

INDEPENDENT INVESTIGATION INTO THE SYSTEMS OF THE TASMANIAN HEALTH SERVICE AND RELEVANT GOVERNMENT AGENCIES/ORGANISATIONS RELATING TO THE MANAGEMENT OF HISTORICAL REPORTS OF ALLEGATIONS OF CHILD SEXUAL ABUSE

**TERMS OF REFERENCE**

The Tasmanian Government is establishing an independent investigation into the systems (including legislation, policies, practices and procedures) of the Tasmanian Health Service, Department of Health and other relevant Government Agencies in relation to the management of historical allegations of child sexual abuse particularly in the matter of James Geoffrey Griffin (deceased 18 October 2019).

The purpose of the Investigation is to:

- a. Examine what, if any, information was reported to the Tasmanian Health Service, Department of Health or any other Government Agency (excluding Tasmania Police) regarding any allegation of child sexual abuse in relation to James Geoffrey Griffin, prior to his suspension from duty as a registered nurse on Ward 4K Launceston General Hospital, and:
  - i. the manner in which the information was handled having regard to the reporting laws and policies as they applied at the time the allegation was raised; and
  - ii. whether there is any, and if so what, evidence that the information was destroyed, or withheld from appropriate authorities;
- b. Examine whether any, and if so which, past systems utilised by the Tasmanian Health Service, Department of Health and other Government Agencies relevant to this matter may not have operated in a manner that would prevent the perpetration of child sexual abuse in the Tasmanian Health Service;
- c. Complement, not substitute, the work of the *Royal Commission into Institutional Responses to Child Sexual Abuse*;
- d. Complement, not substitute, the criminal investigation conducted by Tasmania Police which resulted in charges being laid against James Geoffrey Griffin, but not heard due to his death on 18 October 2019; and
- e. Complement, not substitute, the *Inquiry into the Department of Education's Responses to Child Sexual Abuse (2020)*;

The Investigation will address the following matters:

- a. What, if any, past systems applicable to, or utilised by the Tasmanian Health Service, the Department of Health and/or Government Agencies may not have operated to require or encourage persons to report known or suspected child sexual abuse and/or require appropriate authorities to investigate, or respond to the risk of child sexual abuse occurring in the Tasmanian Health Service;
- b. What, if any, past systems applicable to, or utilised by, the Tasmanian Health Service,

the Department of Health and/or Government Agencies may not have operated to alleviate to the best extent possible the risk of the repetition of child sexual abuse by an employee who is alleged to have perpetrated, or is under investigation for, child sexual abuse;

- c. What systems applicable to, or utilised by, the Tasmanian Health Service, the Department of Health and/or Government Agencies have been introduced to require, or encourage persons to report known or suspected child sexual abuse and/or require appropriate authorities or persons to investigate, or respond to, the risk of child sexual abuse in the Tasmanian Health Service;
- d. What systems applicable to, or utilised by, the Tasmanian Health Service, the Department of Health and/or Government Agencies have been introduced that are likely to alleviate to the best extent possible the risk of the repetition of child abuse by an employee who is alleged to have perpetrated, or is under investigation for, child sexual abuse in the Tasmanian Health Service;
- e. In light of c. and d. above and the implementation of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse already agreed to by the Tasmanian Government, what, if any, additional actions and/or changes to the current systems applicable to, or utilised by, the Tasmanian Health Service, the Department of Health and/or Government Agencies should be made to minimise the risk of child sexual abuse within the Tasmanian Health Service.

The Investigation will address any other matter relevant to the systems of Tasmanian Government Agencies deployed in responses to historical allegations of child sexual abuse that the Investigator identifies in the course of this Investigation as warranting investigation and discussion.

The following definitions apply to the matters for the Investigation:

*Tasmanian Health Service* means

- the Tasmanian Health Service within the meaning of the *Tasmanian Health Service Act 2018*, and includes any subsidiary of the THS and all legal predecessors;
- a Health Organisation under the *Tasmanian Health Organisations Act 2011*.

*Department of Health* means the Government department referred to in Part I of Schedule I of the *State Service Act 2000* as the Department of Health including its predecessors, and includes Ambulance Tasmania within the meaning of the *Ambulance Service Act 1982* and all other publicly funded health services other than health services provided by the Tasmanian Health Service under authority of the *Tasmanian Health Service Act 2018*.

*Government Agency* means a Government department or State authority or other organisation specified in Schedule I of the *State Service Act 2000* and Schedule I of the *Tasmanian State Service Act 1984* (repealed) while it was in force.

*Child* means a person under the age of 18 years;

*Child sexual abuse* means any act which exposes a child to, or involves a child in, sexual processes beyond their understanding or contrary to accepted community standards. Sexual abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling of breasts, voyeurism, and exhibitionism and exposing a child to or involving the child in pornography. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in preparation for sexual activity with the child;

*Employee* includes an individual who is not a State Servant but whose role within the Tasmanian Health Service or the Department of Health gives that individual authority, power or control over a child or enables the individual to achieve intimacy with, or the trust of, a child.

*Report* means any report, however made, whether required by law, or that may otherwise prevent or minimise, or have prevented or minimised, the risk of child sexual abuse.

*Systems* includes legislation, policies, practices and procedures (however recorded, including in electronic form).

The Investigation will:

- a. Limit findings or recommendations to matters of systems utilised by the Tasmanian Health Service, Department of Health or any other relevant Government Agency/Organisation;
- b. Not conduct a criminal investigation nor make any findings or recommendations about an individual case, or circumstances of alleged child sexual abuse, including the identification of victims;
- c. Not make any findings, recommendations, or comments about any potential legal liability of the State of Tasmania, its officers or employees; and
- d. Not make any findings, recommendations, or comments about the expenditure of State funds for the purposes of compensation or damages.

It is the Government's intention that a State Service officer or employee, acting in good faith, for the purpose of providing evidence, or producing material to the Independent Investigator, will not be in breach of the provisions of s9(7), s9(11) or s9(14) of the Code of Conduct under the *State Service Act 2000*, which provide:

(7) An employee must maintain appropriate confidentiality about dealings of, and information acquired by, the employee in the course of that employee's State Service employment.

(11) An employee must not make improper use of –

(a) information gained in the course of his or her employment; or

(b) the employee's duties, status, power or authority –

in order to gain, or seek to gain, a gift, benefit or advantage for the employee or for any other person.

(14) An employee must at all times behave in a way that does not adversely affect the integrity and good reputation of the State Service.

The Investigation will report to the Premier, Attorney-General and Minister for Health.

The Department of Justice will provide administrative support for the conduct of the Investigation.