

CONSENT POLICY

<p>Title: Consent Policy</p> <p>Version 1.0 – 25 March 2019</p>	<p>Approved by: Leanne McLean Commissioner for Children and Young People</p> <p>Date: 25 March 2019</p>
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Why do we need this Policy?

This Policy outlines requirements for seeking informed consent for children and young people's participation in activities conducted by the Commissioner or conducted by others on the Commissioner's behalf (eg consultants).

This policy aims to:

- Ensure that children and young people's participation is voluntary and that they understand the implications of their participation.
- Ensure that parents and guardians are informed of their child's participation and understand the implications of their child's participation.
- Recognise and respect the developing autonomy of children and young people, consistent with their age and level of maturity.
- Recognise and respect the role of parents and guardians to make decisions on behalf of (or in collaboration with) their child consistent with their child's level of maturity and level of understanding.



Policy Statement

The Commissioner and staff of the Commissioner (CCYP staff) regularly engage with children and young people through various activities designed to promote their effective and meaningful participation in decision making and to empower them to express their opinions and views on matters that may affect their lives.

These activities can include (but are not limited to) meetings, interviews, focus groups, surveys, questionnaires, consultations, digital communication, photos and filming, media opportunities, competitions and other events organised by the Commissioner.

Consent should be obtained from all children and young people before they participate in an activity.¹ Generally speaking, consent for a child or young person's participation should also be obtained from their parent or guardian. Parent/guardian consent is not required where the Commissioner is satisfied that a young person is sufficiently mature to provide informed consent to participate.

The process for obtaining consent is tailored specifically to each engagement activity at the discretion of the Commissioner.

What are our Responsibilities?

Section 8(1) of the *Commissioner for Children and Young People Act 2016* outlines the Commissioner's statutory functions which include:

- 8(1)(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; and
- 8(1)(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.

The Commissioner's work must be conducted in accordance with the principle that the wellbeing and best interests of children and young people are paramount and the Commissioner must observe any relevant provisions of the United Nations *Convention on the Rights of the Child*.

Children have a right to have a say in decisions that affect them and to have their opinions taken into account. This "right to participate" is set out in Article 12 of the *UN Convention on the Rights of the Child*.

In all of our engagement activities, it is important we:

- Consider and promote the best interests and wellbeing of children and young people.
- Treat children and young people with respect.
- Uphold children and young people's right to privacy and confidentiality (to the extent permissible by law).

¹ Consent means to give permission, approval or agreement.



Who does this Policy apply to?

The Commissioner and CCYP staff conducting activities which involve the participation of children and young people are responsible for implementing this Policy. The Commissioner may from time-to-time conduct activities which involve the participation of children and young people through external parties such as government or non-government organisations. Where the external party has no consent process of its own, this Policy will apply. Where the external party has its own consent process, the applicable consent process will be determined by the Commissioner on a case by case basis having regard for the wellbeing of children and young people and in a manner that affords them respect and protection from harm.

How do we Seek Consent?

Consent processes are tailored to each activity taking account of the evolving capacities of children and young people, the nature of the activity including the topic, any methodology and how any information collected is to be used.

Flexible and appropriate processes for obtaining consent are utilised. Consent may be communicated in writing (eg consent form, email, letter), or may be given verbally, or may be implied through conduct (eg providing a response to a survey).

The Commissioner will determine the appropriate consent process for each activity having regard for the wellbeing of children and young people and in a manner that affords them respect and protection from harm.

Regardless of the consent process that is adopted, we ensure that:

- Children and young people are fully informed about the purpose of the activity, what it involves and how the child or young person's contribution will be used. We also explain that participation is entirely voluntary and explain how the child or young person's confidentiality and privacy will be maintained (noting the limitations which apply in the event of a disclosure).
- We ensure that all communications relevant to the decision to participate are developmentally and age appropriate, culturally respectful and inclusive.
- We allow as much time as is reasonably necessary to obtain informed consent.
- We make and store proper records of consent. All written consents are to be securely stored and are checked to confirm a valid consent has been obtained from each individual.

In determining whether or not to require parent/guardian consent, the Commissioner will:

- Consider whether the child or young person's maturity and level of understanding is sufficient to enable them to provide informed consent to participate.
- Weigh the benefit of participation against any risks of harm to the child or young person.
- Consider the appropriateness or practicality of requiring a parent or legal guardian to provide consent (eg where a young person is estranged from their family, or where the activity is conducted online without the capacity to verify parent/guardian consent).



- Whether there is another independent responsible adult in the young person's life who can support the young person to consider the benefits and risks to participation. For example, a youth worker or teacher.

Privacy and Confidentiality

Personal information collected from children and young people and their parents/guardians will be kept private and confidential.

- Participation consent forms are stored securely and not linked to individual participant data unless specifically required.
- Information that identifies the names of individual children and young people will not be published in reports or presentations except with express consent.

There are limits to privacy and confidentiality of children and young people who participate in CCYP activities. The Commissioner is required to share information if it must be disclosed for legal or child protection reasons.

Withdrawal of Consent

Children and young people are able to withdraw their consent to participate at any time, before, during and (depending on the type of contribution) after the activity. This is information that should be provided when seeking the consent of children and young people.

At the commencement of, and during the course of an activity, participants should be appropriately reminded of their right to withdraw their consent. Children and young people who advise they do not wish to participate either immediately prior to or during the participation activity should be supported to enact their decision without censure or pressure to reconsider.

Children and young people who advise they wish to withdraw consent for their contribution or photograph to be used subsequent to the activity should be advised of the action that will be taken to achieve this and advised when this has occurred. It may not be possible to remove photographs if they have been used in printed publications although all steps will be considered in view of the particular circumstances of the request to withdraw.

Relevant Legislation/Policy

- *Commissioner for Children and Young People Act 2016 (Tas)*
- *Children, Young Persons and Their Families Act 1997*
- *Personal Information Protection Act 2004 (Tas)*
- *Right to Information Act 2009*



- United Nations *Convention on the Rights of the Child*
- NHMRC - *National Statement on Ethical Conduct in Human Research (2007)*

Links to other Relevant Documents

Related Policies:

Ethical Consultation Policy and Procedure
Participation Policy and Practice Advice
Child Safe Policy
Complaints Management Policy
Images of Children and Young People Policy
Transporting Children Policy
Code of Conduct (to be developed)

Information and Feedback

The Commissioner is committed to ensuring continual improvement of processes for children and young people's participation.

If you have any questions or feedback about this policy please contact:

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