

PROTECTING OUR CHILDREN

*Implementing the Recommendations of the Royal Commission
into Institutional Responses to Child Sexual Abuse.*

First year Action Plan 2018-19



Tasmanian
Government

Protecting our Children

First year Action Plan 2018-2019

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MESSAGE FROM THE ATTORNEY-GENERAL



On 20 June 2018, I tabled a formal response to the Royal Commission into Institutional Responses to Child Sexual Abuse's recommendations in the Tasmanian Parliament. The Tasmanian response outlines the Government's support for the overwhelming majority of the Royal Commission's recommendations as presented in its final report and details the culmination of a five-year inquiry into institutional responses to child sexual abuse and related matters.

The Final Report comprises an executive summary and 17 volumes, which contains a total of 409 recommendations covering a broad range of areas. The Tasmanian response to the recommendations relevant to the Tasmanian Government is published on the Department of Justice website.

On 22 October 2018 the Tasmanian Government worked with the Australian Government, along with support services Relationships Australia and the Sexual Assault Support Service, to facilitate a Tasmanian Screening of the National Apology to Victims and Survivors of Institutional Child Sexual Abuse. The delivery of this National Apology is an important step in acknowledging the experience of victims and survivors and the importance of taking action to help protect Tasmanian children into the future.

Since that time, the Tasmanian Government has been working to develop and implement all of the necessary legislation, programs, policies and procedures that enabled the Government to commence as a participating institution in the National Redress Scheme for Institutional Child Sexual Abuse (the National Redress Scheme).

The Tasmanian *National Redress Scheme for Institutional Abuse (Commonwealth Powers) Act 2018* passed the Tasmanian Parliament in late September 2018 and both facilitates the Tasmanian Government participation but also importantly enables any Tasmanian non-government institution responsible for child sexual abuse to join the National Redress Scheme.

Following our commitment in May 2018 to develop legislation to join the National Redress Scheme, with the commencement of our adoption legislation on 1 November 2018, the Tasmanian Government was proud to officially join the Scheme. It is expected that all governments will be participating in the National Redress Scheme by February 2019, making it a truly national undertaking.

For the National Redress Scheme to operate as recommended by the Royal Commission, non-government institutions that have had the responsibility of caring for our children in any capacity must join Australian governments and commit to participating in the Scheme as soon as possible. I urge all Tasmanian non-government institutions that have not done so to join the National Redress Scheme and take responsibility for the failings of our institutions to protect our children.

The Tasmanian Government has also progressed legislation to give effect to a number of recommendations contained within the Royal Commission's *Criminal Justice Report*. The Tasmanian Government introduced the *Criminal Code and Related Legislation Amendment (Child Abuse) Bill 2018* on 28 November 2018 to give effect to a number of recommendations contained within the Royal Commission's *Criminal Justice Report* including the introduction of a new crime of failing to report child abuse including when information is learned by a priest in the confessional.

Tasmania is the first State to introduce legislation to remove the legal right to claim confessional privilege in the context of a 'failing to report' crime and, as such, implement Recommendation 35 of the Criminal Justice Report.

Many of the Royal Commission recommendations are consistent with, and able to be addressed by, reforms underway across the Tasmanian Government. This includes system reforms as part of *Strong Families, Safe Kids*, the related *Out of Home Care Foundations* project, and actions under the *Strategic Plan for Out of Home Care in Tasmania 2017-2019* and the *Youth at Risk* strategy.

Similarly, Tasmania's participation with the Australian Government in national initiatives, such as the development of a *National Strategy to Prevent Child Sexual Abuse*, and a *National Framework for Child Safety*, will further address a number of the Royal Commission's recommendations.

Implementation of the remaining recommendations continues. The Royal Commission's recommendations respond to the key issues identified and propose a holistic change to the way in which the risk of child sexual abuse is managed within institutions. Actions to give effect to this change will need to be implemented over a period of time to enable all of the necessary elements – being progressed by both state and national governments – to collectively improve the prevention, identification and response to institutional abuse.

This Action Plan represents the first year of activity in response to the Royal Commission's recommendations. It establishes foundational elements and commences work that will be built on over a number of years to fully realise the necessary improvements in institutional child safety. Reporting on this first Action Plan will inform national reporting on implementation progress and the development of Action Plans in subsequent years.

A handwritten signature in blue ink, appearing to read 'Elis Archer', with a stylized flourish at the end.

Hon Elis Archer MP

**Attorney-General
Minister for Justice**

ACTIVITY TO DATE

IMPROVING RESPONSES TO INSTITUTIONAL CHILD ABUSE

Pre-July 2018

Tasmanian Government commitment to participate in the National Redress Scheme

Signed the Intergovernmental Agreement committing the Tasmanian Government to participate in the National Redress Scheme.

Removal of the limitation period applicable to child abuse

Tasmania's *Limitation Act 1974* was amended to allow children of historical abuse to take civil legal action against perpetrators of their abuse.

July 2018 to October 2018

Enable Tasmania's participation in the National Redress Scheme

Passed legislation necessary to enable Tasmania's participation in the National Redress Scheme, with participation commencing on 1 November 2018.

October 2018 to December 2018

Enable Tasmania's participation in the National Redress Scheme

Developing a Tasmanian register of providers to determine the feasibility of state-delivery of Counselling and Psychological Care (CPC) services to support participation in the National Redress Scheme.

STRENGTHENING CRIMINAL JUSTICE RESPONSES

Pre-July 2018

Amendments to Tasmania's *Sentencing Act 1997* targeting serious sexual crimes

The introduction of statutory aggravating factors for crimes of serious sexual abuse.

The removal of good character as a mitigating factor for perpetrators of sexual abuse when that good character facilitated their offending.

October 2018 to December 2018

Remove limitations periods for child sexual offences

The Director of Public Prosecutions issued guidelines that the summary offence of 'Assault with indecent intent' contrary to section 35(3) of the *Police Offences Act 1935* may not be charged in relation to child sexual offences.

Introduce a new crime of failing to report child abuse

October 2018 to December 2018

Introduced legislation to establish a crime of failing to disclose information in relation to a child abuse crimes.

Broaden the operation of the grooming offence under the Criminal Code

Introduced legislation to amend the crime of 'Communication with intent to procure a person under the age of 17 years etc' contrary to section 125D of the *Criminal Code* to communications with third parties intended to procure a young person for child sexual abuse.

Improve persistent child abuse offences

Introduced legislation to amend the crime of 'Maintain a sexual relationship with a young person' contrary to section 125A of the *Criminal Code* to clarify that a jury must be satisfied that the unlawful sexual relationship existed but not of the same individual unlawful sexual acts.

PROTECTING VULNERABLE PEOPLE

Pre-July 2018

Amendments to the Tasmanian Registration to Work with Vulnerable People Scheme

The continued roll out of the Tasmanian Registration to Work with Vulnerable People Scheme and amendments to the legislation to facilitate national consistency between Australian jurisdictions.

July 2018 to October 2018

Child Advocate - Out of Home Care Commenced

The position of Child Advocate - Out of Home Care was established to ensure that mechanisms are in place to seek out and listen to the individual voices of children and young people in the out of home care system.

Consistent with Royal Commission findings and recommendations, the Child Advocate - Out of Home Care will provide a greater voice to children in out of home care regarding the quality of and decisions made about their care.

October 2018 to December 2018

Improve mandatory reporting obligations to Tasmania Police

Introduced legislation to implement Recommendation 20-I of the report of the Australian Law Reform Commission *National Legal Response* in relation to disclosing or revealing the identity of a mandatory reporter to law enforcement agencies.

Strengthening processes for vulnerable witnesses

Introduced amendments to the *Evidence (Children and Special Witnesses) Act 2001* to enable use of video-recorded evidence to be used for quality assurance and training purposes by police officers.

Finalised amendments to the Tasmania Police Manual (TPM) and Interviewing Guidelines for Witnesses and Suspects. This is part of an ongoing process to ensure that interviewing methods are contemporary and provide the opportunity for the best evidence to be obtained from both witnesses and suspects, and aims to align with the expectations of the Tasmania Law Reform Institute, the Royal Commission into the Institutional Abuse of Children and disability advocate groups.

NEXT STEPS

The Royal Commission's recommendations propose a holistic change to the way in which the risk of child sexual abuse is managed within institutions. Actions to give effect to this change will need to be implemented over a period of time to enable all of the necessary elements to be progressed by both state, territory and the Australian governments and to collectively improve the prevention, identification and response to institutional abuse.

As implementation of the remaining recommendations continues, the Tasmanian Government continues to undertake existing reform projects which can be informed by the Royal Commission's recommendations and which are already underway across Government Agencies.

Over the next six months, these areas of reform and other activities will continue to improve the safety of children in institutions and the responses to institutional child sexual abuse. This will include the commencement of work on key elements such as Child Safe Standards and a Reportable Conduct Scheme for Tasmania, as well as building on work already commenced, through the development of the Tasmanian Sexual Violence Action Plan and the implementation of the *Strong Families, Safe Kids* Advice and Referral Line.

Government Agencies are currently developing action plans for the implementation of all of the accepted recommendations they are responsible for, and there will be annual updates on implementation progress, both at a state and national level to ensure that the system improvements recommended by the Royal Commission are given effect.

PROTECTING VULNERABLE PEOPLE

January 2019 to June 2019

A Pilot Intermediary Scheme For Tasmania

Work will commence to scope options for implementation of a pilot intermediary/communications assistant scheme in Tasmania.

Development of a Tasmanian Sexual Violence Action Plan

Work will continue on the development of this plan, which will inform future activities and responses to sexual violence within the Tasmanian community.

Improving Record Keeping And Increasing Minimum Record Retention Periods

The Office of the State Archivist will work with Government Agencies to increase minimum records retention periods, consistent with recommendations of the Royal Commission, meaning that relevant records (relating to child sexual abuse that has occurred or is alleged to have occurred) will be retained for a period 45 years. As a second stage, these requirements will also be applied to non-government institutions funded by the Tasmanian Government.

Introduce a Mandatory Reporters Guide and access to expert advice

As part of the new Strong Families, Safe Kids Advice and Referral Line, specific advice is being developed for mandatory reporters to support the new service. This service will also allow mandatory reporters to access expert advice regarding child safety concerns.

Ensure Complaints Processes are Child Focused

Communities Tasmania's complaints handling policies and processes are to be reviewed to ensure the agency's complaints management system is child focused, consistent with the National Principles for Child Safe Organisations.

PREVENTING FUTURE INSTITUTIONAL CHILD ABUSE

January 2019 to June 2019

Implementation of National Child Safe Standards and a Reportable Conduct Scheme in Tasmania.

Develop options for a child safe legislative framework in Tasmania that supports the intent of the National Principles for Child Safe Organisations and provides a plan for the implementation of the Royal Commission's recommendations relating to Child Safe Standards and a Reportable Conduct Scheme in Tasmania.

Improving Safety in Out of Home Care (OOHC)

Commence implementation of the OOHC Foundations Project.

Commence a project to scope the requirements for implementing a Tasmanian Carer's Registration System.

Increasing Safety in Youth Justice Facilities

The design of the building upgrade at the Ashley Youth Detention Centre (AYDC) will ensure building design features address elements that may place young people at risk.

Continue to implement a therapeutic approach to the operation of the Ashley Detention Centre.

Working Collaboratively to address Child Exploitation

The Australian Centre to Counter Child Exploitation (ACCCE) will be led by the Australian Federal Police (AFP). The new centre will coordinate with state police services, and work with international counterparts, such as the United States Centre for Missing and Exploited Children. Tasmania Police will look at options to work with and use the significant resources of the Centre to aid in investigations, and to assist in the development of best law enforcement practice in this area.

IMPLEMENTATION TIMETABLE – 2018-19

Agency	Action		2018						2019						
			J	A	S	O	N	D	J	F	M	A	M	J	J
IMPROVING RESPONSES TO INSTITUTIONAL CHILD ABUSE															
	Enable Tasmania’s participation in the National Redress Scheme														
DoJ	Introduce legislation necessary to enable Tasmania’s participation in the national redress scheme.														
DoJ	Establishing a Tasmanian register of providers to determine the feasibility of state-delivery of Counselling and Psychological Care (CPC) services to support participation in the national redress scheme.														
STRENGTHENING CRIMINAL JUSTICE RESPONSES															
DoJ	Remove limitations periods for child sexual offences														
DoJ	Introduce a new crime of failing to report child abuse														
DoJ	Broaden the operation of the grooming offence under the Criminal Code														
DoJ	Improve persistent child abuse offences														
PROTECTING VULNERABLE PEOPLE															
DoJ	Strengthening processes for vulnerable witnesses														
DoJ	Introduce amendments to the Evidence (Children and Special Witnesses) Act 2001														
DPFEM	Finalise amendments to the Tasmania Police Manual (TPM) and Interviewing Guidelines for Witnesses and Suspects.														
DoJ	Improve mandatory reporting obligations to Tasmania Police														
DCT	Introduce a Mandatory Reporters Guide and access to expert advice														
DCT	Development of a Tasmanian Sexual Violence Action Plan														
DCT	Ensure Complaints Processes are Child Focussed														

Agency	Action		2018						2019						
			J	A	S	O	N	D	J	F	M	A	M	J	J
DoE	Confirm existing procedures for managing complaints about children with HSB														
DoE	Increased minimum record retention periods														
DoJ	A pilot intermediary scheme for Tasmania														
	Scope options for implementation of a pilot intermediary scheme in Tasmania														
PREVENTING FUTURE INSTITUTIONAL CHILD ABUSE															
DoJ	Implement National Child Safe Principles														
	Develop draft legislation to support the implementation of the National Child Safe Principles														
DCT	Improving Safety in Out of Home Care (OOHC)														
	Commence Implementation of the OOHC Foundations Project														
	Child Advocate - Out of Home Care Commenced														
	Scope the requirements for implementing a Tasmanian Carer’s Registration System														
DCT	Increasing Safety in Youth Justice Facilities														
	The design of the building upgrade at the Ashley Youth Detention Centre will ensure building design features address elements that may place young people at risk.														
	Continue to implement a therapeutic approach in the Ashley Detention Centre														
DoJ	Establishment of a Reportable Conduct Scheme in Tasmania														
	Development of a position paper on the introduction of a reportable conduct scheme in Tasmania, including consideration of necessary legislative, policy and service impacts														
DPFEM	Working Collaboratively to address Child Exploitation														

RECOMMENDATION PROGRESS SUMMARY (ACCEPTED AND ACCEPTED IN PRINCIPLE)

Summary			Status			
Recommendation	Responsibility	Tasmanian Response	Already Compliant	To Commence (Jan – Jun 2019)	Commenced	Completed
VOLUME 6 – MAKING INSTITUTIONS CHILD SAFE						
6.4	DCT	Accepted in principle		✓		
6.5	DOJ	Accepted in principle		✓		
6.6	DOJ	Accepted in principle		✓		
6.7	DCT	Accepted in principle		✓		
6.8	DCT	Accepted in principle				
6.9	DOJ	Accepted in principle		✓		
6.10	TBD	Accepted in principle		✓		
6.11	TBD	Accepted in principle		✓		
6.12	DPAC	Accepted in principle				
6.23	DOE	Accepted in principle				
VOLUME 7 – IMPROVING INSTITUTIONAL RESPONDING AND REPORTING						
7.1	DCT	Accepted			✓	
7.2	DCT	Accepted			✓	
7.3	DCT	Accepted in principle				
7.4	DCT	Accepted in principle				
7.5	DCT	Accepted				
7.6	DCT	Accepted in principle				
7.7	DCT	Accepted				
7.8	DOJ	Accepted in principle				
7.9	DOJ	Accepted		✓		
7.10	DOJ	Accepted		✓		
7.11	DOJ	Accepted		✓		
7.12	DOJ	Accepted		✓		
VOLUME 8 – RECORDKEEPING AND INFORMATION SHARING						
8.1	DOE	Accepted			✓	
8.2	DOE	Accepted in principle			✓	
8.3	DOE	Accepted in principle				
8.4	DOE	Accepted in principle				
8.5	DOE	Accepted				
8.6	TDB	Accepted in principle				
8.7	TBD	Accepted in principle				
8.8	TBD	Accepted in principle				
8.13	DOE	Accepted	✓			
8.14	DOE	Accepted	✓			
8.15	DOE	Accepted	✓			
8.17	DCT	Accepted in principle		✓		
8.18	DCT	Accepted in principle		✓		
8.19	DCT	Accepted in principle		✓		
8.20	DCT	Accepted in principle		✓		

Summary			Status			
Recommendation	Responsibility	Tasmanian Response	Already Compliant	To Commence (Jan – Jun 2019)	Commenced	Completed
8.21	DCT	Accepted in principle		✓		
8.22	DCT	Accepted in principle		✓		
8.23	DCT	Accepted in principle		✓		
VOLUME 9 – ADVOCACY, SUPPORT AND THERAPEUTIC TREATMENT SERVICES						
9.8	DCT	Accepted in principle				
VOLUME 10 – CHILDREN WITH HARMFUL SEXUAL BEHAVIOURS						
10.1	Aust Govt	Accepted in principle				
10.2	TBD	Accepted in principle			✓	
10.3	TBD	Accepted in principle				
10.4	TBD	Accepted in principle				
10.5	TBD	Accepted in principle				
10.6	TBD	Accepted in principle				
10.7	TBD	Accepted in principle				
VOLUME 12 – CONTEMPORARY OUT OF HOME CARE						
12.1	DCT	Accepted in principle			✓	
12.2	DCT	Accepted in principle			✓	
12.3	DCT	Accepted in principle			✓	
12.6	DCT	Accepted in principle				
12.7	DCT	Accepted		✓		
12.8	DCT	Accepted		✓		
12.10	DCT	Accepted		✓		
12.11	DCT	Accepted		✓		
12.12	DCT	Accepted in principle				
12.13	DCT	Accepted in principle		✓		
12.14	DCT	Accepted in principle				
12.15	DCT	Accepted in principle				
12.16	DCT	Accepted		✓		
12.17	DCT	Accepted		✓		
12.18	DCT	Accepted	✓			
12.19	DCT	Accepted				
12.20	DCT	Accepted in principle				
12.21	DCT	Accepted in principle				
12.22	DCT	Accepted in principle				
VOLUME 13 – SCHOOLS						
13.1	DOE	Accepted in principle				
13.2	DOE	Accepted in principle				
13.3	DOE	Accepted in principle				
13.4	DOE	Accepted in principle				
13.5	DOE	Accepted in principle				
13.6	DOE	Accepted	✓			
13.7	DOE	Accepted in principle				
13.8	DOE	Accepted in principle				
VOLUME 14 – SPORTS, RECREATION, ARTS, CULTURE, COMMUNITY AND HOBBY GROUPS						
14.1	DCT	Accepted in principle				
14.4	DCT	Accepted in principle				
VOLUME 15 – CONTEMPORARY DETENTION ENVIRONMENTS						

Summary			Status			
15.1	DCT	Accepted in principle				
Recommendation	Responsibility	Tasmanian Response	Already Compliant	To Commence (Jan – Jun 2019)	Commenced	Completed
15.3	DCT	Accepted in principle		✓		
15.4	DCT	Accepted in principle				
15.5	DCT	Accepted in principle				
15.6	DCT	Accepted in principle				
15.7	DCT	Accepted in principle				
15.8	DCT	Accepted in principle				
15.9	DCT	Accepted in principle				
15.10	DCT	Accepted	✓			
VOLUME 17 – BEYOND THE ROYAL COMMISSION						
17.1	DOJ	Accepted	✓			
17.2	DOJ	Accepted			✓	
WORKING WITH CHILDREN CHECKS REPORT						
1	DOJ	Accepted in principle			✓	
6	DOJ	Accepted	✓			
7	DOJ	Accepted	✓			
8	DOJ	Accepted	✓			
9	DOJ	Accepted	✓			
10	DOJ	Accepted	✓			
11	DOJ	Accepted	✓			
12	DOJ	Accepted in part	✓			
14	DOJ	Accepted in part	✓			
17	DOJ	Accepted	✓			
18	DOJ	Accepted	✓			
19	DOJ	Accepted	✓			
20	DOJ	Accepted		✓		
21	DOJ	Accepted		✓		
23	DOJ	Accepted	✓			
24	DOJ	Accepted	✓			
25	DOJ	Accepted	✓			
26	DOJ	Accepted	✓			
27	DOJ	Accepted in principle	✓			
28	DOJ	Accepted in part	✓			
30	DOJ	Accepted	✓			
31	DOJ	Accepted in part		✓		
32	DOJ	Accepted	✓			
33	DOJ	Accepted	✓			
34	DOJ	Accepted in principle			✓	
35	DOJ	Accepted in principle			✓	
REDRESS AND CIVIL LITIGATION REPORT						
1-84	DOJ	Accepted in principle				✓
85	DOJ	Accepted				✓
86	DOJ	Accepted				✓
87	DOJ	Accepted				✓
88	DOJ	Accepted				✓
89	DOJ	Accepted in principle				
90	DOJ	Accepted in principle				

Summary			Status			
91	DOJ	Accepted in principle				
Recommendation	Responsibility	Tasmanian Response	Already Compliant	To Commence (Jan – Jun 2019)	Commenced	Completed
93	DOJ	Accepted in principle				
94	DOJ	Accepted in principle				
95	DOJ	Accepted				✓
96	DOJ	Accepted				✓
97	DOJ	Accepted				✓
98	DOJ	Accepted				✓
99	DOJ	Accepted				✓
CRIMINAL JUSTICE REPORT						
1	DOJ	Accepted			✓	
2		Accepted				✓
3	DPFEM	Accepted	✓			
4	DPFEM	Accepted in part			✓	
5	DPFEM	Accepted in principle			✓	
6	DPFEM/DOJ	Accepted				
7	DPFEM	Accepted	✓			
8	DCT	Accepted			✓	
9	DPFEM/DOJ	Accepted in principle			✓	
10	DPFEM	Accepted	✓			
12	DPFEM	Accepted in principle				
13	DPFEM	Accepted	✓			
14	DPFEM	Accepted	✓			
16	DCT/DOE	Accepted	✓			
17	All	Accepted	✓			
18	All	Accepted	✓			
19	DCT/DOE	Accepted	✓			
20	DPFEM	Accepted	✓			
21	DOJ	Accepted in part			✓	
25	DOJ	Accepted			✓	
26	DOJ	Accepted			✓	
30	DOJ	Accepted			✓	
32		Accepted	✓			
33	DOJ	Accepted in principle			✓	
34	DOJ	Accepted in part	✓			
35	DOJ	For further consideration			✓	
37	ODPP	Accepted	✓			
38	ODPP	Accepted	✓			
39	ODPP	Accepted	✓			
40	ODPP	Accepted in principle	✓			
41	ODPP	Accepted	✓			
42	ODPP	Accepted				
43	ODPP	Accepted				
44	DOJ	Accepted in principle			✓	
46	DOJ	Accepted	✓			
47	DOJ	Accepted	✓			
49	DOJ	Accepted	✓			

Summary			Status			
52	DOJ	Accepted in principle	✓			
Recommendation	Responsibility	Tasmanian Response	Already Compliant	To Commence (Jan – Jun 2019)	Commenced	Completed
53	DOJ	Accepted			✓	
55	DOJ	Accepted				
56	DOJ	Accepted			✓	
58	ODPP	Accepted				
59	DOJ	Accepted in principle		✓		
60	DOJ	Accepted in principle		✓		
61	DOJ	Accepted	✓			
62	DOJ	Accepted				
63	DOJ	Accepted	✓			
65	DOJ	Accepted in principle			✓	
66	DOJ	Accepted in principle	✓			
67	DOJ	Accepted	✓			
69	DOJ	Accepted	✓			
70	DOJ	Accepted				
71	DOJ	Accepted				
72	DOJ	Accepted			✓	
73	DOJ	Accepted				
74	DOJ	Accepted	✓			
75	DOJ	Accepted	✓			
76	DOJ	Accepted			✓	
77	DOJ	Accepted	✓			
78	DOJ	Accepted	✓			
79	DOJ	Accepted in principle				
80	DOJ	Accepted in principle				
81	ODPP	Accepted	✓			
82	DOJ	Accepted	✓			
83	DOJ	Accepted			✓	
84	DOJ	Accepted in principle			✓	
85	DOJ	Accepted	✓			



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