

Statement of Timothy Bullard

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RFS-TAS-005 (SAM LEISHMAN)

Name	Tim Bullard
Address	Department of Education Tasmania Level 8, Parliament Square Building, Hobart Tasmania
Occupation	Secretary of the Department of Education

Background

1. This statement is made by me in response to RFS-TAS-005, issued on 18 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), the Honourable Marcia Neave AO.
2. My name is Timothy John Bullard, and I am the Secretary of the Department of Education ("the Department").
3. I have previously stated my background qualifications and employment history in RFS-TAS-001, RFS-TAS-002, RFS-TAS-003 and RFS-TAS-004. I have additionally outlined further matters under headings **Commitment**, **Areas for improvement**, **Current effort** and **The future**. I rely upon all the aforementioned material as previously stated.
4. The Department accepts the background outlined at paragraphs 1-3 of RFS-TAS-005.

Policies and procedures

Paragraph 4. Identify the policies or procedures of the Department:

(a) in place in 2015 which outlined the response to a victim-survivor of sexual abuse in the circumstances of Mr Leishman, and

5. Regretfully, the Department did not have a policy or procedure in place in relation to responding to victim-survivors of historical child sexual abuse.
6. While the Department does not yet have a policy to guide our engagement with and support for victim-survivors of child sexual abuse, the development of a policy and guidelines to effectively engage with victim-survivors in a trauma-informed, person-centred, and time-sensitive way is one of a range of improvements the Office of Safeguarding Children and Young People has included in its workplan.

(b) in place in 2015 which outlined the approach of the Department to the provision of

information held by it to a victim-survivor about the circumstances of their abuse or their abuser.

7. In 2015, a victim-survivor could access information held by the Department by making either a Personal Information Protection request (“PIP request”), or a Right to Information request (“RTI request”).
8. A PIP request provides an applicant with access to their own personal information, held by the Department (e.g. their school records, medical records, social work/psychologist reports), whereas an RTI request is a more broad-ranging request and can include other relevant material requested by an applicant (e.g. copies of complaints made against staff). I note, however, that in relation to information held about other people (third party information), notification to the third party is required pursuant to Section 36 of the Right to Information Act 2009.
9. Both types of requests were managed within the Legal Services Unit in 2015. That remains the situation today.
10. The Department did not have a formalised process for requesting information held by it until May 2016 (Right to Information Policy – May 2016¹); however, the Department did have information about such requests on its website.
11. Whilst not formalised in policy or procedure, the approach for accessing information held by the Department throughout 2015 was as follows:
 - (a) An Application Form was required to be completed and submitted to the Department.
 - (b) The Application Form for an RTI request was to be accompanied by a fee, however, that fee was waived for institutional child sexual abuse matters. There was no fee for PIP applications.
 - (c) Upon application, Legal Services contacted Information Management Support Services (IMSS) and request all/any relevant records.
 - (d) IMSS then returned any relevant records to Legal Services.
 - (e) Legal Services reviewed the records and made any necessary redactions required under law.
 - (f) The finalised copies of the records were returned to the applicant. Written reasons for decisions made under the RTI Act were also supplied to the applicant.

Paragraph 5. Identify the policies or procedures of the Department:

- (a) currently in place which outline the response to a victim-survivor of sexual abuse in the circumstances of Mr Leishman, were it to arise today, and**

¹ Provided pursuant to NTP-TAS-004, Item 3 response.

12. *Process to manage information about historic and/or current child sexual abuse perpetrated by current DoE employees (2021 – current).*
13. Additionally, as outlined at para. 6, the Department is in the process of considering ways to improve our engagement with all victim-survivors.

(b) currently in place which outline the approach of the Department to the provision of information held by it to a victim-survivor about the circumstances of their abuse or their abuser.

14. *Right to Information Policy and Procedure (April 2020 – current);*
15. *Personal Information Protection Policy (October 2018 – current).*

Paragraph 6. Please explain what you understand to be the purpose of each of the policies and procedures referred to in answer to paragraphs 4 and 5 above.

16. *Process to manage information about historic and/or current child sexual abuse perpetrated by current DoE employees - provides advice to staff about how to manage historic and current child sexual abuse claims.*
17. *Right to Information Policy and Procedure – outlines the policy and procedure for the release of information under the Right to Information Act 2009 in relation to the four types of information disclosure, specified in the Act. Additionally, the process required to be undertaken to obtain each type of disclosure is outlined.*
18. *Personal Information Protection Policy – describes the types of personal information collected by the Department, why the information is collected, what the Department does with the information and how the information is protected. The Policy additionally sets out the process for obtaining an individual’s own personal information from the Department.*

Response to Mr Leishman

Paragraph 7. Identify when the Department became aware that Harington had or may have abused any child.

19. By reference to Harington’s Conduct and Investigation file (1969-1988), the Department became aware that Harington had been charged with child sexual offences, requiring him to be suspended in February 1973. A formal suspension letter was sent from the Department to Harington on 22 February 1973².
20. He was later acquitted by a jury and recommenced employment at Clarence High School, before transferring to Hobart Matriculation College on 21 June 1973.

² Conduct and Investigation file (1969-1988), page 155.

21. Further, on 14 May 1985 a letter was received by the Department from a parent who alleged that Harington had made “homosexual advances” towards her son³ who had been attending Campania District High School.
22. The Department became aware that Harington subsequently faced criminal charges in relation to a student at Campania District High School (DHS) and then Regional Superintendent [REDACTED] [REDACTED] wrote to the Director-General of Education on 5 July 1985 expressing reluctance should he return (Harington had been seconded from Campania DHS to CSIRO’s Science Education Centre under supervision of another officer)⁴.
23. Harington was acquitted of the 1985 charges.
24. The Department further became aware of child sexual assault allegations in 1992 in relation to two boys who attended the CSIRO Double Helix Club. By letter of 10 December 1992 from the Department of Community Services Child Protection Unit, it was outlined that the Committee resolved “that abuse probably had taken place”, but as the information could not be corroborated Police could not proceed to charge⁵.

Paragraph 8. Identify when the Department became aware that Harington had or may have abused Mr Leishman.

25. There are no departmental records to suggest that the Department was aware that Harington had or may have abused Mr Leishman.
26. The only record alerting the Department that Harington had or may have abused Mr Leishman was a copy of the letter Mr Leishman sent to the then Minister for Education and Training, Hon Jeremy Rockliff MP, on 20 November 2015, following Mr Leishman having given evidence in the Supreme Court trial. The Department received the copy of the letter via email from the Minister’s Office on 30 November 2015⁶.

Paragraph 9. Set out the steps (including by identifying relevant dates) taken by the Department to make contact with Mr Leishman after it became aware of the abuse by Harington.

27. On 16 December 2015, the Department assisted in the preparation of a response from the Minister to Mr Leishman. The response outlined that the Department was working closely with the Royal Commission into Institutional Responses to Child Sexual Abuse and was conscious of those processes.
28. On 5 May 2016, the Department received a copy of correspondence from the Minister’s Office, requesting assistance in drafting a reply to Mr Leishman’s follow-up letter of 3 May 2016. There is no record on file to indicate that the Department responded to the request from the Minister’s Office.

³ Complaint File (1985), page 4.

⁴ Complaint File (1985), pages 2-3.

⁵ Personnel File (pre 2005), page 336.

⁶ MO Request (refer. DOC/15/194536)

29. On 6 December 2016, the Minister's Office contacted the Department to assist in providing a response, after having received a letter from the then Independent Member for Denison, Hon Andrew Wilkie MP on behalf of Mr Leishman.
30. On 23 January 2017, the Department advised the Minister's Office that the matter was being discussed with the Secretary.
31. On 11 July 2017, Ms Trudy Pearce, Deputy Secretary Learning, met in person with Mr Leishman to offer an apology, hear Mr Leishman's experience and discuss counselling support Mr Leishman was receiving.
32. After the meeting, Ms Pearce followed up Mr Leishman's queries about information the Department held regarding any concerns raised as to Harington's behaviour at New Town High School, including from other teachers/staff, and information as to why Mr Harington was moved/transferred from the school.
33. On 3 August 2017, Ms Pearce contacted Mr Leishman and advised him that she had followed up his queries and he was advised that to obtain the information, an RTI application was appropriate. Ms Pearce offered Mr Leishman support in the process, waiver of the fee, timeliness, and direct access to the RTI Officer (██████████).
34. Ms Pearce advised Mr Leishman that she was keen to progress his request and asked him to stay in touch.
35. Correspondence from the Legal Services Unit was sent to Mr Leishman on 2 August 2017, outlining the RTI process and offering assistance.
36. Mr Leishman subsequently lodged an RTI application, but later withdrew his application, which was substituted by one from his legal representative (see further at para. 40-41).

Paragraph 10. Identify what support was offered by the Department to Mr Leishman:

- (a) after the Department became aware of allegations of abuse by Harington, and**
- (b) following the conviction of Harington.**

37. To my knowledge, the Department was not aware of the allegations of Mr Harington's abuse of Mr Leishman until the end of the criminal trial, and only once Mr Leishman had written to the Minister on 20 November 2015.
38. It is not unusual for the Department to be unaware of ex-students being involved in criminal proceedings as a victim-survivor witness. Unless the Police, DPP or victim-survivor contacts the Department, we are not otherwise notified. In this regard, I am aware that the Office of the Director of Public Prosecutions has an internal Witness Assistance Service, which employs staff who are trained and experienced in offering trauma-informed support for witnesses in criminal proceedings. In saying that, if the Department was contacted to provide support throughout the process, and following the process, we would be more than happy to assist.
39. Ms Pearce met with Mr Leishman on 11 July 2017 and she offered to provide support and assistance during the RTI process.

40. I am unaware why there was a delay between Mr Leishman first contacting the Minister and support being offered; however, I consider that delay to be regrettable.

Paragraph 11. Explain whether you believe that the support described in answer to paragraph 10 above was an appropriate level of support for the Department to offer to Mr Leishman in the circumstances.

41. The Department's records show that the support and assistance provided to Mr Leishman following his letter to the Minister on 20 November 2015 was entirely inadequate.
42. In my opinion, there is a risk that the lack of communication fails to bring closure for the complainant. I am also aware of at least one occasion where this lack of communication has been construed by a complainant as a lack of action on behalf of the Department.
43. I am conscious of the need to deal with circumstances such as this in a trauma informed way and have asked the Office of Safeguarding Children and Young People to consider our approach to these and other similar matters, where victim-survivors seek an outcome. As such, I would welcome any thoughts the Commission might be able to share in relation to the Department's future approach to similar complaints from the perspective of the complainant.

Paragraph 12. Identify the response of the Department or the Tasmanian State Service (as the case may be) to a request by Mr Leishman for information about himself, his abuse or about Harington.

44. The response to Mr Leishman in relation to retrieving information held by the Department about him, Mr Harington, and the abuse Mr Leishman suffered was in accordance with legislation and procedure (refer further to paras 7-11 in relation to procedure).
45. The Department offered assistance to Mr Leishman in the RTI process and in prioritising his request. An offer of assistance is not generally made in these matters; however, should an applicant contact the Department and seek assistance, our staff will always assist. The Department's ability to prioritise applications is limited due to the extensive number of applications that are currently received, and the need to be equitable in how they are processed.

Paragraph 13. Explain if you consider the responses by the Department or the Tasmanian State Service referred to in response to in each of paragraphs 9, 10 and 12 was:

- (a) trauma-informed and person centred**
 - (b) consistent with community standards and expectations, and**
 - (c) consistent with policies and procedures in place in Tasmania at the time.**
46. Apart from Ms Pearce's interactions with Mr Leishman, I do not consider the Department's response to Mr Leishman to be trauma informed, person centred or consistent with community standards and expectations, nor is it acceptable that the Department did not – and still does not – have any policy or procedure in place to assist in meeting the expectations necessary to demonstrate support, care, compassion and understanding of victim-survivors' experiences.

47. As I have previously noted, the Office of Safeguarding Children and Young People is aware of this gap and has included it in its workplan as an important tool to help guide and support staff in appropriately and sensitively engaging with victim-survivors in a timely manner.
48. I personally wish to extend an apology to Mr Leishman for the delayed response from the Department, following his letter to the Minister on 20 November 2015. I thank Mr Leishman for raising his concerns about the lack of Departmental support, which will in turn assist us in developing policies and guidelines to ensure victim-survivors are supported in the future.

Paragraph 14. Produce a copy of the following documents:

(a) policies or procedures that are either referred to in or relevant to your response as in place at the relevant time. Where any document provided is no longer current, please also provide the current version of that document

49. *Process to manage information about historic and/or current child sexual abuse perpetrated by current DoE employees (2021 – current).*
50. *Right to Information Policy and Procedure (April 2020 – current);*
51. *Personal Information Protection Policy (October 2018 – current).*

(b) copies of any investigation into Harington carried out by the Department

52. *Conduct and Investigation Files*
53. *Complaint File*

(c) copies of correspondence between Mr Leishman and the Department (or the Tasmanian State Service, as the case may be) from 2014, and

54. Provided as summarised in the Table at “Annexure “A”

(d) records of any internal consideration by the Department or the Tasmanian State Service as to how to respond to any information request by Mr Leishman received after 2014.

55. Provided as summarised in the Table at “Annexure “A”

ANNEXURE A

DOC/22/39933	Formal letter to withdraw RTI application
DOC/22/39928	Letter to Mr Leishman – Request for provision of documents – Right to Information Act.
DOC/22/39924	Email correspondence in relation to Mr Leishman for request for records relating to Mr Harington’s behaviour.

DOC/16/58965	Letter from Sam Leishman regarding court hearing where Daryl Harington was convicted and advising that he had received no contact from the Department.
DOC/17/130585	RTI application – documentation of the events
DOC/17/130587	Email acknowledgment from Department to Mr Leishman
DOC/17/133863	Negotiation letter – States the information to be released. (131363 Negotiation letter sent to Mr Leishman.)
DOC/17/163998	RTI application submitted to the Department
DOC/17/166507	Email correspondence regarding RTI application
DOC/17/167785	Formal letter to withdraw application
DOC/17/181803	Trudy Pearce and Sam Leishman - email correspondence
DOC/17/182415	Email correspondence between Minister for Education and Training and Mr Leishman.
DOC/17/184517	Email correspondence to Sam Leishman in response to RTI and his withdrawal
DOC/18/40401	Response to Mr Leishman from Department
DOC/18/101145	Signed decision
DOC/21/43566	Letter of response to Mr Leishman 09/2020
DOC/22/37447	Letter from Mr Leishman in relation to RTI extension and stating third party not to be informed.
DOC/22/38371	Letter from Mr Leishman to Minister for Education and Training
DOC/22/38375	Response to letter from Mr Leishman from Minister for Education and Training
DOC/22/38377	Email correspondence relating to Release of RTI
DOC/22/38379	Letter to Mr Leishman November 2015 from Minister for Education and Training
DOC/22/39947	Email correspondence between Minister for Education and Training and Mr Leishman
DOC/22/39950	Email correspondence in relation to update on Ministerial