

Statement: Jenny Gale
Tranche 1 RFS-TAS-010

Name **Jenny Gale**
Address 15 Murray Street, Hobart TAS 7000
Position Secretary, Department Premier and Cabinet.

This statement is made by me in response to RFS-TAS-010 ('RFS'), issued on 29 March 2022 by the President of the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (the Commission).

Background

1. What is your current role and professional background (particularly within the Tasmanian State Service)?

1. My name is Jenny Gale and I am the Secretary of the Department of Premier and Cabinet and the Head of the State Service.

I have a Bachelor of Education, Mathematics and Literature.

I have had a more than 40-year career in the public service starting in Education teaching mathematics at Queechy High School, working across primary, secondary and senior secondary schools as a teacher, AST and principal for 22 years.

In 2000, I was appointed Director, Office for Educational Review. Between 2000 and 2011, I worked in a number of senior leadership roles in education supporting schools, developing and implementing school improvement frameworks; leading the development of the Tasmanian Curriculum and negotiating educational policy and strategy on behalf to the Tasmanian Government.

In 2014-15, following a short break out of the workforce, I was employed as the Deputy Premier's Chief of Staff.

In 2016, re-joined the State Service following my successful application for the position of Secretary, Department of Education.

In November 2017, I was appointed in an acting capacity to the positions of Secretary, Department of Premier and Cabinet, and Head of the State Service, and was confirmed in both roles in April 2018.

Organisational Structure

7. Provide an organisational structure identifying key reporting lines within the Department.

7. Provided as an Attachment named TRFS.0010.0068.0001.

10. Identify the number of people employed by the Department, divided by public service band.
10. As at 26 April 2022, the Department of Premier and Cabinet employs 664 people, which have been identified under the following classifications.

Classification	Total
Band 1	15
Band 2	9
Band 3	318
Band 4	76
Band 5	33
Band 6	64
Band 7	40
Band 8	33
Band 9	2
Chief Parliamentary Counsel	1
Equivalent Specialist 1	1
Graduate	6
Head of Agency	1
ICT 1	6
ICT 2	3
ICT 3	11
ICT 4	1
Legal Prac 1	2
Legal Prac 3	2
Legal Prac 4	2
Ministerial Driver	12
Ministerial Driver - Cas	7
Professional 5	1
School Based Trainee (Y11)	1
SES 1	4

SES 2	8
SES 3	1
SES 4	4
Grand Total	664

Child Safeguarding

13 In an editorial published in *The Mercury* on 17 March 2022, Premier Peter Gutwein referred to a number of reforms that were underway or complete, including the:

- (a) Establishment of the Office of Safeguarding Children
- (b) Development of memoranda of understanding between various government departments,
- (c) Development of three multi-disciplinary centres offering support and safety to victim-survivors of child abuse.

Describe the nature and current status of each of the above reforms which Government Institution is leading these reforms.

13 The Department of Education is responsible for the establishment of the Office of Safeguarding Children. The Office of Safeguarding Children is being established in response to the recommendations of the *Independent Inquiry into the Department of Education's Responses to Child Sexual Abuse* by Professors McCormack and Smallbone.

All information about the establishment of the Office of Safeguarding Children should be directed to the Department of Education.

The development of memoranda of understanding between applicable government departments, and the three multidisciplinary centres offering support and safety to victim-survivors of child abuse are being implemented by the Department of Police, Fire and Emergency Management.

All information on the current status of these reforms should be directed to the Department of Police, Fire and Emergency Management.

Response to complaints and investigations

29 Describe the limitations of the ED5 investigation process as it applies to allegations or incidents of child sexual abuse in relation to Tasmanian State Service Officials.

- 29 • Employment Direction 5 (ED5) is part of an Employment Framework. By its nature, it exists to provide procedural fairness and natural justice to employees of the Tasmanian State Service.

- ED5 allocates rights to the employee suspected of committing a breach of the code. It does not directly reference rights of the complainant, for example, to be kept informed of any investigation's progress or outcome.
- ED5 is not constructed with the primary goal of facilitating a trauma-informed or child-centred investigation process, however, paragraph 7.3 does address the need for sensitivity and appropriate processes if there is a need to interview a child (including the need to keep the child informed of the progress of the investigation).
- The *State Service Act 2000* (S.10) sets out the procedures for dealing with an alleged breach of the Code of Conduct, including that:
 - (3) The Employer is to establish procedures for the investigation and determination of whether an employee has breached the Code of Conduct.
 - (4) The procedures referred to in subsection (3) –
 - (a) are to afford procedural fairness in the determination of whether an employee has breached the Code of Conduct;
- The State Service Act (S.15) describes the functions of the Employer, including duty of care requirements to:
 - take such steps as the Employer considers necessary to uphold, promote and ensure adherence to the State Service Principles; and
 - act according to equity and good conscience and in a manner that is consistent with the provisions of this Act.

Intersections with Legislation and Regulatory Bodies

- ED5 allegations and/or investigations intersect with a number of other pieces of legislation and regulatory bodies which must all be taken into account during investigations of an alleged breach of the Code, including but not limited to:
 - *The Children, Young Persons and their Families Act 1997*;
 - *The Personal Information Protection Act 2004* (noting Schedule 1, Personal Information Protection Principles: "A personal information custodian must not use or disclose personal information about an individual for a purpose other than the purpose for which it was collected" (unless circumstances apply that satisfy provisions of Use and Disclosure);
 - Tasmania Police investigations;
 - Regulatory bodies, including: Teachers Registration Board of Tasmania, Australian Health Practitioners Regulatory Authority, Legal Profession Board, and the Working with Vulnerable People Registrar.

Other limitations not related to ED5 but affecting length of investigations

- Limited availability of investigators willing to take these matters on
- Historic matters sometimes cover new legal ground, not encountered before in investigations, requiring us to regularly seek advice and guidance from the Office of the Solicitor General
- Availability of, and access to, witnesses (particularly for historical matters)
- The challenges of historical record holdings
- Limited information in instances where the complainant does not wish to participate in an investigative process

Tasmanian State Service Review

- The Tasmanian State Service Review's (TSSR) [Terms of Reference](#) included an Objective to: "ensure the Tasmanian State Service (the TSS) is fit-for-purpose for Tasmania today and into the future".
- A number of the resultant recommendations (55 to 58) relate to ED5, as follows:
 - Amend Employment Direction 5 to be standards based, allowing the relevant head of agency to tailor an investigative process based on the circumstances surrounding an alleged breach.
 - Rewrite Employment Direction 5 to allow for a simple, local process to be used where the facts are clear and not disputed and the agency seeks to impose a low-level sanction (i.e. reprimand or that the employee engages in counselling for their behaviour).
 - Amend regulation 29 of the State Service Regulations to include dismissal of an employee for reasons of serious misconduct as specified in the Fair Work regulations.
 - That the government create a shared capability for the investigation of Code of Conduct breaches.
- The [Government Response to the TSSR](#) accepts all recommendations and notes "The Government will embark on an ambitious reform program across three stages.... The first stage of reforms will focus on.... Re-writing all Employment Directions to ensure that they support a capable, agile and accountable service" (Government Response to the Independent Review of the Tasmanian State Service, p.1).
- The Corporate and Workforce Sub-Committee of the Whole of Government Secretaries Board is preparing a workplan for the implementation of the recommendations of the TSSR.

30 Describe how investigators are appointed to carry out ED5 investigations.

30 Where a Head of Agency has a reasonable belief that a breach of the Code of Conduct may have occurred the Head of Agency will determine depending on the alleged breach, whether to appoint an internal or external investigator. The Head of Agency must appoint an Investigator in writing. The investigator must be impartial and report the outcome of their investigation to the Head of Agency. Where an investigation of an alleged breach of the Code of Conduct is to include interviewing a child the processes must be sensitive and appropriate, bearing in mind the age and maturity of the child.

31 Describe whether ED5 investigators involved in investigations of allegations or incidents of child sexual abuse receive any training or direction in best practice in the investigation of matters involving children or trauma-informed investigations.

31 DPAC has not had cause to investigate incidents of child sexual abuse. In general terms, for the Tasmanian State Service training has been made available, and facilitated through the Integrity Commission, to train employees as investigators and how to undertake investigations of breach of the Code of Conduct.

32 Describe whether ED5 investigators are independent from the Department and the Tasmanian Government.

32 Investigators must be impartial. Depending on the nature of the proposed breach, a Head of Agency may appoint an external and independent investigator. All external investigators, excluding legal practitioners, must hold an inquiry agent licence in accordance with the *Security and Investigations Agents Act 2002*. Others may be TSS employees trained to undertake investigations on an impartial and independent basis.

33 Describe any protocols or guidelines in relation to standing down Tasmanian State Service Officials who are subject to an ED5 investigation involving allegations of child sexual abuse.

33 **a) Employment Direction number 4, (ED4) Procedure for Suspension of State Service Employees, With or Without Pay**

Employment Direction number 4, (ED4) Procedure for Suspension of State Service Employees, With or Without Pay outlines the procedural requirements. This provides that a Head of Agency may suspend a TSS employee with pay for a potential or actual breach of the Code of Conduct or where an employee has been charged with an offence punishable by a term of imprisonment of 6 months or more. The delegation to suspend an employee without pay rests with the Head of the State Service based on a submission from the Head of Agency as to why this should occur, and consideration of the public interest test.

b) Routine Disclosure – Suspensions of State Servants Due to Allegations of Child Sexual Abuse

- On 5 March 2021, government moved to a process of routine disclosure of information relating to the suspension of a state servant due to allegations of child sexual abuse.
- To facilitate this, agencies follow a consistent process once an allegation is received by a Head of Agency, as follows.

Preliminary Assessment Phase

- Agency undertakes preliminary assessment of allegation including an assessment of: risk of employee remaining in the workplace including duty of care and public perception.
- Based on risk assessment, Agency determines if employee remains in workplace.
- Agency Head immediately notifies HoSS verbally of allegation and preliminary assessment.
- Agency determines if appropriate to inform relevant integrity agencies and/or professional bodies.
- Agency informs Tasmania Police.
- ED5 Investigation remains pending, awaiting Police advice (i.e. not commenced; or on hold if commenced)
- Police advise Agency: no further Police action / or charges laid.

Formal Investigation Phase

- Agency proceeds with investigation under ED5 or ED6.
- Simultaneously, and where it has been determined appropriate under ED4, employee suspended from duty.
- Agency informs relevant integrity agencies and/or professional bodies that formal investigation has commenced.
- HoSS provided updated status.
- Premier as Employer notified by HoSS (and relevant Minister informed by HoSS or Premier).
- DPAC updates the routine disclosure.
- The Disclosure table is available on the Department of Premier and Cabinet website:
https://www.dpac.tas.gov.au/rti/routine_disclosure_log_-_departmental_information.

34 Identify who is responsible for making the decision to stand down a Tasmanian State Service Official while an ED5 investigation is being conducted.

- 34 There is no ability to stand down a TSS employee or officer under the *State Service Act 2000* (Tas) and related supporting legislation– they are instead suspended from duty, with or without pay. ED4 covers suspension from duty and provides that a Head of Agency for the relevant agency can suspend an employee or officer with pay or the Head of the State Service can suspend if the suspension is without pay (subject to specific considerations within ED4).

Response to Royal Commission

- 47 Provide a list of the Royal Commission’s recommendations which the Department is responsible for implementing.

- 47 When the Tasmanian Government response to the Royal Commission into Institutional Responses to Child Sexual Abuse was released in June 2018, the Department of Premier and Cabinet was identified as responsible for a number of recommendations. Most of those recommendations are now the responsibility of the Department of Communities Tasmania, which was established July 2018.

As at April 2022, the Department of Premier and Cabinet is only responsible for recommendation 6.12 which is provided below.

6.12 - With support from governments at the national, state and territory levels, local governments should designate child safety officer positions from existing staff profiles to carry out the following functions:

- a. developing child safe messages in local government venues, grounds and facilities;
- b. assisting local institutions to access online child safe resources;
- c. providing child safety information and support to local institutions on a needs basis; and
- d. supporting local institutions to work collaboratively with key services to ensure child safe approaches are culturally safe, disability aware and appropriate for children from diverse backgrounds.

48 Identify the senior Department Officials with responsibility for the implementation of the Royal Commission's recommendations.

48 While Recommendation 6.12 is the responsibility of the Policy and Delivery Division of DPAC, the DPAC Executive is collectively responsible for the implementation of relevant Royal Commission's recommendations. The DPAC Executive comprises:

- Secretary (Chair)
- Deputy Secretary, Policy and Delivery
- Deputy Secretary, Government Services
- Deputy Secretary, People, Performance and Governance
- Director, State Service Management Office.

My details as Secretary are below.

Jenny Gale

Secretary, Department of Premier and Cabinet.

Level 7, 15 Murray Street, Hobart TAS 7000.

49 Describe whether there are any barriers to the implementation of the Royal Commission's recommendations that are within the responsibility of the Department. If so, provide details.

In your answer, you should address:

- (a) Any barriers to the introduction of a Child Safe Organisations Bill 2020, reflective of the National Child Safe Standards and recommendations in the National Royal Commission recommendations (Tas), and
- (b) Any barriers to the immediate development and adaptation of a reportable conduct scheme in Tasmania.

49 As at April 2022, DPAC is working with the Local Government Association of Tasmania to implement the recommendation where possible prior to the implementation of the Child Safe Organisations Bill 2020. DPAC is not aware of any barriers to the implementation of the recommendation. However, I note that some smaller councils may have challenges in identifying the additional resources that may be required for the dedication of child safety positions, but this would be considered following the commencement of the Child Safe Organisations Act.

The Department of Premier and Cabinet is aware of, but not directly assisting the Department of Justice in its implementation of the Child Safe Organisations Bill 2020. The Tasmanian Government is committed to implementing a child safety framework for all State Service organisations engaged in child-related services. This will help guide cultural change in

organisations to ensure keeping children safe from abuse is a priority for staff, volunteers and leaders.

In December 2020, the Tasmanian Government released the Child Safe Organisations Bill 2020 for public consultation. 24 submissions were received during the consultation process. The submissions are under review and will be considered by the Tasmanian Government in the continued development of the Child Safe Organisations Bill 2020.

Following the commencement of the Act, the Tasmanian Government, through the Department of Justice, will work with the Local Government Association of Tasmania on the Act's implementation.

50. Describe whether you consider that there are any barriers unique to Tasmania to the implementation of the Royal Commission's recommendations?

50. Whilst it is not unique to Tasmania, the recruitment of persons who are experienced and qualified in the protection of children, especially regarding trauma-informed therapeutic interventions, is a barrier to the implementation of the Royal Commission's recommendations.

The Department of Communities Tasmania has a broader focus on Safeguarding Children, and is developing a Safeguarding Governance Continuous Improvement Plan. Some of the actions have already been actioned, with some Managers and Directors undergoing Trauma informed training.

Within the Children, Youth and Families division, Department of Communities Tasmania, training programs provided by Workforce Development are underpinned by the principles of Trauma Informed Practice. In Unit 1, there are a number of online modules, which address Trauma Informed values, including:

- Becoming Your Professional Best;
- Family Violence in the Tasmanian Context; and
- Culturally Responsive Practice.

There are several workshop options including a two day workshop (face to face training) entitled Trauma-Informed Care, Vicarious Trauma & Self-Care, which specifically addresses the issues of both trauma informed practice as well as looking at the impact of work on the practitioners themselves, and how this can impact the trauma informed services. Staff also complete an advanced trauma series with the Australian Childhood Foundation.

There is also a four day program on Family Violence: Assessing Risk to Safety (a face to face workshop), which also addresses the impact of Family Violence on survivors/victims and their children. This includes a focus on

the ANROWS National Risk Assessment Principles for domestic and family violence.

As noted in RFS 49, some smaller councils may have challenges in identifying the additional resources that may be required for the dedication of child safety positions.

Redress and civil litigation

54 Identify:

(a) In respect of each calendar year from 1 Jan 2017 to 31 December 2021, the number of applications made to the Department under the Right to Information Act 2009 (Tas) or the Personal Information Protection Act 2004 (Tas) by:

- (1) Individuals seeking access to their own files or records from the time that they were a ward, or under guardianship, of the Tasmanian Government;
- (2) Individuals seeking access to their own files or records in relation to their detention at the Ashley Youth Detention Centre
- (3) Individuals seeking access to documents in relation to their allegations of child sexual abuse in an educational context
- (4) Individuals seeking access to documents in relation to their allegations of child sexual abuse in a health context;
- (5) Individuals seeking access to documents in relation to a criminal prosecution arising from their allegations of child sexual abuse in Institutional Contexts;

(b) In relation to the applications referred to in response to paragraph 54(a):

- (1) The average time between the filing of the application and the applicant receiving a substantive written response to that application; and

The number of applications that remain outstanding at the date of this Notice, categorised by the year of the application.

54. The Department of Premier and Cabinet has not received requests to access personal information held by Department of Premier and Cabinet in relation to child sexual abuse in Institutional Contexts, during the period 1 January 2017 to 31 December 2021.

55 Identify the person with responsibility within the Department (or if not in the

Department, elsewhere in the Tasmanian State Service) for the operation within Tasmania of the National Redress Scheme.

55. Amber Mignot.

Director, Child Abuse Royal Commission Response Unit, Department of Justice.

Level 3, 85-99 Collins Street, Hobart TAS 7000

58 Identify any training provided to Department Officials:

(a) In the application of the:

(1) Model Litigant Guidelines dated 14 May 2019 (TDOJ.0002.0008.0002), and

(2) Guidelines for the Conduct of Civil Claims (TDOJ.0002.0008.0001), or

That is directed to support the timely and trauma-informed management of civil claims concerning child sexual abuse in Institutional Contexts.

58. The training and conduct of legal practitioners assigned to conduct civil litigation is the responsibility of Office of Solicitor-General, with the support of the Department of Justice, if requested.

The training and conduct of legal teams assigned to respond to civil litigation is the responsibility of individual agencies.

Under Section 7 of the *Solicitor-General Act 1993*, the Attorney-General directed the Solicitor-General to manage the State's civil litigation.

The Department of Premier and Cabinet is aware that members of the Litigation Division of the Office of the Solicitor-General participated in training in Trauma Awareness in Institutional Settings, and trauma-informed Direct Personal Responses in May 2021. This training was organised by the Child Abuse Royal Commission Response Unit and provided by Blueknot.

59 Identify who has responsibility for making decisions (including decisions in relation to settlement) in relation to the conduct of civil litigation involving allegations or incidents of child sexual abuse in which any part of the Tasmanian Government is

a defendant?

In your answer, you should address the role of the:

(a) Department

(b) The Office of the Solicitor-General

(c) The Child Abuse Royal Commission Response Unit

(d) Any other relevant Tasmanian Department or Statutory Authority;
and

(e) Any insurance body.

- 59 The Office of the Solicitor-General has the sole responsibility for making decisions in relation to the conduct of civil claims, including settlement decisions.

The relevant Head of Agency has the responsibility for authorising the expenditure of settlement funds, consistent with their role as accountable authorities, under the *Financial Management Act 2016*.

60 Describe any training or guidance provided to the individuals responsible for making decisions (including decisions in relation to settlement) in relation to the conduct of civil litigation involving allegations of child sexual abuse in which any part of the Tasmanian Government is a defendant.

60 The Office of the Solicitor-General is responsible for decision making in regard to civil claims. It is the responsibility of individual departments for training and for the conduct of legal practitioners assigned by the Solicitor-General to conduct civil litigation .

61 Describe the Department's approach to redress for civil claims arising from child

sexual abuse in an Institutional Context. In your answer, you should address:

- (a) The approach of the Department to communication with victim-survivors of child sexual abuse
- (b) The approach of the Department to apologise to victim-survivors of child sexual abuse
- (c) Whether any conditions are routinely imposed on victim-survivors as part of settlement terms (such as non-disclosure agreements or other requests that the matter not be spoken about publicly, including legal reasons), and

Whether the Department provides apologies to victim-survivors of child sexual abuse where it forms the view that the Department has not acted appropriately.

61 In June 2020, the Tasmanian Government approved the Guidelines for the Conduct of Civil Claims, which outlines the framework and approach to the management of civil claims arising from child abuse. The Guidelines include the manner of engagement and provision of redress to civil claimants. Under the Guidelines, the management of civil claims is the responsibility of the Office of the Solicitor-General, including the provision of redress elements.

The Office of the Solicitor-General has recently identified issues with its ability to provide trauma-informed redress to civil litigants. The Tasmanian Government has since determined to assign the management of redress for civil litigants to the Child Abuse Royal Commission Response Unit.

62 Identify the relevant insurer(s) in relation to civil litigation to involving allegations of child sexual abuse in which any part of the Tasmanian Government is a defendant.

62

The State of Tasmania is self-insured through the Tasmanian Risk Management Fund (TRMF). The TRMF was established on 1 January 1999 and provides a whole-of-government approach to funding and managing specific identified insurable liabilities of participants.

The TRMF is not an insurer, but a self-insurance arrangement, to manage a set of understood and identified insurable risks. The Fund does not deal with, nor cover, all insurable risks for Government nor does it provide cover to all Government entities.

The Department of Treasury and Finance is responsible for the administration and management of the Fund and reports to the Minister for Finance on policy issues.

The administration of claims is undertaken by a contracted Fund Administration Agent - Jardine Lloyd Thompson Public Sector (JLT). JLT's role includes:

- (a) administering claims in accordance with a TRMF participant's directions;
- (b) reviewing all claim and payment documentation to make sure that it is complete, accurate and appropriate;
- (c) providing claims management (but not legal) advice to participants;
- (d) providing regular reports to participants on the progress, and actual and outstanding costs associated with each claim; and
- (e) brokering the purchase of external insurance cover, as required.

The TRMF will respond to child sexual abuse related claims where:

- (a) the claim is incurred after a participant joins the Fund (generally 1 July 1999); and
- (b) the Crown is found to be legally liable.

75. Where the Crown is found to be liable, but the abuse occurred prior to the relevant Agency joining the fund (general 1 July 1999) - that Agency will be responsible for meeting the legal liability.

- 63 In respect of each insurer identified in response to paragraph 62, describe their role in making decisions (including decisions in relation to settlement) in relation to the conduct of civil litigation involving allegations of child sexual abuse in which any part of the Tasmanian Government is a defendant.
- 63 The Department of Premier and Cabinet, other Agencies, the Child Abuse Royal Commission Response Unit and JLT do not have any decision-making roles in relation to the conduct of civil litigation.

Culture and reprisals

- 64 Describe any guidance given to Department Officials to make clear that they are able to come forward to this Commission.

- 64 Aware of the significance of the Commission of Inquiry, as the Head of the State Service, I have sent supportive and informative correspondence to all Tasmanian State Servants on several occasions, notifying them of the Commission of Inquiry, and acknowledging that all State Servants have my full support in coming forward to the Commission.

On **23 November 2022**, in my capacity as Head of the State Service, I sent an email to all Tasmanian State Servants notifying them of the Premier's announcement. This email is attached and named TRFS.0010.0068.0002.

On **4 December 2020**, as Head of the State Service, I sent an email to all Tasmanian State Servants:

- acknowledging the Premier's recommendation for Her Excellency, the Governor to establish a Commission of Inquiry, under the *Commission of Inquiry Act 1995*;
- to announce the launch of a portal to enable the early gathering of Commission of Inquiry information;
- to assure all State Servants that they have my full support, as well as that of Heads of Agencies, in reporting any concerns regarding child safety;
- reminding State Servants about the support available through Agency Employee Assistance Programs, as well as services and support groups referenced on the make a submission page on the Commission of Inquiry website; and
- informing that the Commission of Inquiry will help the State Service to identify historic systematic gaps and to put in place the best possible systems and processes to ensure that the mistakes of the past are not repeated.

The full version of this email is attached and named TRFS.0010.0068.0003.

On **17 December 2020**, Acting as Head of the State Service, Craig Limkin sent an email to all State Servants providing a link to the Terms of Reference to the Commission of Inquiry. In this email, the following support was also provided.

“I understand that discussions of these matters (the Commission of Inquiry) can be distressing for some and if any of the issues covered in the draft Terms of Reference or the other information about the Inquiry raise any issues for you, or you feel you would like to speak to someone, there are a range of supports available including speaking to your Manager, the EAP, Beyond Blue (1300 224 636), Lifeline (13 11 14) and 1800 RESPECT on 1800 737 732.”

The full version of this email is attached and named TRFS.0010.0068.0004.

On **22 March 2021**, I sent an email to all State Servants addressing the establishment of the Commission of Inquiry; stating that all State Servants have my full support in working with the Commission of Inquiry, to report any concerns that may be held about the safety of children; and advised of my expectation that all State Servants, whether a mandatory reporter under the *Children, Young Persons and Their Families Act 1997* or not, are obliged to report known or suspected child abuse, or that a child is at risk of abuse, including giving relevant information to the Commission of Inquiry.

In further support, I provided a link to two Action Sheets, which can also be found on the DPAC intranet, which provided clear and constructive advice to Managers and all State Servants about how staff can make a submission to the Inquiry, and other forms of support.

A full version of the email is attached and named TRFS.0010.0068.0005. A full version of the Action Sheets are attached and named TRFS.0010.0068.0007 and TRFS.0010.0068.0008.

On **27 April 2021**, I sent correspondence to all staff assuring them that:

“if you (any Tasmanian State Servant) are served a notice to appear before the *Commission of Inquiry into Tasmanian Government’s Response to Child Sexual Abuse in Institutional Settings* to give evidence, there is support for you (a Public Officer), and a process to follow to access that support.”

I also provided a link to the full details of rights and obligations in accessing indemnity and/or legal support, and information as to how to contact the following support services - encouraging all staff to use the services if they are having difficulty with any matter of the CoI process:

- Employment Assistance Program;
- Sexual Assault Support Service;
- Laurel House;
- Beyond Blue;
- Lifeline; and

- 1800 RESPECT.

A full version of this email is attached and named TRFS.0010.0068.0006.

Each of these communications was also sent direct to my Department of Premier of Cabinet employees, from me as both Head of the State Service and Secretary. DPAC-specific communications are included as Attachments 10 to 13 (TRFS.0010.0068.0010, TRFS.0010.0068.0011, TRFS.0010.0068.0012 and TRFS.0010.0068.0013).

65 Describe any information provided to Department Officials in relation to the protections that are available to Officials if they choose to come forward to this Commission.

65 In my opening statement of the email addressed in Attachment 3 (TRFS.0010.0068.0003) (3 December 2020), I referred to the Commission of Inquiry website, which highlighted that the Commission of Inquiry will respect any person who wishes to provide information privately, and that under the *Commission of Inquiry Act 1995*, participants have rights and protections, including that:

- your employer cannot prejudice or dismiss you;
- others cannot try to prevent you from providing information to the Commission; and
- others cannot punish you or cause you damage, loss or disadvantage because you provided information to the Commission.

In addition, on 27 April 2021, I sent an email to all State Servants providing support, guidance and a link to fact sheet which provided the following facts on the Commission of Inquiry and legal and indemnity assistance:

- what do State Servants need to know;
- who do State Servants need to inform if they receive a notice to appear before the Commission to give evidence; and
- Indemnity and Legal Assistance Panel for the Commission.

A full copy of this email is attached and named TRFS.0010.0068.0006. A full copy of the fact sheet identifying indemnity and legal assistance is attached and named TRFS.0010.0068.0009.

66 Describe any information or guidance given to management within the Department to ensure that no Official suffers reprisals for providing information to this Commission.

66 In my opening statement of the email addressed in Attachment 3 (TRFS.0010.0068.0003) (4 December 2020), I referred to the Commission of Inquiry website, which highlighted that the Commission of Inquiry will respect any person who wishes to provide information privately, and that

under the *Commission of Inquiry Act 1995*, participants have rights and protections, including that:

- your employer cannot prejudice or dismiss you;
- others cannot try to prevent you from providing information to the Commission; and
- others cannot punish you or cause you damage, loss or disadvantage because you provided information to the Commission.

In addition, and noted in RFS 64, on 22 March 2021 I sent an email to all State Servants addressing the establishment of the Commission of Inquiry, stating that all State Servants have my full support in working with the Commission of Inquiry to report any concerns that may be held about the safety of children, and advised of my expectation that all State Servants, whether a mandatory reporter under the *Children, Young Persons and Their Families Act 1997* or not, are obliged to report known or suspected child abuse, or that a child is at risk of abuse, including giving relevant information to the Commission of Inquiry.

A full version of the email is attached and named TRFS.0010.0068.0005.

67 Describe any allegations or reports you are aware of that individuals in the Department have discouraged Officials from engaging with the Commission. Outline the steps taken by the Department in response to such allegations or reports.

67 The Department of Premier and Cabinet has not received any allegations or reports, informing that individuals of the Department have discouraged Officials from engaging with the Commission.

Request for documents

69 Produce a copy of any materials (including training materials) created or distributed in connection with the matters.

69 The Department of Premier and Cabinet has provided the following attachments:

- Attachment 1: RFS 7 – Organisational Reporting Structures (TRFS.0010.0068.0001)
- Attachment 2 - HoSS Staff Message - Commission of Inquiry to be established - 23 November 2020; (TRFS.0010.0068.0002)
- Attachment 3 HoSS All Staff Message - Commission of Inquiry into Child Sexual Abuse - 3 December 2020; (TRFS.0010.0068.0003)
- Attachment 4 Acting HoSS All Staff Message - CoI into Child Sexual Abuse - Draft Terms of Reference & COVID Update - 17 Dec 2020; (TRFS.0010.0068.0004)
- Attachment 5 - Message from HoSS - Support for working with the CoI and keeping children safe - 22 March 2021; (TRFS.0010.0068.0005)
- Attachment 6 - Message from HoSS - CoI Indemnity and Legal Support - 27 April 2021; (TRFS.0010.0068.0006)
- Attachment 7 – DPAC Action Sheet – Commission of Inquiry – Support for Managers - 22 March_2021; (TRFS.0010.0068.0007)
- Attachment 8 - DPAC_Action_Sheet_-_Commission_of_Inquiry_-_Support_for_Employees_-22 March_2021; (TRFS.0010.0068.0008)
- Attachment 9 - DPAC-Action Sheet Indemnity and Legal Assistance; (TRFS.0010.0068.0009)
- Attachment 10 - DPAC Staff Message from your Secretary - Commission of Inquiry 23 Nov 2020; (TRFS.0010.0068.0010)
- Attachment 11 - DPAC Staff - Message from your Acting Secretary - CoI Draft Terms of Reference & COVID Update - 17 Dec 2020; (TRFS.0010.0068.0011)
- Attachment 12 - DPAC Staff - Message from your Secretary - Commission of Inquiry - 22 March 2021; (TRFS.0010.0068.0012)and

- Attachment 13 - DPAC Staff - Message from your Secretary - CoI Indemnity and Legal support - 27 April 2022. (TRFS.0010.0068.0013)

- 70 Produce a copy of any role description since 1 January 2010 provided to any ED5 investigators appointed by the Department to investigate allegations of child sexual abuse made against Tasmanian State Service Officials.
- 70 The Department of Premier and Cabinet cannot provide any documents because the department has not received any allegations.
- 71 Produce a copy of any legal advice received by the Department in relation to:
- (a) The scope of the ED5 investigation process, including:
 - (1) Advice in relation to when a person acts in the scope of their employment
 - (2) The elements required to carry out an effective ED5 investigation
 - (3) the steps to be taken to an existing ED5 investigation in circumstances where a criminal process is on foot in relation to the subject of the allegation, and
 - (4) the steps to be taken in relation to an existing ED5 investigation in circumstances where:
 - (A) the accused is acquitted of the charges (s) made against them, or
 - (B) the criminal process comes to an end prior to trial:
 - (b) The circumstances in which information concerning perceived or potential risk to a child can be shared with the Government Institutions, including any advice:
 - (1) Which has concluded that a disclosure should not be made despite the existence of a level of risk to children (whether those children can be identified or not) or
 - (2) In relation to whether it is necessary to perceive a risk to a particular child in order to be in a position to disclose.
- 71 The Department of Premier and Cabinet has not located any legal advice responsive to this paragraph.