

PART B QUESTIONS:

Making institutions safe for children

1. **Do you have any views on the effectiveness of the steps the Tasmanian Government has taken since the RCIRCSA to make institutions safe for children?**

While some policy and legislative reforms have been made at a broad level and publicly reported, FACT is concerned that it is difficult to determine the actions taken by Government Departments across the entire service system at the operational level, including within its own Departments, to improve the safety of children.

As an example, as noted in the Tasmanian Government's *Third Annual Progress Report and Action Plan 2021 Implementing the Recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse* released in December 2020:

Draft Tasmanian Standards for Children and Young People in Care will be released for consultation shortly. The development of these Standards is one element of the broader quality framework, building on the Tasmanian Outcomes Framework for Children in Out-of-Home Care.

The implementation of the Standards will support a future-focused system for the out-of-home care sector establishing accountability for how children and young people are supported. It is anticipated that the Standards will be finalised in early 2021.¹

These standards have not yet been released, nor has there been any consultation with Out of Home care providers, or Families and Children Tasmania.

Children are kept safer when there is a common language, clear training and consistent policies across the government and community sector. While other states have developed sophisticated partnerships and are well progressed with co-design processes to address many of the recommendations of the RCIRCSA, Tasmania has not yet progressed critical issues such as service standards in this cross sectoral manner.

Major areas of policy recommended by the RCIRCSA are making slow progress such as

- Independent oversight of children in care via a children's guardian role or equivalent
- The development of a reportable conduct scheme to ensure that concerns are investigated and actioned
- The development of a carer register
- The accreditation of all out of home care providers

¹ Tasmanian Government's *Third Annual Progress Report and Action Plan 2021 Implementing the Recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse*. Dec 2020

While there has been no or limited involvement of the Community Services Sector to date in the progression of these matters, the Sector, through TASCOS, FACT and other key bodies stand ready to assist the Government with the development of these critical areas of work.

2. **Are there systems, practices or cultures that continue to expose children to the risk of sexual abuse in Tasmanian Government institutions?**

Yes. FACT is concerned about the lack of process and culture of some government organisations, including child protection and youth detention services that results in the potential for risk to be created in institutions. These concerns include loose practice standards and a lack of accountability for actions which can create opportunities for children to be potentially subject to sexual abuse.

An open approach to training staff to identify and respond to the challenging but inevitable instances of child sexual abuse in government systems (including those funded by government), would go a long way to ensuring all employees, wherever they may work, are fully aware of the issue, are able to identify the possible signs of grooming and sexual abuse and know how to respond.

Enhancing the relationship between the not for profit and public sector would also increase opportunities for safety. As an example, some members feel that their experience and professionalism is not always valued by Child Safety Officers.

FACT members are aware that some children experience additional sexual victimisation after being brought into care for that very reason, which indicates failings in the system.

A process needs to be in place to ensure that all care concerns that are raised regarding foster carers are treated with the same level of scrutiny whether this be a Departmental foster carer or an agency-based carer. There have been instances where care concerns have been raised with the Department following disclosures from children and young people, and there appears to be a lack of urgency in investigating these disclosures. This causes further harm to children as they feel as though they have no value and what they have to say isn't worthy of feedback.

While no system can be fool-proof FACT would like to see learnings from the investigations of such incidents shared so improvements can be made across the entire service system.

FACT supports the Commissioner for Children's previously expressed recommendations in relation to the routine strip searching of children in youth detention.² FACT is unaware of the status of these recommendations 12 months on.

² Commissioner for Children Searches of Children and Young People in Custody in Tasmania June 2020, <https://www.childcomm.tas.gov.au/wp-content/uploads/CCYP-Media-Strip-Search-Government-Response-FINAL-0620.pdf>

3. What more should the Tasmanian Government (and its agencies and officials) do to ensure the safety of children in government institutions, including in public schools, hospitals and youth detention centres?

Human resources policies and procedures that support a Code of Conduct that staff and volunteers commit to and sign enables issues with boundaries or poor practice to be identified early and responded to with children held in mind.

The Government should adopt a higher level of safeguarding standards that have a bias towards protecting children rather than a bias towards the rights of adults (e.g., staff or volunteers).

Workers who have engaged in poor practice, have repeatedly breached boundaries or face allegations or charges for actions that endanger children should not be allowed to continue to work in direct service delivery but redeployed to other less risky areas.

There is a great deal of emotionality involved in managing and supporting children and young people in respect of sexual abuse that goes to our values set as organisations and as individual human beings.

The Tasmanian Government should fully adopt the National Principles, then either fund or conduct regular training that brings everyone working with children together on the same page, using the same language and adopting similar approaches to the safeguarding of children and the prevention of child sexual abuse. In South Australia, for example, every worker in the child and family services sector is required to complete initial and refresher safe-guarding training and all school employees and volunteers are required to complete *Responding to Abuse and Neglect –Education and Care training*, which operates on a three year cycle.

Child Safety Services should ensure that people registered on the Child Protection System as a “*person believed responsible for harming a child*” by reason of grooming or alleged sexual abuse should know about that finding and be prevented from engaging in child related activity such as foster care.

FACT has proposed the concept of the “Child Friendly Island” to government previously which could be adapted to assist in establishing Tasmania as a premier in regards to child safety across the whole community.

Child safety standards

4. Does the Child Safe framework proposed in the Child Safe Organisations Bill 2020 adopt the right principles, processes, scope and monitoring arrangements to keep children safe?

Families and Children Tasmania have provided in principle support to the concept of developing *Child Safe Organisations legislation*.

However, we are concerned that there are some areas for improvement in the consultation draft that will result in a stronger legislative base to help support the protection of children across Tasmania together with a series of implementation requirements.

In 2017, the Australian Government asked the National Children’s Commissioner to lead the development of National Principles for Child Safe Organisations. These

principles have been developed and were endorsed by the Council of Australian Governments in February 2019.

The Principles were derived from the Child Safe Standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse. A great deal of work has gone into the development of these principles and the associated resources to support their implementation. Many FACT members are already working and auditing themselves against these Principles.

FACT would like to see the Tasmanian *Child Safe Organisations Bill* mirror these Principles in their entirety. Not only does this provide national consistency enabling comparisons between jurisdictions and the measurement of outcomes but it also enables organisations to make the most of available resources and not have to edit or tailor resources to meet the local need. This is particularly beneficial to small organisations who are already concerned about the compliance requirements of this legislation.

FACT is concerned that the definition and scope of what constitutes a child related service is unclear. At present what is defined as a child related service is limited to those organisations that have a funding agreement with the State Government for the purpose of delivering a child related service.

An interpretation of section 8 is that only dedicated child specific funding, such as in out of home care or child and adolescent mental health agreements would fall within the scope of this definition.

FACT is of the view that all organisations in which children are present should engage in safeguarding activity.

Recommendation 6.9 of the Royal Commission Report Volume 6 Making Organisations Child Safe identifies the scope of child safe standards as applying to

- a. accommodation and residential services for children, including overnight excursions or stays.
- b. activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children.
- c. childcare or childminding services
- d. child protection services, including out-of-home care.
- e. activities or services where clubs and associations have a significant membership of, or involvement by, children.
- f. coaching or tuition services for children
- g. commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions.
- h. services for children with disability
- i. education services for children
- j. health services for children
- k. justice and detention services for children, including immigration detention facilities.
- l. transport services for children, including school crossing services.

It is the view of FACT that this range of services at a minimum should be included in the scope of the legislation whether they are funded by the State Government or not.

Not including child focussed organisations such as private dance studios, drama clubs and private tuition services (for example) fails to deliver on the recommendations of the Royal Commission and continues to expose Tasmanian children to risk.

FACT has long held a view that goes further than this list to include the employers of children and young people and services such as adult mental health services, prisons or community health services that interface with children and that efforts should be made in these environments to ensure that they are child safe and young people are protected from abuse.

FACT is concerned that there is a bias towards ensuring non-government organisations that receive funding from government are child safe as opposed to the services delivered by Government Departments and Agencies themselves or by private businesses.

FACT absolutely supports having high levels of accountability for the funded community sector however we also hold the view that the same standards and expectations should also apply to Government run Departments and Business Enterprises as well as to private businesses and companies.

Section 10: The annual report of Government Agencies proposes a vague and inadequate response to government reporting on its own activities and does not focus on the implementation of and compliance with the principles and standards expected of organisations as described in Section 9(1).

Section 5(a) of the *Child Safe Organisation Bill* refers to ensuring that a person engaged by an organisation is a “fit and proper person to perform the role for which they are engaged”. FACT is of the view that this should be further defined in legislation and should reference the *Registration to Work with Vulnerable People Act 2013*. As a side note FACT is of the view that further work is needed to enhance and strengthen this legislation as we have some evidence of people holding these cards who would not necessarily be considered fit and proper persons for undertaking child safe activities. Across the world governments are moving away from direct service provision and are focussing their efforts on statutory responsibilities and on the commissioning of services.

Tasmania committed more than 10 years ago to the outsourcing of all child and family services. The then Department of Health and Human Services committed to the full outsourcing of all out of home care services, for example and this commitment was made in the context of major policy, procedural, legislative, and regulatory reform. It committed to the development of service specifications, a pricing models, performance monitoring, staff and carer standards, carer accreditation, transfer of case management to the sector along with a wide range of other initiatives. None of this has occurred leaving the role of Government Departments confused and conflicted.

5. What challenges might your organisation face in providing services that comply with the Child Safe Framework? What resources, training and supports may be required to facilitate the implementation of Child Safe Standards?

FACT is concerned that the currently proposed model of self-reporting is inadequate and that an independent mechanism such as an Office of the Children's Guardian or an enhancement of the role and level of independence of the *Commissioner for Children and Young People* is required and needs appropriate resourcing,

Such an approach addresses, in part, the conflict-of-interest issues that arise with Government's delivering services directly. FACT believes that the legislation will not deliver on the outcome of enhancing child safety within organisations without this level of accountability and a concomitant level of resourcing.

This authority would also have a role in supporting small organisations to implement the child safe standards, assist in the training of staff and the development of policy thereby reducing the administrative burden on these organisations.

Further, FACT supports the development of a reportable conduct scheme operated by this independent authority, as other jurisdictions have done, to ensure the independent reporting and investigation of child safety concerns across all government departments, organisations, and companies within scope and which reports to Parliament and gives primacy to the voice of children.

Working with vulnerable people

6. Is the *Registration to Work with Vulnerable People Act 2013 (Tas)* and any other professional registration regime effective in helping to protect children from sexual abuse?

This regime is an important part of ensuring that people who work or volunteer with children are of good character but it is not a fool proof system for protecting children from sexual abuse. FACT understands that not all applicants are checked against the Child Protection Information System and therefore concerns about previously reported involvement in the abuse or neglect of a child may not form a part of the registration process unless indicated by another part of the checking process (such as police charges).

FACT members have shared reporting risky individuals often known to them through prior employment in order to keep children safe in their organisation.

7. Do you have any suggestions for improving these regimes? What else is required to make them effective in protecting children from sexual abuse?

The registration system would be enhanced by the direct linkage of child protection information systems and the checking of every applicant against that data, as well as the introduction of mandatory training requirements to hold that registration and an independent reportable conduct scheme.

Reporting child sexual abuse

8. Do you have any views on the effectiveness of the steps which the Tasmanian Government has taken so far to improve mechanisms and processes for reporting child sexual abuse in institutional contexts?

No comment, FACT members may respond via their individual organisations to this question.

9. Are there any barriers to reporting child sexual abuse in Tasmanian government institutional contexts?

There are no barriers accessing and reporting concerns to the Advice and Referral Line by professionals but FACT feels this is unlikely to be a source of direct disclosures from victims/ survivors. It is currently not known by the sector how many notifications to the Department relate to sexual abuse.

10. Are children using existing available resources and services, such as the Strong Families, Safe Kids Advice and Referral Line and the Child Advocate service, to report child sexual abuse in Tasmanian government institutional contexts?

FACT members are unaware of the number of children and young people using these services to report sexual abuse as the data is not publicly available. Nevertheless, members think it unlikely that this would be a first option, the Kids Helpline was thought a more likely route to accessing support. Some FACT members noted that they have made calls to the Advice and Referral Line on behalf of children and young people following a disclosure made to them.

FACT members understand that some young people have reached out the Child Advocate noting this is not a truly independent role and young people may not have achieved their desired outcome.

11. What supports should be put in place to encourage people to report child sexual abuse in Tasmanian government institutional contexts (for professionals and volunteers, adult survivors, children and their caregivers)?

Regular, frequent and sustained education is critical as well as public awareness raising about the elements to consider in keeping children safe and the signs of possible sexual abuse as well as how to report possible abuse.

FACT members have noted that the current Advice and Referral Line policy of encouraging a shared approach to responding to concerns raised by the community may not be as applicable in the case of sexual abuse however FACT members were unclear how this operates in practice.

FACT suggests that printed material be developed for children, young people, their families and carers that explains the role of key professionals in their lives, such as teachers or child protection workers and that includes a section what those people should not do, such as *ask you to keep secrets or call you on your mobile phone late at night* and encourages people to talk to others and ask questions should these things happen.

Information sharing

12. Are you aware of situations where Tasmanian government institutions have not shared information about child sexual abuse or suspected abuse?

Yes. FACT members report often not receiving full information in referrals for service about suspected abuse of children, especially in respect of foster care placements, or that adults referred to services may have been suspected or investigated for abusing children.

13. **Are there legal and/or cultural barriers to the sharing of information and keeping accurate records about child sexual abuse in Tasmania? If so, what steps are being taken to address these barriers? What else should be done to overcome them?**

FACT understands that legally information can be shared between parties and prescribed persons when the information relates to the safety, welfare or wellbeing of a relevant person.

Out-of-home care and youth detention

14. **What other laws, policies, practices and systems are needed to better protect children from sexual abuse when they are in out-of-home care or youth detention?**

Many countries and other Australian states have enshrined Code of Conduct and Child Safe Principles together with key policies and procedures in out of home care in legislation. Tasmania currently has no legislation pertaining to foster care nor an agreed *Code of Conduct* for foster carers and this could be an area for consideration.

Every child or young person in out of home care or youth detention should have at least two sets of people / services looking out for their welfare. There is a potentially increased risk if one Department, which may be one worker, manages the needs of both the child / young person and the foster carer (for example) without other checks and balances in place, such as an independent unannounced visit and a regular care team meeting.

Every child or young person in out of home care or youth detention should also participate in Protective Behaviours Program with specific reference to the roles, responsibilities and behavioural expectations of their care givers.

15. **What specific measures are needed to protect the following children from sexual abuse in out-of-home care or youth detention:**

- Aboriginal and Torres Strait Islander children
- children with a disability, and
- children from culturally and linguistically diverse backgrounds?

Special measures are needed to protect highly vulnerable groups from sexual abuse and exploitation. This includes the training of staff in the needs of these groups, such as how to provide safe and respectful personal care to a young person with a disability and identifying the cultural differences that may present in how children disclose or how information is delivered.

In addition, having safeguarding material and information on how to make a complaint / disclosure available in an accessible format and language.

In principle, every child / young person should have several people / organisations they know they can rely on to support them and act in their best interests, especially when something is not right and this should be openly discussed with them on a regular basis.

Providing support and treatment

Child safety education and awareness raising

16. **What has been done by the Tasmanian Government or its institutions to protect children against sexual abuse through awareness raising and education, including online safety programs?**

FACT is not aware of any such training and in fact has been asked by a national body to undertake some research to inform the development of an online safety resource for children and young people in care and their carers.

17. **Do you have any comments on the effectiveness of these programs, the information they cover and the way they are delivered?**

No comment, FACT members may respond via their individual organisations to this question.

Therapeutic interventions for children who are at risk of engaging in harmful sexual behaviour

18. **What programs and interventions are available in Tasmania for children who are at risk of engaging in harmful sexual behaviour against other children in Tasmanian government institutional contexts? Do you think such programs and interventions are effective in changing such behaviour? Are other programs or interventions required?**

Until recently, there have been very few therapeutic services available for children, and especially teenagers, who are engaging in sexually harmful behaviours and those that have been available have had long wait lists.

FACT understands a new service has been established to fill this gap but this has only recently commenced and the capacity of the program is unknown. Broad scale education using a health promotion approach may warrant further investigation. There remains a gap in available services for young people aged 18-25 and especially young care leavers.

Addressing or alleviating the impact of child sexual abuse in institutional contexts

19. **What needs to be done to improve services and systems to help address or alleviate the impact of child sexual abuse, so that people are supported to seek justice and recover from the impacts of the abuse?**

Children and young people need to be listened to and heard and action taken. This is the first step in the healing journey for children and young people and Tasmania needs to take a stronger educative focus in this regard.

National Redress Scheme

20. **Are there any barriers which make it difficult for victim-survivors to obtain redress under the National Redress Scheme?**

No comment, FACT members may respond via their individual organisations to this question.

Improving the criminal justice system

Civil claims

- 21. What are the barriers, if any, faced by victim-survivors of child sexual abuse in bringing civil claims against the Tasmanian Government? Have recent changes been helpful in improving access to justice for victim-survivors?**

No comment, FACT members may respond via their individual organisations to this question.

Police and prosecution processes

- 22. Have practices and processes of Tasmanian police and prosecution service changed since the RCIRCSA reported?**

It is difficult for the community sector to comment on these processes as we have experience of such a small number of cases. Individual organisations may choose to directly report on those cases to the Commission of Enquiry.

- 23. What education or training is available for members of Tasmania Police about child sexual abuse? What does it cover, and has it made any difference to the ways in which police respond to reports of child sexual abuse in Tasmanian government institutional contexts?**

No comment

Criminal offences

- 24. Do you have any comments about the current criminal offences applicable to child sexual abuse? Are there any gaps or anomalies?**

No comment, FACT members may respond via their individual organisations to this question.

Making it easier for witnesses to give evidence in child sexual offence cases

- 25. Have the reforms introduced in the *Evidence (Children and Special Witnesses) Act 2001 (Tas)* been effective in improving the experience of children and vulnerable people giving evidence in child sexual abuse cases?**

No comment, FACT members may respond via their individual organisations to this question.

- 26. Is sufficient support provided to people who give evidence in child sexual abuse cases? Can you suggest ways in which support could be improved?**

No comment, FACT members may respond via their individual organisations to this question.

Perpetrator accountability

- 27. What programs and interventions are available in Tasmania for offenders convicted of offences relating to child sexual abuse in Tasmanian government institutional contexts? What more should be done to help offenders to address their offending?**

No comment, FACT members may respond via their individual organisations to this question.

28. Are there any services or information in Tasmania to help people who are concerned they may be at risk of sexually abusing children?

FACT is unaware of any services for anyone over the age of 18 years that specifically focussed on this issue.

Judicial and legal professional training on child sexual abuse

29. What education or training is available for members of the Tasmanian judiciary and legal profession about child sexual abuse? What does it cover, and has it made any difference to the ways in which legal proceedings involving victim-survivors of child sexual abuse are conducted?

No comment, FACT members may respond via their individual organisations to this question.

Implementation of the Royal Commission's recommendations

30. What issues have arisen in giving effect to the reforms recommended by the RCIRCSA?

Resourcing of the implementation and the capacity to work collaboratively are issues from the child and family services sector. Approximately two years ago the Department of Communities issued a request for nominations to the sector to establish a Community Consultative Group to progress Child Safe Organisations and the implementation of the National Principles for Child Safe Organisations. FACT Members submitted expressions of interest but did not receive a response and it appears that the group was never established.

31. What else needs to happen to ensure effective implementation of the RCIRCSA's recommendations in Tasmania?

The Child and Family services sector stands ready to assist the various government departments, via a partnership approach to fully implementing the National Principles and other reforms.

END OF SUBMISSION