in the child safety system.</p>
Recommendation Four	
<p>Establish an ongoing consultative panel of young people who have had experience of the OOHC and child protection systems, and who are therefore well-placed to contribute directly to the reform processes</p>	<p>This recommendation has been implemented.</p> <p>It is understood funding has been provided to the CREATE Foundation (Tas) for a series of roundtable discussions on key issues. This has included family based care, extension of care to 21, leaving care and care planning. It is also understood funding will be provided to CREATE from 2018-19 (for three years) to deliver additional Youth Future workshops, camps and roundtable events.</p>

Recommendations

Tasmanian Government Progress

Recommendation Five	
<p>Establish independent external oversight and monitoring of the OOHC system, including by providing the Commissioner for Children and Young People with six-monthly reports on compliance with Standards and other agreed indicators of the wellbeing of children and young people in the OOHC system in Tasmania</p>	<p>This recommendation has been partially implemented.</p> <p>The 2017-18 State Budget included a commitment of \$250,000 per annum for four years to the Commissioner for Children and Young People to monitor out-of-home care in Tasmania.</p> <p>In the absence of Tasmania specific standards or other agreed indicators, regular reports have not been received to date. This is the subject of ongoing discussions with Children and Youth Services.</p>
Recommendation Six	
<p>Ensure that mechanisms are in place to seek out and listen to the individual voices of children and young people in the OOHC system, including by:</p> <p>A. Establishing a visiting program for individual children and young people in OOHC - which incorporates an individual advocacy component</p> <p>B. Reviewing the CSS policy on visiting children in OOHC and reporting publicly on compliance with it</p> <p>C. Expediting the establishment of a Tribunal in Tasmania vested with jurisdiction that includes decisions made about children's wellbeing in OOHC</p>	<p>This recommendation has been partially implemented.</p> <p>A. In April 2018 the Department of Health and Human Services released a Request for Grant Proposal regarding provision of a <i>Volunteer Visitor Based Community Visitor Program for Children in Out of Home Care</i> (aged 12-14 years). As at 30 June 2018, the outcome of this process had not been announced publicly.</p> <p>B. Children and Youth Services advise that in September 2017, they implemented an updated <i>Visiting Children and Young People on Orders</i> procedure and practice advice. They further advise that a performance indicator, 'Visits conducted within required timelines for children on orders', has been added to performance reports and operational reports disseminated to Child Safety Managers and Child Safety Team Leaders respectively. This information has not been reported publicly.</p> <p>C. Work against this aspect of the recommendation has not progressed.</p> <p>It is worthwhile noting that in June 2018, Sonya Pringle-Jones commenced the position of Child Advocate for Out-of-Home Care within the Department of Health and Human Services Tasmania.</p>
Recommendation Seven	
<p>A. The Tasmanian Government develop and adopt Standards for the provision of OOHC in Tasmania and provide regular reports on compliance with these Standards</p> <p>B. Noting the work currently being undertaken on child wellbeing as part of the Child Protection Redesign, the Tasmanian Government also develop an Outcomes Framework specific to children and young people in OOHC in Tasmania</p>	<p>This recommendation has been partially implemented.</p> <p>A. The development and implementation of an out-of-home care Quality and Regulatory Framework is proposed as a Priority Action in the <i>Strategic Plan for Out of Home Care in Tasmania 2017-2019</i>. It is understood that a scoping paper, setting out the quality and accountability criteria, and key components, of the Framework is under development.</p> <p>B. It is understood that the Department of Health and Human Services is finalising an Outcomes Framework for children and young people in out-of-home care. Children and young people with experience of out-of-home care provided input into the development of the Framework.</p>

Review of Family Based Care

The Department of Health and Human Services is developing a discussion paper to guide a review of family based care. It is anticipated that this discussion paper will be released in early 2018-19.

Family based carers provide care and support for over 90 per cent of children and young people in out-of-home care. Once released it will form the basis for consultation with the sector and input to the development of a future program of family based care.

Extending Out-of-Home Care to Age 21

In the lead up to the 2018 State Election, the Government committed to continue reform of the out-of-home care system by supporting young people until they are developmentally ready to transit from care. The 2018-19 State Budget included an allocation of \$3 million over three years to achieve this outcome. This policy commitment is welcomed. There is however a need for further discussion around the Commissioner's jurisdiction in relation to these young people, given the Commissioner's legislative mandate to advocate for children and young people who have not attained the age of 18 years.

Out-of-Home Care Continuing Learning Initiative

Also in the lead up to the 2018 State Election, the Government committed to engage with foster carers, teachers and stakeholders and provide options for the implementation of a new allowance program to improve secondary levels of education and training for children in out-of-home care. The 2018-19 State Budget included an allocation of \$1.2 million over three years to support this outcome. The Commissioner will monitor implementation of this initiative.

Out-of-Home Care – Additional support

In the 2018-19 State Budget, the Tasmanian Government allocated \$6 million per annum to the Department of Communities Tasmania's Child Safety Services to:

- employ additional Child Safety Officers and other front line staff;
- continue to support the implementation phase of the child protection redesign; and
- support vulnerable children with very complex needs in out-of-home care.

Youth at Risk Strategy

On 7 June 2017, the Tasmanian Government launched the *Youth at Risk Strategy*, detailing a whole of government approach to support Tasmanian young people who are vulnerable and at risk due to issues such as abuse and neglect, homelessness, and mental health and drug and alcohol issues.

The Government announced that the Strategy had seven key areas.

- 1 Build a strong foundation for the Youth at Risk service system through the development of a vulnerability assessment tool and the formation of agreed outcomes based on the *Child and Youth Wellbeing Framework*.
- 2 Provide timely and appropriate safety and supports for young people in out-of-home care and those engaged in the Youth Justice System.
- 3 Increase awareness and create alternative pathways within the homelessness and housing system for young people at risk.
- 4 Improve education and employment opportunities by providing flexible learning alternatives for vulnerable young Tasmanians.
- 5 Improve the health and wellbeing of our most vulnerable young people through youth focussed drug, alcohol and mental health services.
- 6 Create safe and inclusive communities for young people.
- 7 Establish system wide overarching support for the youth service sector.

The Strategy has 34 identified actions across these seven focus areas.

These actions are at varying stages of implementation, noting an implementation plan for the Strategy is not yet publicly available. The Interim Commissioner will continue to monitor implementation activities and engage with stakeholders around issues of particular concern.

In support of the focus of the Strategy on homelessness and housing for young people at risk, in 2017-18 an element of the Commissioner's activity related to the issue of unaccompanied homeless children, particularly those under 16, presenting to Specialist Homelessness Services and other agencies.

On 18 April 2018, to mark Youth Homelessness Matters Day, the Interim Commissioner, in partnership with Anglicare Tasmania's Social Action Research Centre (SARC), the Australian Research Alliance for Children and Youth (ARACY), and the Youth Network of Tasmania (YNOT), hosted a forum on this topic. The forum brought together representatives from government agencies, service providers and frontline staff to discuss the pressing need to develop an appropriate service response to that cohort of children aged 10-17 years who concurrently experience lifetime trajectories of cumulative trauma, repeat homelessness, limited education, poor health, contact with police and youth justice, and repeat child protection notifications. These children are generally known to police and/or youth justice and to child protection (but may not be placed on care and protection orders) and also experience unaccompanied homelessness.

The Interim Commissioner will continue to advocate for the development of options and solutions for supporting the safety and wellbeing of this highly vulnerable cohort of children and young people.

Election Commitments

In the lead-up to the 2018 State Election, the Government made a range of commitments which relate to, or will impact on, the health and wellbeing of Tasmania's children and young people.

Key commitments include:

Generational Change for Children and Families

with the Government committing to the investment of an additional \$16.7 million in Child Safety and Youth Justice, including:

- intensive family support of \$9.5 million over three years, delivered by non government organisations;
- incentivising the completion of year 12;
- extending the provision of out-of-home care services to age 21, supported by additional funding of \$3 million over three years;
- strengthening permanency placement;

Liberals will Keep Ashley Open

which represented the Government's commitment to retain services at the Ashley Youth Detention Centre, and included the commitment of \$7.28 million for the redesign and upgrade of the facility;

New \$125 million Affordable Housing Action Plan

under which the Government committed to the delivery of an additional 1,500 new 'affordable' homes, with \$20 million quarantined for purpose built homes for people living with disability;

Record Boost for Mental Health

through which the Government committed to the investment of \$95 million in mental health care over six years, including the development of new adolescent mental health units in Launceston and Hobart;

Taking Education to the Next Level

with the investment of \$324 million over 6 years in education services with a focus on new staff and teachers, and infrastructure;

Resourcing our Neighbourhood Houses

which represented the Government's commitment to increase core funding for all Neighbourhood Houses by \$45,000 per annum, and provide an additional \$2 million for capital upgrades at the houses;

Safe Homes, Safe Families: Next Steps

which commits ongoing funding to the *Family Violence Action Plan*, \$1.5 million per annum for three years to meet increasing demand in the family violence space, and \$150,000 per annum for three years for Project O to deliver family violence prevention services;

A Hand-up for Tasmanians in Need

which includes an additional \$1 million to enable more clients to access the Joined Up Human Services Project;

Ticket to Play

under which the Government offers \$100 vouchers to Tasmanians aged 5 to 17 to fund memberships to sporting and recreation clubs; and

Supporting the Arts

under which the Government will provide \$1 million to the Tasmanian Museum and Art Gallery (TMAG) for an interactive children's exhibition.

The Interim Commissioner has received briefings and provided comment and policy advice to the Minister for Human Services and Departmental representatives regarding many of these commitments in accordance with his role as an independent statutory officer.

In 2018-19, the Commissioner will continue to monitor the implementation of the Government's election commitments, to ensure that they are delivering outcomes that improve the health and wellbeing of Tasmania's children and young people.

Royal Commission into Institutional Responses to Child Sexual Abuse

The *Royal Commission into Institutional Responses to Child Sexual Abuse* handed down the Final Report of its five year inquiry in December 2017. Taking account of the Royal Commission's previous reports on Criminal Justice, Redress and Civil Litigation and Working with Children Checks, it made a total of 409 recommendations to improve the prevention, identification and responses to child sexual abuse in institutional settings.

The Tasmanian Government tabled its initial response to the Royal Commission's recommendations on 20 June 2018.

On 20 June 2018, the Interim Commissioner issued a media statement to welcome the Tasmanian Government's response, noting that the Royal Commission's recommendations will lead to major improvements in the way the community promotes and protect children's safety and wellbeing at both a national and state level.

An Inter-governmental Steering Committee will oversee the development of an action plan for the Tasmanian Government's implementation of the Royal Commission's recommendations, with priority actions to be agreed and progressed first. The Interim Commissioner has been invited to be a member of an expert reference group to provide advice to the Steering Committee. It is anticipated that this Expert Reference Group will meet for the first time in the first quarter of 2018-19.

The Interim Commissioner will continue to monitor progress and contribute to this important work to implement the recommendations of the Royal Commission in ways which are consistent with the Commissioner's status as an independent statutory officer.

It is noted that the Tasmanian Government has agreed to provide annual reports on its progress to implement the Royal Commission's recommendations. It is understood that these progress reports will be tabled before the Tasmanian Parliament and information will be shared with the public with

a focus on ensuring information is accessible to survivors, families, children and institutions.

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

In December 2017, the Australian Government ratified the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT). OPCAT is an optional protocol under the *Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment* (CAT) to which Australia is a party.

OPCAT aims to prevent torture and other forms of mistreatment by requiring independent inspections of all places of detention in the jurisdictions that ratify and implement it. OPCAT requires monitoring of places of detention to occur through two complementary and independent bodies:

- the National Preventive Mechanism (NPM), the domestic Australian entity or network responsible for inspections; and
- the UN Sub-Committee on the Prevention of Torture (SPT). The SPT is the United Nations body of independent experts responsible for conducting visits to places of detention in jurisdictions that have ratified OPCAT, and for providing guidance to NPMs to assist in the performance of their duties.

The Australian Government has three years within which to implement its obligations under OPCAT. In February 2017, the Commonwealth Attorney-General asked the Australian Human Rights Commission to consult with civil society in order to advise the Australian Government about how OPCAT should be implemented in Australia.

The Commissioner was represented at a roundtable chaired by Australian Human Rights Commissioner Ed Santow on 24 July 2017 and at a further Hobart roundtable convened by Commissioner Santow on 22 June 2018. At the June 2018 roundtable Commissioner Santow provided an overview of his September 2017 report and an introduction to the second phase of consultation for the Commission's OPCAT project relating to OPCAT implementation in Australia. Submissions to an Australian Human Rights Commission Consultation Paper drafted to guide this second phase of consultation are due 14 September 2018.

The Commissioner will continue to monitor and provide advice or comment as appropriate regarding the implementation of OPCAT in Australia, particularly as it relates to the monitoring of places where children and young people are detained in Tasmania including, but not limited to, youth justice detention centres.

Further information on the process to implement OPCAT in Australia can be found on the Australian Human Rights Commission's website at www.humanrights.gov.au.



*Children and Young People Consultative Council
North West Regional Group, 2018*

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SUBMISSIONS AND OTHER CONTRIBUTIONS

Submissions made by the Commissioner to public consultation processes are published on the Commissioners website at www.childcomm.tas.gov.au.

Public Submissions and Contributions

Evidence and Related Legislation Amendment Bill 2017

On 4 July 2017, Commissioner Morrissey provided comment to the Department of Justice on the draft Evidence and Related Legislation Amendment Bill 2017.

The draft Bill proposed amendments to the *Criminal Code Act 1924* (Tas) (Criminal Code) to:

- establish a presumption that when two or more charges for sexual offences are joined together in the same indictment those charges are to be tried together; and
- provide that this presumption is not rebutted merely because evidence on one charge is inadmissible in relation to another charge.

The draft Bill also proposed amendments to the *Evidence Act 2001* (Tas) (Evidence Act) to provide that the issue of concoction, contamination and suggestion is not relevant to the admissibility of

tendency and coincidence evidence under sections 97 and 98 of the Evidence Act.

In his submission, Commissioner Morrissey noted that proposed amendment to the Criminal Code was consistent with a recommendation made by the Australian Law Reform Commission (refer *Family Violence - A National Legal Response*) aimed at encouraging joint trials in sexual assault proceedings thereby reducing the potential trauma associated with the criminal justice process for complainants.

In relation to the proposed amendment to the Evidence Act, Commissioner Morrissey noted that the proposal was intended to move the law in Tasmania towards that in other jurisdictions in Australia. He also noted the Tasmania Law Reform Institute's conclusion in a 2012 report¹ that the possibility of concoction should be a question left to the jury rather than forming part of the admissibility test for evidence. This would allow the jury (as fact-finder) to determine the weight to be attached to the evidence and would also allow jurors to have a more complete picture of the circumstances of the offence.

Commissioner Morrissey supported the reforms as aiming to strike a more appropriate balance between the rights of children who are complainants in sexual assault matters, and the right of defendants to have prejudicial material excluded.

The *Evidence and Related Legislation Amendment Act 2017* received Royal Assent on 12 December 2017 and commenced that day.

Submission to Legislative Council Select Committee regarding the Inquiry into Tasmanian Child and Family Centres

On 22 August 2017, Commissioner Morrissey made a submission to the Legislative Council Select Committee Inquiry into Tasmania's Child and Family Centres (CFCs). The Committee was appointed to inquire into and report on options for the CFCs, including the challenges and benefits of an integrated collaborative service delivery model, the role of the CFCs in early learning and support to families and carers, the outcomes of broader impacts to the communities where the CFCs are located, and the level of current and future Government funding.

At the time of the submission, the Tasmanian Government had established 12 CFCs to deliver integrated services to children from birth to age five, with the goal of improving their health and educational outcomes. Commissioner Morrissey noted research which found that the single point of entry services provided by CFCs enabled parents to interact with a range of service providers through 'soft contacts' which in turn enabled them to further engage with more targeted services as required.

In his submission, Commissioner Morrissey made some general comments about the key benefits of the CFCs including their popularity with children and their families, their locations, the range of programs they provide in a casual setting and the access they provide to a range of specialist services.

Commissioner Morrissey also noted some of the key challenges to the establishment and operation of the CFCs, including:

- staff members sometimes being provided according to a one-size-fits-all model, regardless of the specific needs of children and families in the locations;
- the overlap between the CFCs and Neighbourhood Houses has not been adequately addressed, and greater effort is required to encourage smooth transitions for families accessing services between the two;
- staff require additional resources to undertake active outreach for harder to reach families;

- staff should be fully qualified and equipped to provide direct services to those accessing the centre, rather than providing only referral services; and
- consideration may be given to extending the CFCs' services to children beyond the birth to five years age group.

Submission to Law Council of Australia in response to The Justice Project

In early 2017, the Law Council of Australia commenced a national review of access to justice in Australia. In this context, 'access to justice' refers to the capacity to obtain a just and timely remedy for violations of rights, as these rights are present in national and international norms and standards.

The Justice Project focuses on barriers to justice faced by those with significant social and economic disadvantage, as well as identifying what is working to reduce those barriers, with the key objective of building a case for better justice strategies and law reform secured by appropriate funding.

Hear See Speak: the Hon. Jacquie Petrusma, former Minister for Human Services, with children at the exhibition launch



In 2017, the Justice Project released an overarching consultation paper and 13 issues papers relating to individual groups, one of which being children and young people. On 29 September 2017, the Interim Commissioner provided comment on the *Children and Young People Consultation Paper*.

In his 29 September 2017 submission, the Interim Commissioner highlighted work undertaken, or contributed to, by the Commissioner's office with a particular focus on access to justice needs of those children and young people with experience of out-of-home care, youth justice detention, the criminal justice system more broadly, and unaccompanied homelessness.

Draft Limitations Amendment Bill 2017

On 4 October 2017, the Interim Commissioner provided feedback to the Department of Justice on the draft Limitations Amendment Bill 2017. An important aim of the draft Bill was to retrospectively abolish any limitation period for claims for personal injuries arising from physical or sexual abuse

which occurred when a plaintiff was a child so that personal injury claims arising from child physical or sexual abuse can be brought at any time.

In his submission, the Interim Commissioner noted the reform as being consistent with recommendations made by the *Royal Commission into Institutional Responses to Child Sexual Abuse*, and with law reform in Victoria.

The Interim Commissioner supported the policy intent of the draft Bill and noted that the proposed reforms recognised that limitation periods for personal injury claims arising from child abuse were inappropriate given the length of time that many survivors of child sexual abuse take to disclose their abuse.

The *Limitations Amendment Act 2017* received Royal Assent on 20 December 2017 and commences 1 July 2018.



Children and Young People Consultative Council
Northern Regional Group, 2018

Submission to inform the Review of the Disability Services Act 2011

The *Disability Services Act 2011* commenced on 1 January 2012, and outlines how specialist support services funded by the Tasmanian Government are provided to people with disability in Tasmania. In 2017-18, the Department of Health and Human Services commissioned a review of the Act by an independent consultant, Fae Robinson Futures.

The Review sought information on how effectively the Act:

- promotes the needs and best interests of people with disability, considers individual wishes in decision-making, and respects their dignity and autonomy;
- provides coordinated, quality, safe services through disability services providers or individual plans;
- protects the safety and wellbeing of people with disability, including authorising and monitoring the use of restrictive interventions;
- provides for transparent and accountable reporting;
- supports the transition to the NDIS; and
- operates effectively with other Tasmanian legislation.

In his comment of 18 December 2017, the Interim Commissioner identified areas he considered to be of particular importance for children and young people in the review of the Act, including:

- that the principles elucidated in the Act should more properly align with fundamental principles relating to children and young people as expressed in Article 7 of the United Nations *Convention on the Rights of Persons with Disabilities*;
- that legislative provisions relating to use of 'restrictive interventions' should be clarified, particularly as they relate to authorisation of the use of restrictive interventions on children; and
- that regulation of chemical restraint is desirable to promote the reduction and elimination of its use and to uphold the rights of children with disability.

Submission to Department of Justice – Reforms to the Tasmanian Bail System Position Paper

On 2 February 2018, the Interim Commissioner provided comment in response to a January 2018

Position Paper entitled *Reforms to the Tasmanian Bail System* which outlined proposals to reform Tasmania's bail law.

In his submission, the Interim Commissioner noted that the Paper did not appear to exclude children and young people in conflict with the law from the application of the proposals for reform discussed. The Interim Commissioner noted that if it is intended to extend the proposed reforms to children and young people, it would be necessary to include provisions in legislation to ensure consistency with well-established principles of youth justice. These principles, which are described in the Interim Commissioner's submission, include:

- an emphasis on diversionary measures and processes, as a way of encouraging responsibility for one's actions but also to avoid the criminogenic effects of contact with the court system;
- resort to custodial detention (including pre-trial detention) only as a last resort and only for the shortest time necessary; and
- a focus on promoting a child or young person's wellbeing and ensuring that any sanction imposed is proportionate - the response to young offenders (including alleged offenders) should be based on the consideration not only of the gravity of the offence, but also of personal circumstances.

The Interim Commissioner also recommended that, if a decision is made to apply the bail reform proposals in the Paper to children and young people, a further discussion paper be prepared with a focus on particular considerations applicable to children and young people. This paper could include a consideration of how other jurisdictions have approached this matter, alternative means of addressing any offending by children while on bail, and the appropriateness of providing intensive bail support, which might include accommodation.

Comment to Australian Human Rights Commission on Proposed Focus of the Fourth Action Plan 2018-2020

In March 2018, Megan Mitchell, the National Children's Commissioner, asked for feedback on the proposed focus and scope of the *Fourth Action Plan 2018-2020* of the *National Framework for Protecting Australia's Children 2009-2020* as described in the *Fourth Action Plan 2018-2020 Discussion Guide*.

On 16 March 2018, the Interim Commissioner provided comment on proposed priority areas, emphasising the need for a continued focus on improving

outcomes for Aboriginal and Torres Strait Islander children and families, and on improving supports and outcomes for children in out-of-home care.

Submission to Tasmanian Law Reform Institute Review of the *Guardianship and Administration Act 1995*

In December 2017, the Tasmanian Law Reform Institute released the *Review of the Guardianship and Administration Act 1995 (Tas) Issues Paper No 25*, in response to a request by the former Attorney-General, the Hon Vanessa Goodwin, to review the Act to ensure that it is responsive to the needs of the community, and that it advances, promotes and protects the rights of people with impaired decision making.

In his 27 March 2018 submission, the Interim Commissioner noted that the provisions of the *Guardianship and Administration Act 1995* (G&A Act) dealing with guardianship orders, administration orders and enduring guardians apply only to adults (i.e. those persons aged 18 years and above) who lack decision-making capacity because of a disability. However, that part of the G&A Act which deals with consent to medical and dental treatment also applies to children with a disability who are incapable of giving consent to the carrying out of medical or dental treatment. The Interim Commissioner considered the potential consequences for continued inclusion of this jurisdiction relating to children should the G&A Act be re-framed to focus on impaired decision-making capacity instead of its current substitute decision-making framework based on disability.

In his submission, the Interim Commissioner also highlighted the following issues:

- whether the inclusion of law regarding consent to medical treatment, including 'special treatment', properly belongs in the G&A Act, or whether Tasmania should move to enact separate legislation governing this consent, given the complexity of the issue of 'special treatment' for children and young people with disability, and that this is the only section of the Act which gives the Guardianship and Administration Board jurisdiction with respect to children and young people;
- the desirability of investigating mechanisms for ensuring children's views and interests are separately represented to decision makers; and
- the potential for inconsistent approaches to the approval of 'special treatment' for children and



The Big Draw: A partnership project with Contemporary Art Tasmania

young people, given the concurrent jurisdictions that apparently exist under the G&A Act and the *Family Law Act 1975* (Cth).

The Interim Commissioner’s submission highlighted that the issues addressed by the Tasmanian Law Reform Institute related to complex law, and the need to ensure that proposals for reform do not inadvertently lead to a lessening of protections for children with disability.

Australian Human Rights Commission Roundtable on Violence Against People with Disability in Institutional Settings

In April 2018, the Interim Commissioner was represented at a Roundtable convened by the Disability Discrimination Commissioner, Australian Human Rights Commission, as part of the Commission’s project on violence against people with disability in institutional settings. The project, which was funded through the Commonwealth Attorney-General’s Department, was initiated in response to recommendations of the 2015 Senate Community Affairs References Committee inquiry into the issue, and calls from the disability advocacy sector for the strengthening of oversight mechanisms to prevent violence against people with disability.

Submission to National Children’s Commissioner to inform the Australian Human Rights Commission’s Report to the United Nations Committee on the Rights of the Child

In March 2018, the National Children’s Commissioner called for submissions to inform the Australian Human Rights Commission’s forthcoming report to the United Nations Committee on the Rights of the Child.

In his 1 June 2018 submission, the Interim Commissioner’s comments focussed on the General Measures of Implementation, as set out in Articles 4 and 42 of the *Convention on the Rights of the Child*. These general measures of implementation require parties to undertake all appropriate actions to implement the Convention, and to promote the provisions of the Convention.

In his submission, the Interim Commissioner discussed how legislation establishing the Commissioner’s role provides a clear mandate to advocate for and promote the wellbeing of children and young people in Tasmanian through the lens of a child-rights framework. The Interim Commissioner provided

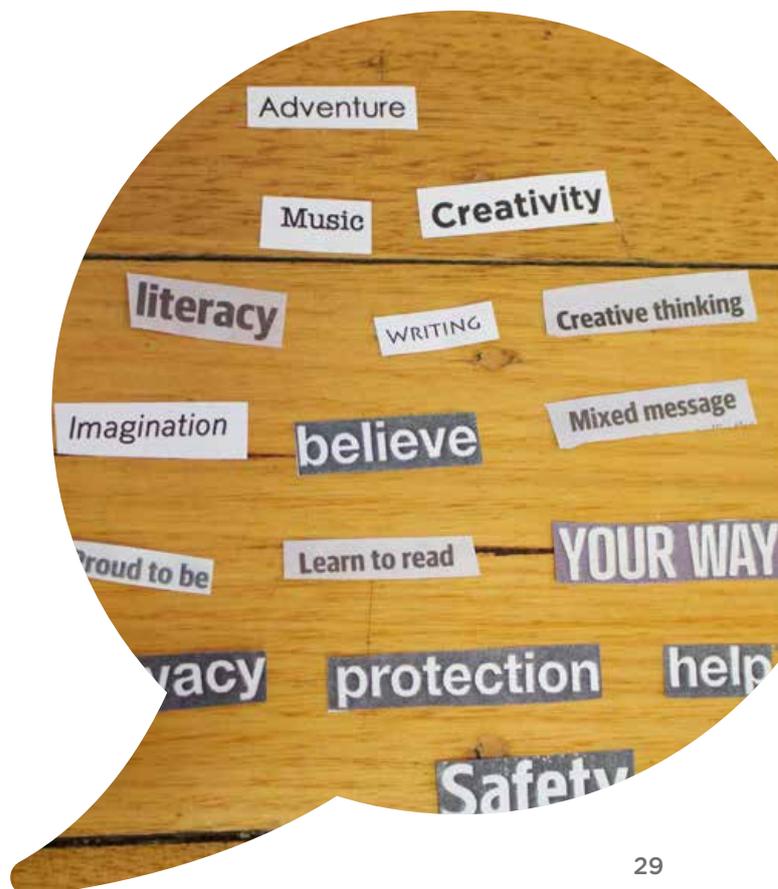
examples of how a child-rights lens has been used by his office to guide local responses to issues affecting children and young people in Tasmania. The Interim Commissioner expressed his support for continued investment of resources by Government to embed, monitor, report on, and evaluate the implementation of the Convention in Australia.

Other Submissions

The Interim Commissioner also provided comment on the following:

- draft Family Violence Amendment Bill 2017 (1 September 2017);
- draft Corrections (Prisoner Remission) Amendment Bill 2017 (1 November 2017); and
- Custodial Inspector’s draft *Inspection Standards for Young People in Detention in Tasmania* (28 June 2018).

Hear See Speak activity



4

ADVOCACY AND OTHER ACTIVITIES

Australian Children's Commissioners and Guardians

The Commissioner is a member of the Australian Children's Commissioners and Guardians (the ACCG) which comprises national, state and territory children and young people commissioners, guardians and advocates.

The ACCG aims to promote and protect the safety, wellbeing and rights of children and young people in Australia. The ACCG strives to ensure that the best interests of children and young people are considered in public policy and program development across Australia.

The ACCG:

- promotes the rights of children and young people, including their right to participate in decisions relating to them, as articulated in the United Nations *Convention on the Rights of the Child*;
- ensures the best interests of children are considered in the development of policies and programs;
- gives voice to the views of, and encourages direct consultation with, children and young people on matters that affect them; and

- encourages systemic improvement, informed by evidence-based research, in areas that impact on the rights, interests and wellbeing of children and young people.

In 2017-18, the ACCG met in Melbourne on 15 and 16 November 2017, and in Perth on 15 and 16 May 2018. A Communique is issued following meetings and these are available on the Commissioner's website.

In May 2018, the New Zealand Children's Commissioner was officially welcomed as a member of the group; ACCG will in future be known as the Australia and New Zealand Children's Commissioners and Guardians (ANZCCG).

November 2017 - Melbourne

Discussions at this meeting focussed on issues relevant to ACCG's key priorities, which are:

- achieving better outcomes for Aboriginal and Torres Strait Islander children and young people;
- promoting children and young people's engagement and participation;
- upholding the rights of children and young people in youth justice detention;
- improving the safety of children and young people in organisations;

- ending violence against children and young people; and
- promoting children and young people's safety and wellbeing.

Across these key priorities, clear themes from the meetings were:

- that self-determination leads to better outcomes for Aboriginal and Torres Strait Islander children and young people; and
- commitment to ensuring that the voices of children and young people are actively sought and taken into account.

Shortly after this meeting, relevant members endorsed a position statement on conditions and treatment in youth justice detention. The position statement articulates a set of positions that ACCG members consider should guide improvements and national consistency in the conditions and treatment of children and young people in youth justice detention. This position statement is available on the Commissioner's website.

ACCG members received a briefing by the Australian Centre for Child Protection (ACCP), which ACCG commissioned to conduct a project to identify the core components of evidence-based child protection practice frameworks in Australia and internationally. ACCG members were provided with a project update, and an initial review of the research completed to date, which showed some clear and concerning gaps in frameworks for child protection practice exist, particularly in relation to culturally safe and appropriate ways of working with Aboriginal and Torres Strait Islander children and families. Members expressed their continuing support for the research project and agreed to discuss progress further in May 2018.

May 2018 - Perth

At this meeting, the ACCG members officially welcomed the New Zealand Commissioner for Children as a full member of the group. To accommodate this change, the name of the group will change to ANZCCG.

Members particularly noted the release of the final report of the *Royal Commission into Institutional Responses to Child Sexual Abuse* (the Royal Commission) in December 2017. Members endorsed the need to fully implement the recommendations of the Royal Commission. In particular members

called for governments to ensure that the oversight of child safe standards in organisations provide a comprehensive system that is independent and child-focused.

Members were provided with a further update by ACCP on the project reviewing core components of child protection practice frameworks in Australia and internationally. ACCP advised that the research was highlighting the complexity and challenges of child protection work, and the need for improvement in developing comprehensive, effective responses. Members agreed to review and comment on the outcome of the research as it became available.

Subsequent to the meeting, members endorsed the ACCP's project report - *Assessing the Quality and Comprehensiveness of Child Protection Practice Frameworks*. This was publicly released on 29 June 2018 and is available on the Commissioner's website.

Interim Commissioner David Clements with Tania Hunt, YNOT CEO at the YHMD Forum 2018





ACCG members, May 2018, Perth WA

The research report highlighted a range of issues associated with national child protection practice frameworks, focussing on the following:

- national child protection practice frameworks lack consistency in their underpinning principles, as well as in the frameworks' intended and reported outcomes – particularly, the majority of frameworks did not identify any child-centred or child-inclusive outcomes or KPIs, rather they emphasise parental and practitioner satisfaction or decreasing expenditure;
- a lack of specification regarding the qualifications, skills, knowledge or experience required for effective child protection practice exists;
- none of the eight frameworks reviewed provide guidance on the skills, techniques and tools required for each aspect of child protection practice; and
- the frameworks had a limited underpinning evidence base, and evaluative evidence suggests that the application of the frameworks, in some cases, have negative or contrary outcomes.

As a result of this work the Interim Commissioner has provided advice to the Minister for Human Services. Departmental representatives have commenced work to review the Child Safety Service's Practice Framework.

Next Meeting

The next meeting of the ANZCCG will be held in South Australia in November 2018.



Children and Young People Consultative Council North West Regional Group, 2018

Other CCYP Activities

Public Comment via Media Releases and Opinion Pieces

- Mark Morrissey Announces Resignation as Commissioner for Children and Young People (3 August 2017)
- Quality Early Learning: A Sound Investment for a Brighter Future (15 August 2017)
- Anti-Discrimination Act Amendments (16 August 2017)
- Interim Commissioner Welcomes Final Royal Commission Report (15 December 2017)
- State Election Policies (29 January 2018)
- Unaccompanied homeless children a growing concern (18 April 2018)
- National Redress Scheme (23 May 2018)
- Interim Commissioner For Children and Young People Welcomes Budget Measures (15 June 2018)
- Interim Commissioner for Children and Young People Welcomes Response to Royal Commission (20 June 2018).

Speeches

- The Women's International League for Peace and Freedom Human Rights Event 2017, Hobart - 6 December 2017
- Strong Families - Safe Kids Workshop - 26 February 2018
- Kidsafe Childhood Injury Prevention Forum, Moonah - 5 April 2018
- Who Cares? Unaccompanied homeless children in Tasmania Forum, Hobart - 18 April 2018

Right to Information Requests

The *Right to Information Act 2009* (the Act) gives members of the public the right to obtain information contained in the records of the Government and public authorities unless it is exempt from disclosure under the Act. The Act provides a framework for disclosure of information and encourages routine disclosure of information.

The Commissioner releases submissions, reports and other information routinely via the Commissioner's website. The Commissioner did not receive any applications for assessed disclosure of information during 2017-18.

Membership of Groups

- Australian and New Zealand Children's Commissioners and Guardians
- B4 Early Years Coalition (Co-Chair)
- Council of Obstetric and Paediatric Mortality and Morbidity (COPMM) - (Commissioner Morrissey only)
- Department of Education Research Advisory Group (from May 2018)
- Family Violence Consultative Group - a consultative mechanism established as part of *Safe Homes, Safe Families: Tasmania's Family Violence Action Plan 2015-2020* (Safe Homes, Safe Families)
- Family Violence Consultative Committee (Federal Court, Family Court and Federal Circuit Court Tasmania)
- Mental Health in Schools Reference Group - ended November 2017
- National Education Initiative Implementation and Engagement Group (Tasmania) - commenced 30 May 2018
- Southern Regional Mental Health Group
- Statewide Youth Collaborative Group
- Strong Families - Safe Kids Cross Sectoral Consultative Committee (Child Protection Redesign)
- Youth Action Priorities
- Youth Suicide Prevention Committee

Priorities for 2018-19

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

On 26 March 2018, the Interim Commissioner transmitted his Annual Plan for 2018-19 to the Minister for Human Services, the Hon Roger Jaensch MP.

The Annual Plan is available on the Commissioner's website at www.childcomm.tas.gov.au.

Go to the website:





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