

TASMANIAN GOVERNMENT

Second Annual Progress Report and Action Plan 2020

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



Support services

The work of the Royal Commission and the Tasmanian Government's response may be distressing to some people in our community. If at any time you feel that you would like to speak with someone there are services and support groups that can help.

Some options for advice include:

- 1800 Respect
- Lifeline on 13 11 14
- Sexual Assault Support Service (SASS) on 1800 697 877
- Relationships Australia on 1300 364 277
- The National Redress Scheme Information Line on 1800 146 713

Tasmanian Government

Second Annual Progress Report and Action Plan 2020

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BACKGROUND

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) was established by the Australian Government on 11 January 2013, following repeated calls for governments to respond to the problem of child sexual abuse in institutional contexts, which has occurred contemporarily and historically, in a variety of institutional settings.

The Royal Commission conducted 57 formal public hearings over 400 days around Australia (including two hearings in Tasmania), 8,013 private sessions with people affected by sexual abuse, received 25,964 letters and emails, and handled 42,041 calls.

On 15 December 2017 the Royal Commission presented its Final Report to the Governor-General, detailing 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 over a broad range of areas. The Royal Commission's Final Report and three earlier reports contain a total of 409 recommendations. The Final Report includes 189 recommendations of which 105 are relevant to the Tasmanian Government.

The Royal Commission released the following earlier reports:

- The *Working with Children Checks Report* in August 2015, including 36 recommendations, of which 35 are relevant to Tasmania.
- The *Redress and Civil Litigation Report* in September 2015, including 99 recommendations, of which 84 are relevant to Tasmania.
- The *Criminal Justice Report* in August 2017, including 85 recommendations, of which 83 are relevant to Tasmania.

The Royal Commission's recommendations aim to:

- prevent child sexual abuse or, at the very least, identify it and appropriately respond to it as early as possible;
- improve the way perpetrators of child sexual abuse are investigated, prosecuted and sentenced; and
- improve victims' and survivors' of child sexual abuse access to justice and ongoing support.

The Royal Commission's recommendations recognise that governments, institutions and the broader community share responsibility for keeping children safe. Recommendations can be arranged by the following themes:



- Theme 1: Making institutions safe for children
- Theme 2: Causes, support and treatment
- Theme 3: Redress and civil litigation
- Theme 4: Criminal justice and the protection of children
- Theme 5: Accountability and annual reporting

In Volume 17 of its Final Report, the Royal Commission makes a number of recommendations that are intended to hold government and other institutions to account for the implementation of the recommendations. These include timeframes for initial government responses to the recommendations, ongoing periodic reporting on implementation progress and a 10 year review of implementation and its effectiveness.

The Royal Commission recommended (recommendation 17.1) that the Australian Government and state and territory governments should each issue an initial formal response to this Final Report within six months of it being tabled, indicating whether recommendations are accepted, accepted in principle, rejected, noted or subject to further consideration.

The Royal Commission recommended that following the Australian governments' initial formal responses to the Final Report, each state and territory government should report on their implementation of the Royal Commission's Final Report recommendations and its earlier Working With Children Checks, Redress and Civil Litigation and Criminal Justice reports, through five consecutive annual reports tabled before their respective parliaments.

This report is the Tasmanian Government's Second Annual Progress Report and Action Plan for 2020.



MESSAGE FROM THE ATTORNEY-GENERAL



On 20 June 2018, I tabled a formal response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) 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.

On 15 December 2018, the Tasmanian Government released its First-Year Progress Report and Action Plan 2018-19 for implementing the recommendations of the Royal Commission.

I am pleased to present the Tasmanian Government's Second Annual Progress Report and Action Plan 2020.

On 1 July 2019, my Department established the Child Abuse Royal Commission Response Unit (CARCRU) to coordinate the Tasmanian Government's response to, and implementation of, the recommendations of the Royal Commission, as well as Tasmania's role as a participating institution under the National Redress Scheme for Institutional Child Sexual Abuse (the National Redress Scheme).

The Child Abuse Royal Commission Response Unit leads the implementation and management of the Tasmanian Government's commitments under the National Redress Scheme including:

- responding to information requests from the Scheme Operator for departmental information relating to claims;
- managing access to counselling and psychological care for all Tasmanian recipients of Redress; and
- facilitating and supporting Tasmanian Government departments responsible for abuse to provide an appropriate direct personal response including an apology.

For the 2018-19 reporting period, I am pleased to report that 100 per cent of claims against Tasmanian Government Agencies were responded to by CARCRU within the statutory timeframes.

This year the Child Abuse Royal Commission Response Unit established a register for approved counselling and psychological care providers in Tasmania to ensure that the provision of counselling and psychological care is conducted by appropriately qualified and trauma-informed professionals. Expressions of interest for application for registration are accepted on an ongoing basis by the Unit and information on how to apply is available on the Department



of Justice website.

On 18 March 2019, the Government announced its position on the participation of Tasmanian non-government organisations in the National Redress Scheme. This policy has the effect that the State will transition out of funding arrangements with non-government institutions with significant liability for claims of child sexual abuse that do not opt-in to the National Redress Scheme and do not demonstrate compliance with child safe policies.

The Tasmanian Government invited the local government sector to participate in the National Redress Scheme with the support of the Child Abuse Royal Commission Response Unit. On 2 July 2019, members of the Local Government Association of Tasmania unanimously resolved to join the National Redress Scheme with the State Government as a 'State Institution'. The legal arrangements for this partnership will be finalised in 2020.

The National Redress Scheme's implementation and performance continues to be monitored by the states and territories. I have publicly expressed concerns about the delays in processing claims and the quality of engagement with victims and survivors of child sexual abuse by the Australian Government.

The National Redress Scheme was established with the commitment and participation of state and territory governments and many non-government organisations with the shared goal of providing effective, efficient, equal and appropriate redress to victims and survivors of child sexual abuse.

I will continue to support changes to the Scheme that will improve its operations and support it to achieve its intended outcome of providing an opportunity for victims and survivors of child abuse to achieve effective and efficient justice that cannot be obtained through civil litigation processes.

In 2020, the National Redress Scheme will be formally evaluated. I look forward to continuing to work with the Australian Government and my state and territory counterparts to ensure that the National Redress Scheme achieves its intended aims.

This year the Government has undertaken a number of significant law reforms arising from the recommendations of the Royal Commission including:

- the passage of the *Criminal Code and Related Legislation Amendment (Child Abuse) Act 2018* to implement a number of criminal justice recommendations including a new crime of failing to report child abuse and the abrogation of the confessional privilege for the purposes of the new crime and mandatory reporting obligations; and
- the passage of the *Justice Legislation Amendment (Organisational Liability for Child Abuse) Act 2019* to implement a number of the Royal Commission's civil litigation recommendations including the introduction of a statutory duty on organisations engaged in children-related services and reforms to enable the identification of a proper defendant.



The Tasmanian Government also introduced legislative amendments that complement the work of the Royal Commission by amending the *Civil Liability Act 2002* to extend the law of vicarious liability to people who are 'akin to employees' and the *Limitation Act 1974* to enable Courts to set aside previous settlements where it is in the interests of justice to do so.

This year, there has also been significant progress in a number of the Tasmanian Government's larger reform projects including:

- finalising the scope of a 3-year Pilot Intermediary Scheme for Tasmania;
- finalising the scope of a framework for Child Safe Organisations in Tasmania, incorporating the Australian Human Rights Commission's Principles for Child Safe Organisations and the Royal Commission's Child Safe Standards;
- finalising the plans for the redevelopment of the Ashley Youth Detention Centre; and
- finalising key deliverables under the Out-of-Home Care Foundations Project.

This Progress Report represents the second year of activity in response to the Royal Commission's recommendations. It continues to establish 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.



Hon Elise Archer MP

Attorney-General
Minister for Justice



2018-2019 SNAPSHOT - FIRST-YEAR ACTION PLAN

✓ A Pilot Intermediary Scheme for Tasmania

The Government has finalised the scope of a Pilot Intermediary Scheme for Tasmania. The 3-year Pilot will be available to support Tasmania Police investigations and used to support children and adults with communications needs engage with the criminal justice system, in relation to sexual crimes and crimes under Chapter XVII of the *Criminal Code Act 1924*. The development of legislative amendments is underway to support the use of intermediaries and the Pilot is expected to commence in 2020.

✓ Development of a Tasmanian Sexual Violence Action Plan

In July 2019 the Premier released the *Safe Homes Families Communities Tasmania's action plan for family and sexual violence 2019-2022*. This represents the Tasmanian Government's coordinated, whole-of-government action plan to respond to family and sexual violence.

✓ Improving Record Keeping and Increasing Minimum Record Retention Periods

The State Archivist has undertaken extensive consultation with Tasmanian Government departments on record keeping requirements and increasing the minimum record retention period to allow for delayed disclosure of abuse by victims. The State Archivist is currently finalising Disposal Schedules to support this work.

✓ Introduce a Mandatory Reporters Guide and access to expert advice

The Tasmanian mandatory reporting requirements are governed by the *Children, Young Persons and Their Families Act 1997*. The Department of Communities Tasmania publishes a guide for mandatory reporters on its website, which covers the essential issues including how to report, and what a reporter can expect during the process. In December 2018, the Department updated the Mandatory Reporters Guide and launched an expert advice service. The Advice and Referral Line is available to all mandatory reporters.

✓ Ensure Complaints Processes are Child-Focused

Children and Youth Services has updated its 'Complaints and Compliments' fact sheet to



make it easier for people to understand how to make a complaint. This is supported by additional guidance on the Communities Tasmania website. Work has also commenced through the Child Advocate on the launch of an easy-to-use web portal and a portable device application through which young people can readily raise concerns.

✓ Scoping of National Child Safe Standards and a Reportable Conduct Scheme in Tasmania

The Tasmanian Government will develop a legislative framework for Child Safe Organisations for Tasmania that supports the intent of the National Principles for Child Safe Organisations and the Royal Commission's recommendations relating to Child Safe Standards. It is anticipated that the legislative framework will be finalised in late 2020.

✓ Improving Safety in Out-of-Home Care (OOHC)

This year the implementation of the Out of Home Care Foundations Project has commenced and a proposed Model for Family Based Care is being finalised.

✓ Improving Safety in Youth Justice Facilities

The Tasmanian Government has committed \$7.3 million for the redevelopment of Ashley Youth Detention Centre (AYDC). The centre is being redesigned and upgraded to meet modern standards including step-down facilities, improvement of accommodation areas to include de-escalation, regulatory and sensory spaces, changes to reception spaces, improved videoconferencing and training areas, and additional recreational spaces and equipment.

✓ Working collaboratively to address Child Exploitation

The Australian Centre to Counter Child Exploitation (ACCCE), led by the Australian Federal Police (AFP), was established in September 2018. The ACCCE is responsible for the co-ordination of a collaborative national response to counter the online exploitation of children across Australia. Tasmania Police has recently strengthened its relationship with the AFP with the establishment of a Joint Anti Child Exploitation Team (JACET) in November 2019 with dedicated members of Tasmania Police and the AFP working together to combat child exploitation with access to additional resources, including training and development opportunities.



THEME 1: MAKING INSTITUTIONS SAFE

The Royal Commission's Final Report made several recommendations about improving child safety within institutions. These recommendations include:

- Volume 6 - Making institutions child safe (Recommendations 6.1 to 6.24);
- Volume 7 - Improving institutional responding and reporting (Recommendations 7.1 to 7.12);
- Volume 8 - Recordkeeping and information sharing (Recommendations 8.1 to 8.23);
- Volume 12 - Contemporary out-of-home care (Recommendations 12.1 to 12.22);
- Volume 13 - Schools (Recommendations 13.1 to 13.8);
- Volume 14 - Sport, recreation, arts culture, community and hobby groups (Recommendations 14.1 to 14.4); and
- Volume 15 - Contemporary detention environments (Recommendations 15.1 to 15.15).

Making institutions child safe

The work of the Royal Commission demonstrated the need for organisations engaged in child services to uphold the rights of the child and focus on preventing sexual abuse through the implementation of Child Safe Standards.

The Tasmanian Government is committed to implementing a child safety framework for all organisations engaged in child-related services to ensure cultural change in organisations, so that keeping children safe from abuse is embedded in the everyday thinking and practice of leaders, staff and volunteers.

In February 2019, the Premier, the Hon Will Hodgman MP, endorsed the Australian Human Rights Commission's National Principles for Child Safe Organisations. Throughout this year, the Tasmanian Government has been considering options for implementing a legislative framework for Child Safe Organisations and has commenced consultation with stakeholders to explore options for the implementation of the Child Safe Standards across government and non-government organisations.

There are many differences in the way organisations interact with children. The size and governance arrangements of organisations requires varied approaches to the sector. However,



the Tasmanian Government is committed to ensuring that any Tasmanian legislative framework for Child Safe Organisations must apply to all organisations providing services for children.

In 2020, the Tasmanian Government will develop a legislative framework for Child Safe Organisations for Tasmania that supports the intent of the National Principles for Child Safe Organisations and the Royal Commission's recommendations relating to Child Safe Standards. It is anticipated that the legislative framework will be finalised in late 2020.

This work will be led by the Department of Justice.

Improving institutional responding and reporting

The Strong Families, Safe Kids Advice and Referral Line has been expanded to include specific advice for mandatory reporters. This service will also allow mandatory reporters to access expert advice regarding child safety concerns.

The Department of Communities Tasmania's complaints handling policies and processes were reviewed to ensure that the Department's complaints management system is child-focused and consistent with the National Principles for Child Safe Organisations.

There is an increased focus on the Care Team, particularly its role in assisting children and young people to participate and voice their views and concerns. This has been embedded in procedures, practice guides, training and daily practice.

Children and Youth Services has updated its 'Complaints and Compliments' fact sheet to make it easier for people to understand how to make a complaint. There is clear guidance on the Department of Communities Tasmania website.

Work has commenced through the Child Advocate on the launch of an easy-to-use web portal and a portable device application through which young people can readily raise concerns.

The Department of Communities Tasmania will continue to review its departmental complaints management processes in 2020 and opportunities for accommodating feedback from children and young people will be investigated.

Recordkeeping and information sharing

The Office of the State Archivist is working with Government departments to increase minimum records retention periods, consistent with recommendations of the Royal Commission.

The new Disposal Schedule will apply to all organisations (including Government departments) as defined in the *Archives Act 1983*.



As a second stage, these requirements will also be applied to non-government institutions funded by the Tasmanian Government.

Contemporary Out-of-Home Care

The Out-of-Home Care Foundations Project is nearing completion and a proposed Model for Family-Based Care is being finalised. The Model addresses relevant recommendations from the Royal Commission relating to foster and kinship care. Elements within the Model are relevant to children and young people in other types of care, including components that will improve understanding of trauma, trauma-informed care and placement selection.

The Royal Commission emphasised the importance of being able to share information about carers across jurisdictions. The Department of Communities Tasmania has been working with other states and territories through the Children and Families Secretaries Child Safety Working Group to scope the requirements for implementing nationally consistent Carers Registers. The Department undertook a cross-jurisdictional comparison of state and territory carers registers as part of that work.

Schools

The Government's commitment to develop a legislative framework for Child Safe Organisations will include all schools (government and independent).

The Department of Education has developed guidance for schools responding to children with harmful sexual behaviours, including all policies, procedures and resources. This framework is being embedded in Principal's induction programs and is publicly available on the Department of Education website.

Sport, recreation, arts, culture, community and hobby groups

The Government's commitment to develop a legislative framework for Child Safe Organisations will include consultation with organisations such as sporting bodies, associations and community groups to carefully consider the pillars for child safety in that sector.

Education and advice will be a key element of the Government's implementation of the legislative framework and an advice line will be considered as part of the implementation strategy.

Contemporary detention environments

The Tasmanian Government has committed \$7.3 million for the redevelopment of Ashley Youth



Detention Centre (AYDC). The Centre is being redesigned and upgraded to meet modern standards and to ensure the physical design elements reduces the risk to young people.

The Department of Communities Tasmania has commissioned a Site Infrastructure Strategy to inform the scope of the redesign and upgrades that include improvement to step-down facilities, regulatory and sensory spaces, training and recreational spaces, and videoconferencing equipment.

The Department is continuing to improve the therapeutic approach for young people in AYDC in consultation with AYDC staff, the Department of Education and Forensic Health Services.

In 2020, the Tasmanian Government will:

- *Progress legislation establishing a framework for Child Safe Organisations for Tasmania;*
- *Finalise the Quality and Continuous Improvement Framework for Out-of-Home Care and commence implementation of the Tasmanian Standards for Out-of-Home Care;*
- *Commence the implementation of a Model for Family-Based Care;*
- *Develop options for implementing a Tasmanian Carers Register; and*
- *Undertake a tender process for the construction of the building upgrade to the Ashley Youth Detention Centre.*



THEME 2: CAUSES, SUPPORT AND TREATMENT

The Royal Commission's Final Report looked at complex issues about why and how child sexual abuse happens in institutions. It also looked at how to support and respond to children with harmful sexual behaviours.

The Royal Commission made recommendations about how victims can be better supported to recover from trauma. These recommendations include:

- Volume 9 - Advocacy, support and therapeutic treatment services (Recommendations 9.1 to 9.9);
- Volume 10 - Children with harmful sexual behaviours (Recommendations 10.1 to 10.7); and
- Volume 12 - Contemporary Out-of-Home Care (Recommendations 12.12 to 12.15).

The Tasmanian Government is committed to delivering a flexible and responsive approach to eliminating family and sexual violence. In 2018-19, a comprehensive, cross-agency review of the Family Violence Service System in Tasmania was undertaken.

The Tasmanian Government has increased investment in primary prevention and early intervention to support ongoing initiatives to achieve change and create a community where all relationships are free from violence.

Safe Homes Families Communities Tasmania's Action Plan for Family and Sexual Violence 2019-2022

In July 2019, the Premier released the *Safe Homes Families Communities Tasmania's action plan for family and sexual violence 2019-2022* (the Action Plan). This is the Tasmanian Government's coordinated, whole-of-government action plan to respond to family and sexual violence.

The Tasmanian Government has committed \$26 million over three years for activities under three priority areas:

- Primary prevention and early intervention (\$3.3 million);
- Response and recovery (\$14.8 million); and
- Strengthening the service system (\$7.9 million).

A priority under the Action Plan includes a commitment to deliver a new state-wide program



for children and young people under 17 years displaying problem sexual behaviours or sexually abusive behaviours.

The Tasmanian Government has also committed to implement prevention and intervention strategies to address the cause of violence and change underlying attitudes and behaviours for people exhibiting early signs of family and sexual violence.

In Tasmania, both government and non-government services provide family and sexual violence support. A crisis response can include police, support workers, and medical staff. The Action Plan provides additional counselling services for children and young people.

It is critical that all components of the family and sexual violence service system are coordinated – from prevention, therapeutic services to justice responses. Under the Action Plan, the Tasmanian Government will strengthen the service system by:

- increasing coordination and collaboration;
- enhancing programs and services;
- building workforce capacity;
- introducing legislation and procedures; and
- providing whole-of-government governance and oversight.

The Tasmanian Government will also establish the foundations to build a more integrated service system through improvements to record collection and reporting.

Redevelopment of Ashley Youth Detention Centre

Alongside the Ashley Youth Detention Centre redevelopment, work is continuing to develop a therapeutic approach for young people detained in the facility.

Consultation is being undertaken with Ashley Youth Detention Centre staff, the Department of Education and Forensic Health Services. The enhanced approach will provide a practice framework and supporting programs for progress to a therapeutic model of care at Ashley Youth Detention Centre encompassing:

- programs for young people;
- systems and processes to support practice; and
- staff training, supervision and support.



National Strategy to Prevent Child Abuse

In October 2019, the Tasmanian Government participated in the first meeting of the Inter-jurisdictional Working Group on Therapeutic Responses for Children with Problematic and Harmful Sexual Behaviours. The Working Group is tasked to develop actions to address the gaps and inconsistencies in access to therapeutic supports for harmful sexual behaviours as identified by the Royal Commission.

The key objectives of the Inter-jurisdictional Working Group are to:

- develop a set of nationally consistent and outcomes-focused measures for the prevention, early intervention and tertiary responses for children and young people with problematic and harmful sexual behaviours, for inclusion in a National Strategy to Prevent Child Abuse;
- develop a set of actions including ongoing initiatives, for inclusion in the National Strategy, which will address existing gaps and inconsistencies, support implementation of nationally consistent and outcomes-focused measures, drive continuous improvement and build on the current evidence base; and
- consider the need for consistent skills, experience, training and qualifications for the workforce of practitioners who work with children with harmful sexual behaviours to ensure that the workforce is supported and to avoid further harm to children.

In 2020, the Tasmanian Government will continue to participate in the development of these important initiatives.

In 2020, the Tasmanian Government will:

- Continue to implement *Tasmania's Action Plan for Family and Sexual Violence 2019-2022*; and
- Work with other jurisdictions to prioritise the inclusion of the complex issue of children's harmful sexual behaviours in the National Strategy to Prevent Child Sexual Abuse.



THEME 3: REDRESS AND CIVIL LITIGATION

REPORT PROGRESS

The Australian Government established the National Redress Scheme for Institutional Child Sexual Abuse in response to 84 recommendations in the *Redress and Civil Litigation Report*. The Tasmanian Government commenced participation on 1 November 2018.

The *Redress and Civil Litigation Report* also contains 15 recommendations aimed at improving access to justice for victims of child sexual abuse through reforms to civil law processes.

National Redress Scheme

On 1 November 2018, Tasmania commenced participation in the National Redress Scheme for Institutional Child Sexual Abuse (the Scheme).

The Scheme will operate for 10 years. The Scheme offers survivors access to psychological counselling, a direct personal response from the responsible institution and a monetary payment of up to \$150 000.

The Department of Justice's Child Abuse Royal Commission Response Unit leads the management of the Tasmanian Government's commitments under the National Redress Scheme to ensure:

- the timely response to information requests from the Scheme Operator for departmental information relating to claims;
- all Tasmanian recipients of Redress have supported access to counselling and psychological care; and
- that Tasmanian Government departments, responsible for abuse, are supported to provide an appropriate direct personal response, including an apology.

This year, the Child Abuse Royal Commission Response Unit established a Register for Approved Counselling and Psychological Care Providers in Tasmania to ensure that the provision of counselling and psychological care is conducted by appropriately qualified and trauma-informed professionals.

On 18 March 2019, the Government demonstrated its commitment to support non-government participation in the National Redress Scheme by:

- requiring Tasmanian Government funded non-government organisations providing



child-related services with significant liability for redress to participate in the National Redress Scheme and demonstrate compliance with child safe policies; and

- inviting the local government sector to participate in the National Redress Scheme with the support of the Child Abuse Royal Commission Response Unit.

On 2 July 2019, members of the Local Government Association of Tasmania unanimously resolved to join the National Redress Scheme with the State Government as a 'State Institution'. The legal arrangements for this partnership will be finalised in 2020.

The Tasmanian Government continues to support and implement changes to the National Redress Scheme that will improve its operations and support it to achieve its intended outcomes. These outcomes include providing an opportunity for victims and survivors of child abuse to achieve effective and efficient justice that cannot be obtained through civil litigation processes.

In 2020, the National Redress Scheme will be formally evaluated.

Civil Litigation

In November 2018, the Tasmanian Government passed amendments to remove limitations periods for civil actions arising from child abuse. This reform implemented the Royal Commission's recommendations about limitations periods in full, including Recommendation 88 requiring these amendments to be given priority ahead of other recommended civil litigation reforms.

In Tasmania, the Solicitor-General conducts civil litigation on behalf of the State and its departments. In May 2019, the Solicitor-General finalised and published Model Litigant Guidelines for the conduct of civil proceedings brought by or against the State of Tasmania.

In November 2019, the *Justice Legislation Amendment (Organisational Liability for Child Abuse) Act 2019* amended the *Civil Liability Act 2002* and the *Limitation Act 1974*. These amendments completed the Government's implementation of the remaining civil litigation recommendations by introducing:

- a new statutory duty of care on organisations that exercise care, supervision or authority over children to prevent child abuse perpetrated by individuals that are 'associated with the organisation'; and
- a mechanism to enable victims of child abuse to sue unincorporated organisations that were previously unable to be sued due to a lack of legal personality.

In response to community expectations, the *Justice Legislation Amendment (Organisational Liability for Child Abuse) Act 2019* also introduced changes to civil law that complement the work of the Royal Commission by ensuring that:

- organisations will be held vicariously liable for perpetration of child abuse by individuals



whose relationship with the organisation is 'akin to employment'; and

- a court may set aside previous settlements between an organisation and a victim if it is in the interests of justice to do so.
- ✓ The Tasmanian Government has completed the implementation of recommendations made under the *Redress and Civil Litigation Report*.



THEME 4: CRIMINAL JUSTICE AND THE PROTECTION OF CHILDREN

The Royal Commission's *Working with Children Checks* and *Criminal Justice Reports* made a number of recommendations aimed at better protecting children from child sexual abuse, including:

- strengthening protections under state and territory Working with Children Checks Schemes (*Working with Children Checks Report, Recommendations 1 to 36*); and
- reforming the criminal justice system (*Criminal Justice Report, Recommendations 1 to 85*).

Volume 7 of the Royal Commission's *Final Report* also recommended several changes to strengthen:

- Mandatory reporting; and
- Reportable conduct schemes.

Working with Children Checks

In February 2017, the Australian Government established a working group made up of state and territory representatives to consider the recommendations of the Royal Commission's *Working With Children Check Report. National Standards for Working With Children Checks* (WWCC) have now been developed and endorsed by the Council of Attorneys-General.

In December 2017, the Australian Government agreed to the establishment of a national database for WWCC decisions within the Australian Criminal Intelligence Commission with the support of the states and territories.

In 2018, the Tasmanian Government implemented a number of recommendations under the *Working with Children Check Report. The Justice and Related Legislation (Miscellaneous Amendments) Act 2018* introduced a number of offences into the Tasmanian Registration to Work with Vulnerable People Scheme, as recommended by the Royal Commission.

In June 2019, the Registration to Work with Vulnerable People Amendment Bill 2018 passed the Tasmanian Parliament amending Tasmania's WWCC laws in the areas of record keeping and screening of employees. The *Registration to Work with Vulnerable People Amendment Act 2018* will commence on a day to be proclaimed.



Criminal Justice

The Tasmanian Government has already introduced a number of improvements to the criminal justice system that were recommended by the Royal Commission's *Criminal Justice Report*.

In October 2019, several criminal justice recommendations made by the Royal Commission were given effect with the passage of the *Criminal Code and Related Legislation Amendment (Child Abuse) Act 2018*. These amendments include:

- making existing course of conduct offences more effective and better reflective of how persistent child abuse is experienced and remembered (Recommendation 21);
- strengthening the way historical child sexual abuse offenders are sentenced, including better transparency for sentences involving multiple victims (Recommendation 75);
- a new crime of failing to report the abuse of a child which applies to any member of the community who reasonably believes that a child abuse offence has been committed and fails to inform a police officer as soon as practicable (Recommendation 33);
- making the existing grooming offence more effective by including grooming of people other than a child (Recommendation 25);
- expanding the use of special measures for witnesses (Recommendations 53, 56).

Importantly, the Tasmanian Government has also implemented the Royal Commission's recommendations abrogating the use of the confessional privilege for the purposes of mandatory reporting under the *Children, Young Persons and Their Families Act 1997* and the new crime of failing to report the abuse of a child.

The Tasmanian Government is supporting a National Working Group along with other Australian jurisdictions that has been tasked to consider the implementation of the Royal Commission's recommendations about the use of the confessional privilege.

The Tasmanian Government is also participating in the Council of Attorneys-General Admissibility of Tendency and Coincidence Evidence Working Group. This Working Group has discussed proposed reform to facilitate greater admissibility of tendency and coincidence evidence in criminal proceedings in line with the Royal Commission's recommendations.

This year the Tasmanian Government committed to establishing a 3-year Pilot Intermediary Scheme for children and adults with communication needs (other than linguistic diversity).

The implementation of the Pilot Intermediary Scheme is supported and monitored by the Pilot Intermediary Scheme Steering Committee including members from the judiciary, key legal, mental health and disability stakeholders and Tasmania Police. The 3-year pilot intermediary scheme will commence in late 2020.



Mandatory Reporting

The Department of Communities Tasmania's Mandatory Reporters' Guide was updated following the launch of the Advice and Referral Line in December 2018. This guide is available publicly on the Department of Communities Tasmania website and includes advice on how to report, and what a reporter can expect during the process.

Expert advice is available to mandatory reporters through the Strong Families, Safe Kids Advice and Referral Line. Tasmanian mandatory reporting requirements are outlined in the *Children, Young Persons and Their Families Act 1997* and have recently been amended to include members of religious ministry and state Members of Parliament.

Reportable Conduct Scheme

The Tasmanian Government will consider the development of a Reportable Conduct Scheme for Tasmania following the implementation of the legislative framework for Child Safe Organisations.

In 2020, the Tasmanian Government will progress further legislative amendments arising from the *Criminal Justice Report* including:

- supporting the use of intermediaries for the Pilot Intermediary Scheme;
- introducing interlocutory appeals in prosecutions involving child sexual abuse offences; and
- including the institutional failure to protect a child as an aggravating factor for the purposes of the crime of 'failing to report the abuse of a child' in the Criminal Code.



THEME 5: ACCOUNTABILITY AND ANNUAL REPORTING

The Royal Commission made specific recommendations intended to hold Australian governments to account for monitoring, evaluating and reporting on the implementation of recommendations. These recommendations include:

- Volume 17 - Beyond the Royal Commission recommendations (Recommendations 17.1-17.6).

On 20 June 2018, the Tasmanian Government tabled a formal response to the Royal Commission into Institutional Responses to Child Sexual Abuse's recommendations in the Tasmanian Parliament.

On 15 December 2018, the Tasmanian Government released its First-Year Progress Report and Action Plan 2018-19 for implementing the recommendations of the Royal Commission. This is consistent with recommendation 17.2, which requires each state and territory to report annually on implementation activities.

This Report is the Tasmanian Government's Second Annual Progress Report and Action Plan 2020.

The Government will release its Third Annual Progress Report and Action Plan 2021 in December 2020.



USEFUL LINKS AND CONTACTS

Royal Commission into Institutional Responses to Child Sexual Abuse

<https://www.childabuseroyalcommission.gov.au/>

National Redress Scheme

<https://www.nationalredress.gov.au/>

Department of Justice Tasmania

<https://www.justice.tas.gov.au/>

National Principles for Child Safe Organisations

<https://www.humanrights.gov.au/our-work/childrens-rights/national-principles-child-safe-organisations>

Australian Government Response to the Royal Commission

<https://www.childabuseroyalcommissionresponse.gov.au/>

Tasmanian Government Response to the Royal Commission

<https://www.justice.tas.gov.au/national-redress-scheme/response-to-final-report>

New South Wales Government Response to the Royal Commission

<https://www.nsw.gov.au/improving-nsw/projects-and-initiatives/the-nsw-government-response-to-the-royal-commissions-final-report/>

Victoria Government Response to the Royal Commission

<https://www.justice.vic.gov.au/institutionalchildsexualabuse>

Queensland Government Response to the Royal Commission

<https://www.thepremier.qld.gov.au/newsroom/royal-commission.aspx>

Western Australia Government Response to the Royal Commission

<https://www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/royal-commission-institutional-responses-child-sexual-abuse>

South Australia Government Response to the Royal Commission

<https://www.childprotection.sa.gov.au/department/royal-commissions-and-reviews/royal-commission-institutional-responses-child-sexual-abuse>

Australian Capital Territory Government Response to the Royal Commission

<https://www.act.gov.au/childabuseroyalcommission/documents>



Northern Territory Government Response to the Royal Commission

<https://rmo.nt.gov.au/updates/tabling-of-the-royal-commission-into-the-protection-and-detention-of-children-in-the-northern-territory-annual-report>

