

COMMUNITY LEGAL CENTRES TASMANIA

16 December 2024

Department of Justice
Office of the Secretary
GPO Box 825
Hobart TAS 7001

via email: haveyoursay@justice.tas.gov.au

To the Department of Justice,

Re: *Commission for Children and Young People Bill 2024*

Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to provide comment on the *Commission for Children and Young People Bill 2024* ('the Bill'). In general, we are supportive of the Government's commitment to implementing comprehensive reforms to increase system oversight and improve outcomes for Tasmania's children and young people.¹

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

The Commission of Inquiry

The *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse* ('the Commission of Inquiry') emphasised the importance of protecting children's rights and ensuring that children's safety received the focus and attention it deserved.² The Commission of Inquiry recommended "a new Commission for Children and Young People be established with appropriate independence, powers and resourcing to act as a strong and fearless advocate for children's rights and to monitor child safe practices in organisations".³ As well, the Commission of Inquiry recommended that three key role-holders form the leadership of the new Commission namely a Commissioner for Children and Young People, a Commissioner for Aboriginal Children and Young People and a Child Advocate⁴

¹ CLC Tas would like to acknowledge those persons and organisations who gave freely of their time in assisting with our submission.

² *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* (August 2023) at 9.

³ *Ibid* at 9.

⁴ *Ibid* at 10.

- ***Child Advocate***

The Commission of Inquiry noted that there was “room for improvement in the oversight of child sexual abuse”,⁵ recommending the establishment of an independent Child Advocate who would advocate on behalf of children and young people in out of home care and youth detention.⁶ Whilst the Commission of Inquiry recommended that the Child Advocate “should sit within the Commission as a Deputy Commissioner”⁷ we strongly support the Government’s intention to establish the Child Advocate as a Commissioner on the basis that advocating for children is not a secondary role and also ensures its independence.

- ***Commissioner for Aboriginal Children and Young People***

In Victoria, a review of the child protection system noted its concern that whilst there was express recognition of the Commissioner for Children and Young People in the *Commission for Children and Young People Act 2012* (Vic), there was no explicit acknowledgement of an Aboriginal Commissioner for Children and Young People.⁸ As a result, although Victoria has an Aboriginal Commissioner, the appointment is discretionary and upon appointment, reliant on the delegation of power from the Children’s Commissioner.

In Tasmania, the express recognition of an Aboriginal Commissioner for Children and Young People (‘Aboriginal Commissioner’) in the Bill is strongly supported for a number of reasons including that it will promote the voices of aboriginal children at a time when aboriginal children are over-represented in a range of high-risk settings particularly out of home care and youth detention.⁹ The establishment of an Aboriginal Commissioner would also be consistent with the Aboriginal and Torres Strait Islander Child Placement Principle, our national policy framework for preventing Aboriginal children from entering the out of home care system. A recent review of the Placement Principles urged all States and Territories to introduce an Aboriginal Commissioner, noting “their role is pivotal in providing Aboriginal and Torres Strait Islander leadership to advocate for the rights of children and to create accountability for necessary systems and practice transformation”.¹⁰ As well as conforming with the Placement Principle, the introduction of an Aboriginal Commissioner is consistent with South Australia and the ACT who have both appointed Aboriginal Commissioners.¹¹

- ***Independence of Commissioners***

Clause 14 of the Bill provides a degree of independence to the three Commissioners with its assurance that Commissioners “are not subject to the direction or control of the Minister in respect of the performance of a function, or exercise of a power under this Act”. Nevertheless, another way in which independence can be assured is through security of tenure. We

⁵ Ibid at 46.

⁶ Ibid, Recommendation 9.33.

⁷ Ibid at 58.

⁸ Yoorrook Justice Commission, *Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems* (2023) at 119-121.

⁹ *Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings* (August 2023) at 34.

¹⁰ SNAICC - National Voice for Our Children, *The Family Matters Report 2021* (2021) at 130.

¹¹ The South Australian Commissioner for Aboriginal Children and Young People was established in legislation in 2021 by amendment to the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* (SA). The Aboriginal and Torres Strait Islander Children and Young People Commissioner in the ACT was established in 2022 by enactment of the *Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022* (ACT).

strongly recommend that there is express recognition of Commissioners being appointed for 5 years rather than the current “not exceeding 5 years”.¹² In the event that this amendment is not supported, we support the current limited number of circumstances warranting the Commissioner’s employment being terminated.¹³

- ***Independent Community Visitor Scheme***

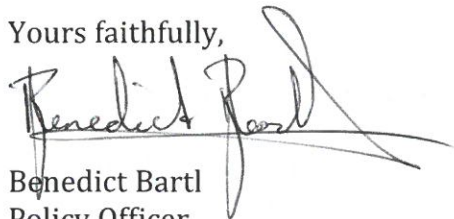
The Commission of Inquiry recommended the establishment of an independent community visitor scheme for children in out of home care, youth detention and other residential youth justice facilities with responsibility to be administered by the Child Advocate. The purpose of the scheme is to “enable every child in care, youth detention or another residential youth justice facility to receive regular and frequent visits, and children in family-based care to be visited regularly or when they request a visit”.¹⁴ When up and running the scheme will see community visitors appointed by the Child Advocate based on their skills, knowledge and expertise with community visitors responsible for:¹⁵

- a. *developing trusting and supportive relationships with children in out of home care, youth detention or other residential youth justice facilities*
- b. *advocating on behalf of children by listening to, giving voice to and helping to resolve their concerns and grievances*
- c. *facilitating children’s access to support services*
- d. *inquiring about and reporting on children’s physical and emotional wellbeing e. inquiring about whether children’s needs are being met.*

The Government is committed to the Commissioners for Aboriginal Children and Young People and the Child Advocate being implemented by July 2026 and the independent community visitor scheme to be implemented by 1 July 2029.¹⁶ In our opinion, both of these timeframes should be brought forward.

If you have any queries, or we can be of any further assistance, please do not hesitate to contact us.

Yours faithfully,



Benedict Bartl
Policy Officer

Community Legal Centres Tasmania

¹² Clause 3 of the *Commission for Children and Young People Bill 2024*.

¹³ Clause 7 of the *Commission for Children and Young People Bill 2024*.

¹⁴ *Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings* (August 2023) at 110.

¹⁵ *Ibid*, Recommendation 9.34.

¹⁶ Department of Justice, *Commission for Children and Young People Bill 2024 – Have your say*. As found at <https://www.justice.tas.gov.au/community-consultation/consultations/commission-for-children-and-young-people-bill-2024> (accessed 10 December 2024).