

**Order Under the**  
***Commissions of Inquiry Act 1995***

WHEREAS all children deserve a safe and happy childhood.

AND Tasmania recognises that Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's rights to this protection and a crime under Tasmanian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND government institutions, including child-care, educational, and other non-government institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures or responses by government and non-government institutions in relation to allegations and incidents of child sexual abuse are explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms in relation to systemic failures by government institutions in relation to child sexual abuse and related matters.

AND noting that the Royal Commission into Institutional Responses to Child Sexual Abuse did not specifically examine, make findings or recommendations about Tasmanian Government institutions.

AND noting that the findings and recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse substantially addressed issues relating to matters outside government institutional contexts.

AND as the Tasmanian Government expected from the findings and recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse the Tasmanian Government continues to receive reports of child sexual abuse in government institutions.

AND noting that, it is also important to continuously improve the response to all forms of child sexual abuse in all contexts.

AND the Tasmanian Government has expressed its support for, and undertaken to cooperate with, an inquiry into its responses to child sexual abuse and related matters.

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the Advice of the Executive Council, being satisfied that it is in the public interest and expedient to do so, by this my order made under Section 4 of the *Commissions of Inquiry Act 1995* –

- (a) Direct that an Inquiry be made into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings.
- (b) Establish a Commission to conduct and report, with such recommendations as it may consider appropriate, on Inquiry.
- (c) Appoint  
  
The Honourable Marcia Neave AO  
  
Professor Leah Bromfield  
  
The Honourable Robert Benjamin AM  
  
as members of the Commission.
- (d) Appoint the Honourable Marcia Neave AO as President of the Commission.

AND I require and authorise you, to inquire into the Tasmanian Government's responses to allegations and incidents of child sexual abuse in institutional contexts, and in particular, without limiting the scope of your inquiry, the following matters:

- (i) what the Tasmanian Government should do to better protect children against child sexual abuse in institutional contexts in the future;
- (ii) what the Tasmanian Government should do to achieve best practice in the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse in institutional contexts;
- (iii) what the Tasmanian Government should do to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse in institutional contexts, including addressing failures in, and impediments to, reporting, investigation and responding to allegations and incidents of abuse;
- (iv) what the Tasmanian Government should do to address, or alleviate the impact of, past and future child sexual abuse in institutional contexts, including, in particular, in ensuring justice for victims through, processes for referral for investigation and prosecution and support services.

AND I direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND I direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (i) the experience of people directly or indirectly affected by child sexual abuse in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- (ii) the adequacy and appropriateness of the responses by the Tasmanian Government, and its officials, to reports and information about allegations, incidents or risks of child sexual abuse in institutional contexts, including, without limiting the generality of your inquiry:

- i. the adequacy and appropriateness of the responses by the Department of Education to allegations of child sexual abuse in Tasmanian Government Schools;
  - ii. the adequacy and appropriateness of the responses of the Tasmanian Health Service and the Department of Health to allegations of child sexual abuse, particularly in the matter of James Geoffrey Griffin (deceased 18 October 2019);
  - iii. the adequacy and appropriateness of the responses of the Department of Communities Tasmania to allegations of child sexual abuse at Ashley Youth Detention Centre;
- (iii) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you may be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- (iv) changes to laws, policies, practices and systems that have improved over time the ability of government institutions to better protect against and respond to child sexual abuse in institutional contexts.

AND I further declare that you are not required by this Order to inquire, or to continue to inquire, into a particular matter to the extent that the matter has been sufficiently and appropriately dealt with by the Royal Commission into Institutional Responses to Child Sexual Abuse or another inquiry or investigation or criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and I authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (i) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 34A of the *Commissions of Inquiry Act 1995* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- (ii) the need to establish investigation units to support your inquiry;

- (iii) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (iv) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary trauma to witnesses;
- (v) the need to ensure that government and non-government institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archival material.

AND I declare that in this Order:

***child*** means a child within the meaning of the *Convention on the Rights of the Child* of 20 November 1989.

***child sexual abuse*** means

- i. any act which exposes a child to, or involves a child in, sexual processes beyond their understanding or contrary to accepted community standards. Sexual abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling of breasts, voyeurism, and exhibitionism and exposing a child to or involving the child in pornography. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in preparation for sexual activity with the child; and
- ii. any related matters.

***Department of Communities Tasmania*** means the Government department referred to in Part 1 of Schedule 1 of the *State Service Act 2000* as the Department of Communities Tasmania, including its predecessors.

***Department of Education*** means the Government department referred to in Part 1 of Schedule 1 of the *State Service Act 2000* as the Department of Education, including its predecessors.

***Department of Health*** means the Government department referred to in Part 1 of Schedule 1 of the *State Service Act 2000* as the Department of Health including its predecessors, and includes Ambulance Tasmania within the meaning of the *Ambulance Service Act 1982* and all other publicly funded health services other than health services provided by the Tasmanian Health Service under the authority of the *Tasmanian Health Service Act 2018*.

***government institution*** means any agency or statutory authority of the Crown in right of Tasmania, or local government entity.

***non-government institution*** means any non-government institution that undertakes, or has undertaken, activities on behalf of the Tasmanian Government or is funded by the Tasmanian Government to provide services for children.

***institutional context***: child sexual abuse happens in an institutional context if, for example:

- (i) it happens on premises of a government or non-government institution, where activities of the institution take place, or in connection with the activities of the an institution; or
- (ii) it is engaged in by an official of a government or non-government institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, concealed or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- (iii) it happens in any other circumstances where you consider that a government or non-government institution is, or should be treated as being, responsible for adults having contact with children.

***law*** means a law of the Commonwealth or of a State or Territory.

***official*** means:

- (i) any member, officer, employee, associate, contractor or volunteer (however described) of a government or non-government institution; and
- (ii) any other person who you consider is, or should be treated as if the person were, an official of a government or non-government institution.

***related matters*** means

- (i) any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse;
- (ii) assisting a person to avoid detection for child sexual abuse or any other unlawful or improper treatment within the meaning of paragraph (i) of this definition.

***statutory authority*** means a body or authority, whether incorporated or not, which is established or constituted by or under an Act or under the royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority and includes the governing authority of a statutory authority.

***Tasmanian Government*** means the executive government of Tasmania, and includes its agencies and statutory authorities.

***Tasmanian Health Service*** means:

- (a) the Tasmanian Health Service within the meaning of the *Tasmanian Health Service Act 2018*, and includes any subsidiary of the Tasmanian Health Service and all its predecessors;
- (b) a Health Organisation under the *Tasmanian Health Organisations Act 2011*.

AND I:

- (a) require you to begin your inquiry as soon as practicable; and

- (b) require you to make your inquiry as expeditiously as possible; and
- (c) require you to report to appropriate authorities where you have identified a risk or potential risk to the welfare of a child or children generally; and
- (d) require you to submit to me:
  - (i) as soon as possible, and in any event not later than 31 August 2022, your final report of the results of your inquiry and your recommendations; and
  - (ii) authorise you to submit to me any recommendations or interim reports that you consider appropriate.

Dated 15 MAR 2021



Governor

By Her Excellency's Command



Elise Archer MP

Attorney-General