



## Submission to the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings

Engender Equality, July 2021

*Survivors are weighing up the cost of silence and the cost of speaking. Sometimes it's not as clear cut as saying, 'the truth will set you free', because in many cases the truth will add an extra burden of scrutiny and trauma and they are risking friendships and relationships by speaking out. These people's lives are all intertwined.*<sup>i</sup>

– Camille Bianchi, *The Nurse* (podcast)

### Introduction

Engender Equality provides specialist counselling, psychoeducation and support for individuals and groups affected by family and intimate partner violence, along with systemic advocacy and training to address gender inequality and reduce violence against women and children.

We strongly support the work of the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (the Commission of Inquiry), and its focus on adequacy and effectiveness of the Tasmanian Government's response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA). We note the Tasmanian Government's acknowledgement that the Commission of Inquiry *will ensure the effective implementation of (RCIRCSA's) recommendations in Tasmania.*<sup>ii</sup>

Engender Equality calls for an adequate understanding of the role that organisational culture plays in enabling child sexual abuse in institutional settings. Engender Equality proposes that hierarchical allocation of power within bureaucratic systems reduces the opportunities for individual accountability, with the result of diminished transparency.

This premise is backed up by Donald Palmer et al, in their report on organisational culture in child sexual abuse in institutional contexts: "The more status and power the perpetrators and their allies possess in an organisation, the more difficult it will be for victims and third-party observers to have their disclosures heard and believed."<sup>iii</sup>

Engender Equality asserts that the protection of children in institutional setting requires two corrections. Firstly, a reworking of power, how it is used and who benefits from it. Secondly, new

mechanisms that promote accountability alongside both shared and personal responsibility for children's safety.

Our submission has been researched and written by Dr Morag MacSween and is informed by over three decades of experience as a service provider, advocacy organisation and strategic partner in the Tasmanian family and sexual violence sectors.

### Child Sexual Abuse

*There remains a lack of awareness among parents and community members about the concept and dynamics of child sexual abuse, and an under-confidence about how to recognise and respond to concerns about this abuse. For many professionals, parents and community members, there is a belief that child sexual abuse is not readily preventable.*<sup>iv</sup>

*Data from the Department of Justice suggests that 86% of child sexual abuse goes unreported altogether. However, when victims of child sex abuse do report, a high percentage of them delay disclosure well into adulthood. The average age at the time of reporting child sex abuse is about 52 years.*<sup>v</sup>

### Tasmania

*Tasmania is characterised by physical isolation and social and political insularity. It is an interconnected community, with a strong sense of community and identity, a small, tight and 'sticky' community, and as with any small place, has 'clubby' networks... a small place is very vulnerable to capture.*<sup>vi</sup>

### Culture Change

*Seventy-five per cent of business transformation initiatives fail. Over time we tend to develop confirmation bias, forever seeking evidence that reinforces what we already believe, and downplaying or dismissing what doesn't. We're also designed, both genetically and instinctively, to put our own safety first, and to avoid taking too much risk. The result is... immunity to change.*<sup>vii</sup>

*The voices, perceptions, wants and ideas of people who have experienced violence and abuse are frequently missing from discussions, statements, decisions, policy design and services to do with family and sexual violence. Engender Equality supports opportunities for people with lived experience of family and sexual violence to take a position of leadership to create better outcomes for victim-survivors.*<sup>viii</sup>

### Evaluation

*At its most basic, evaluation is a judgement about how well something is working. In many services, or funded programs, evaluation is a mandatory requirement. However, in the everyday performance of service delivery, sometimes evaluation does lose out among competing priorities.*<sup>ix</sup>

## Key messages

Engender Equality has three key messages for the Commission of Inquiry.

### **1. Children will be safe when mechanisms that enforce their vulnerability are removed**

The barriers to children disclosing child sexual abuse and the grooming behaviours which typically precede it, cannot be overstated. In reality, children will only be protected if the adults around them:

- Accept the prevalence of child sexual abuse;
- Are skilled in identifying environments, processes and cultures which minimise the access of predators to children and those that enable exploitative behaviours;
- Are able to identify grooming behaviours; and, above all
- Are confident to speak out.

There is significant work to do to ensure that the Tasmanian Government's approach to creating child safe organisations is fit for purpose.

### **2. Tasmania needs a coordinated primary prevention strategy for child sexual abuse**

Beyond its focus on the creation of child safe organisations, the RCIRCSA also commissioned research into the prevention of child sexual abuse more broadly<sup>x</sup>. That research found that primary prevention – preventing the occurrence of child sexual abuse in the first place – is poorly understood. Further, the research found that that existing primary prevention information, services and initiatives are inaccessible, uncoordinated, under-evaluated and not subject to quality control.

As a small, highly interconnected community, there is a significant opportunity for the Tasmanian Government to co-lead, with specialist agencies, victim-survivors and the community sector, a high-quality, coordinated and evaluated child sexual abuse primary prevention strategy.

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### **3. Current culture and practice protects perpetrators and silences victims**

There are aspects of culture and governance in Tasmania which are likely to impact negatively on the development of a 'speak out' culture in our agencies. There is significant work to do to develop the transparency and candour on which child safety depends across sectors, and this is a long-term task.

It is notable that The Tasmanian Government's initial approach to the implementation of RCIRCSA recommendations does not allow anyone outside of Government to assess, or to properly respond to, the Commission's requirements for systemic reform. In order to eliminate child sexual abuse in institutional settings mechanisms for transparency must be maximised at every opportunity.

A robust strategy is required to ensure that:

- All relevant expertise is harnessed in prioritising, designing and implementing the Tasmanian response to the RCIRCSA recommendations; and
- That there is adequate independent scrutiny of its adequacy and effectiveness.

Our comments in the body of this submission are relevant to these three key messages.

## Communication, Participation and Engagement

The reform effort in relation to the RCIRCSA recommendations is, of necessity, complex, long-term and extensive. Reporting requirements are, quite rightly, significant. The Tasmanian Government, alongside all states and territories, faces a very real challenge in meaningfully engaging all Tasmanians who are affected by, and have expertise in relation to, this work. The ‘business-as-usual’ approach to communication and engagement is appropriate for communication between institutions, but it does not work for:

- Survivors of child sexual abuse;
- Agencies supporting survivors and advocating for change, particularly small agencies such as Engender Equality;
- Individual members of staff working with children; or
- The Tasmanian public.

We suspect that these groups will share the experience of Engender Equality, which is that it is not currently possible for us to provide a fully informed response to the Commission’s core questions:

- *Whether Tasmanian children are better protected from child sexual abuse in institutional contexts, and are better supported to report child sexual abuse since the RCIRCSA made its recommendations?*
- *Whether the response by the Tasmanian Government to allegations and incidents of child sexual abuse has improved since the RCIRCSA reported?*
- *How adequate or effective have the Tasmanian Government’s reforms been in response to the RCIRCSA?*
- *What issues does the Tasmanian Government face in improving its response to child sexual abuse, and what factors may support or limit change?*
- *What else can and should be done to better protect children from sexual abuse in institutional contexts, to remove barriers to the reporting of abuse, to improve the response to reports or information about abuse, and to address or alleviate the impact of child sexual abuse on victim-survivors and the Tasmanian community?*

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Four issues combine to create this situation:

- The sheer volume of Tasmanian Government information relevant to its implementation of RCIRCSA recommendations;
- Initiatives are linked broadly but not specifically to RCIRCSA recommendation/s;
- It appears that only the judiciary and key legal stakeholders are involved in implementation strategy and oversight;
- We can find no information about how the adequacy or effectiveness of implementation initiatives will be or is being measured.

## Volume

The Tasmanian Government's initial response to RCIRCSA ran to 133 pages. There have been three subsequent Annual Progress Reports and Action Plans; the 2020 documents alone run to 138 pages. The initial response notes that implementation will be both direct and integrated within four existing programs of reform<sup>xi</sup>. Documents reporting on only one of those programs, Strong Families, Safe Kids, run to 200 pages.

Engender Equality acknowledges and welcome the succinct plain English in the Annual Progress Report and Action Plan. Unfortunately, it is not sufficient as a stand-alone document to promote understanding of the implementation effort.

## Clarity

The Annual Progress Report and Action Plan 2020 is structured against the five RCIRCSA thematic areas. The number of relevant RCIRCSA recommendations is noted at the start of each section, but recommendation text is not included, and recommendations are not linked to the descriptions and progress reports of Tasmanian initiatives. For example, *Making Institutions Safe* notes that 93 RCIRCSA recommendations are relevant to the initiatives reported on, but does not specify which recommendations are actioned by which initiative.

The Strong Families, Safe Kids evaluation report does not mention the RCIRCSA, and the 2021-2023 action plan notes only that the Department of Justice leads the implementation of Tasmania's response to RCIRCSA. It is not possible to tell which RCIRCSA recommendations are addressed by Strong Families, Safe Kids.

The Child Safe Organisations Bill runs only to 13 pages and is general and high level. We could not find any information about whether the Act will be supported by regulations and/or model policies and guidelines. The public consultation ran for 6 weeks, over the Christmas period. Submissions and the Government's response to them cannot be located on the Department of Justice website.

Taken together, these are major challenges to meaningful comment on the Bill. This is particularly concerning, as child safe organisations are the main preventative element of RCIRCSA reform.

We know that child sexual abuse is common, that disclosure of child sexual abuse is rare, that core features of institutions further deter disclosure and reporting, and that reporting, when it does occur, is often extremely delayed and poorly managed. Prevention relies on a culture of child safety alongside evidence-based process, transparently monitored and rigorously evaluated. Early intervention relies on adults being *attuned to signs of harm in children and equipped to identify signs of possible sexual abuse*<sup>xii</sup>. Prevention relies on total transparency and accountability of all power structures and hierarchies within organisational culture.

While we do not question the Tasmanian Government's intent to promote child safe organisations, we cannot be confident in their current approach.

Engender Equality endorses CREATE Tasmania's comments on the Bill:

*Whilst CREATE supports the initial steps towards developing the Bill to better protect children and young people in Tasmania, CREATE recommends the following actions for consideration before finalising:*

- *Incorporate the National Principles and Child Safe Standards so that they remain nationally consistent within the Child Safe Organisations Bill;*
- *Provide child-and-young-person-friendly versions of the Bill that are in simple language and easy to understand;*
- *Provide annual surveys for children and young people to participate in to provide their views on how well organisations and services are upholding the standards and principles in practice;*
- *Ensure independent oversight of the National Principles and Standards through an independent body such as Tasmania's Child Advocate or Commissioner for Children and Young People, that has the capacity to review both organisations and government agencies delivering services to children and young people.<sup>xiii</sup>*

We note, and endorse, the approach of the Victorian Government on this critical issue<sup>xiv</sup>. The 2013 *Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations* resulted in an earlier response in Victoria than in other states and territories. A number of the challenges to creating child safe cultures noted in that Inquiry are, in our view, very relevant to Tasmania:

- Limited guidance to assist organisations to assess and mitigate risks specific to child abuse;
- Limited awareness within organisations of how to use regular supervision and performance management to identify concerns with the conduct of personnel; and
- Limited awareness among many leaders and managers about how to dismantle entrenched but now outdated culture and providing the opportunity to create an organisational culture that will ensure children are reasonably protected from abuse.

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Eight years' experience in responding to those challenges has resulted in an extensive architecture of regulation and guidance. The Victorian Government has also reviewed progress to identify whether:

*The Victorian child safe standards have been understood and implemented by organisations in their initial period of operation in a way that promotes improvements in the child safe culture in organisations and whether the regulatory scheme that supports compliance with the child safe standards is operating effectively [including]...*

- *Organisations' experience with implementing the child safe standards and their views on whether the standards are helping to develop a child safe culture in their organisations;*
- *The Commission for Children and Young People and relevant authorities' experiences of administering the regulatory scheme;*
- *Available data on indicators of how safe children are in organisations in Victoria;*
- *Any adjustments that may be needed to Victoria's child safe standards or the regulatory scheme to better align with the Royal Commission's recommendations.*

The overall aim of work in Victoria is *embedding the protection of children from abuse in everyday thinking and practice*. Engender Equality submits that there is no need for the Tasmanian Government to ‘reinvent the wheel’. A comparative review of the approach taken in Victoria and other states and territories can provide a blueprint for action.

## Participation

The Tasmanian Government’s primary mechanism for implementing the RCIRCSA’s recommendations is the Child Abuse Royal Commission Response Unit. There is also a working group to oversee the implementation of the recommendations relating to policing, and a Steering Committee for the Pilot Intermediary Scheme.

The Child Abuse Royal Commission Response Unit:

- Manages the Tasmanian Government’s commitments under the National Redress Scheme;
- Leads the implementation of whole-of-government projects arising from the work of the Royal Commission; and
- Supports the Office of the Solicitor-General’s Litigation Division by undertaking the investigative and factual analysis of child abuse related claims against the State of Tasmania.

There is no information on the make-up of the Unit online. In response to a telephone inquiry, the Unit told us that they are part of the Department of Justice and that people and agencies external to Government are not involved in the Unit. The Unit acts on priorities set by Ministers.

In our view, this represents a significant missed opportunity to ensure that strategic decisions on which recommendations to prioritise and the design of initiatives benefits from the input of survivors, their advocates, or agencies or individuals with expertise in child sexual abuse and institutional change.

For example, Ashley Youth Detention Centre is being *redesigned and upgraded to meet modern standards and to ensure the physical design elements reduce the risk to young people and initiatives are being implemented to deliver an integrated therapeutic youth justice model at Ashley*. This does not reassure us that the vital knowledge and experience about attitudes and behaviour towards sexual abuse in Ashley held by specialist sexual assault services and other NGOs has informed priority-setting and initiative design.

The Pilot Intermediary Scheme allows the use of an intermediary where the quality or clarity of evidence may be diminished by a victim or witness’ ability to understand, process or express information. It applies to all child victims and witnesses of sexual crimes and homicide-related matters, and to adults with communication issues. The Scheme is supported and monitored by the Pilot Intermediary Scheme Steering Committee, which is made up of members from the judiciary, key legal stakeholders and Tasmania Police. It appears that victim-survivors, their advocates and other experts are not involved, which is another missed opportunity to address outdated power hierarchies and install accountability mechanisms.

We could find no information about the police working group. This does not reassure us that the vital knowledge and experience of current police attitudes and behaviour towards sexual abuse held within sexual assault and domestic violence NGOs is informing the work of the group. This stands in contrast with Tasmania Police involving Engender Equality from the outset in discussions about Officer-Involved Domestic Violence.

## Evaluation

In some cases, the Annual Report advises on the intended outcomes of initiatives. For example, centralised management of redress claims is intended to ensure *a consistent and expedient response for claims arising from any Government Agency*. The aims and objectives of many initiatives are not stated. We could find no information on whether, and how, the achievement of outcomes will be monitored and evaluated.

As the Australian Government Department of Health notes, evaluation is critical to:

- *Finding out what is working and what is not working;*
- *Identifying whether there is a good fit between planning and practice;*
- *Identifying ways of improving program or project quality;*
- *Identifying any current or ongoing program or project risks;*
- *Identifying whether any alternatives might work better;*
- *Demonstrating the appropriateness, effectiveness and efficiency of a program or activity to funding bodies and the community at large;*
- *Identifying any unintended consequences (negative or positive);*
- *Responding more effectively to clients' needs and improving program or project targeting;*
- *Learning what training is required for staff to perform well;*
- *demonstrating adherence to, or establishing new service standards; and*
- *Sharing good practice.*<sup>xv</sup>

## Culture and Governance

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Adequately engaging stakeholders in complex long-term reform is an Australia-wide challenge. There are additional challenges in Tasmania.

New residents in Tasmania from mainland Australia or other countries soon learn that in Tasmania:

- Everyone knows everyone, so be careful what you say and who you say it to;
- There is a strong preference for local knowledge and experience; and
- There is a bias against transparency.

These issues were explored in a series of articles in *The Conversation* in 2013 written by academics and activists living and working in Tasmania and Tasmanian expatriates<sup>xvi</sup>. The series has three core arguments:

- Tasmania is characterised by *physical isolation and social and political insularity*. It is an *interconnected community, with a strong sense of community and identity, a small, tight and 'sticky' community*, and as with any small place, has *'clubby' networks...a small place is very vulnerable to capture*. Tasmania is *a fractured and polarised society with a weak middle ground*. It moves forward by the *grinding of fault lines against each other*. The governing 'club' excludes women, with former Premier Lara Gidding *describing the difficulties she'd encountered as a woman in Tasmanian public life, by virtue of being locked out of key discussions that set agendas*. *'I knew somehow that I was not there when it counted, but didn't quite know where that was'*.<sup>xvii</sup>



- For some commentators, this means that *change can only possibly come from the outside*. This could be assisted by capitalising on *new arrivals to the place seeking opportunity and a better lifestyle* and the many Tasmanians who return *passionate for change* after time spent outside the state *building skill sets, learning to be innovative thinkers*. Unfortunately, this potential is limited by *relatively low connectedness to other approaches...* which may mean *that it's not using outside resources as effectively as it could.*<sup>xviii</sup>
- For others, *Tasmanians are resourceful and innovative people* and *there are many... cases of real change arising from within Tasmania's past and its people, rather than from outside Tasmania*. Tasmanians are characterised by *tolerance as much as uncertainty, which could be employed to make Tasmania a place of gracious debate.*<sup>xix</sup>

Media commentary found using search terms including transparency and parochialism align with the second argument from The Conversation series. For example:

- In an article about the Australia Institute's November 2020 report, *Good Government in Tasmania*, the report author describes Tasmania as *remain[ing] at the bottom of the good governance table... compared to other Australian states, having weaker political donation laws, less government transparency and limited public accountability, and as needing a suite of reforms to ensure better governance and 'help restore trust' in the state's politicians*. The article quotes a University of Tasmania study which found that *since 2009 less than 20 per cent of \$25 million donated to state political parties has been disclosed*. The Tasmanian Government responded by stating that the Integrity Commission did not require additional funding, *was achieving its objectives and is not a toothless tiger.*<sup>xx</sup>
- The Tasmanian Ombudsman in November 2020 called for increased protection for whistleblowers, noting that *Tasmania has historically had a 'very low' number of people coming forward compared to other states*<sup>xxi</sup>. In Tasmania, *authorities are 750 per cent more likely to refuse to release any information under Right to Information laws when compared to other jurisdictions. Almost one-third of all applications for information are rejected entirely. It is a figure that has substantially worsened over the past five years*. The Premier advised Parliament of his intention to discuss transparency with the Ombudsman *and take whatever steps we need to ensure we can provide a full, frank, open and transparent government that is accountable to the Tasmanian people.*<sup>xxii</sup>

Engender Equality considers that it is critical to child safety in Tasmania that these issues of culture and governance are both acknowledged and addressed. We note the RCIRCSA's finding that *a high degree of trust between people in an institution and institutions that are isolated from the broader community* are impediments to child safe culture and practice.

It is likely that some of the risks identified by the RCIRCSA apply in Tasmania, including:

- *Systems, practices or cultures that continue to expose children to the risk of sexual abuse in institutions;*
- *Barriers to reporting child sexual abuse in institutional contexts; and*
- *Cultural barriers to the sharing of information and keeping accurate records about child sexual abuse.*

Engender Equality suggests that Tasmanians, returning Tasmanians and people born outside of Tasmania can all contribute to creating a more open, transparent and accountable public culture.

### Primary Prevention

While the recommendations of the RCIRCSA focused on the creation of child safe institutions, the RCIRCSA also commissioned research on the primary prevention of child sexual abuse. The study found that both the general population and those working in child-related sectors are relatively uninformed about key issues underpinning effective prevention of child sexual abuse, and lack confidence that it is possible.<sup>xxiii</sup>

Moreover, the research notes that:

*There are various primary prevention education, training and information resources available within Australia. However, access to and use of these resources is problematic for professionals, parents and community members. Currently there is no coordination of primary prevention education and training programs, nor is there any quality control for those programs currently being delivered. Research participants reported that program development and provision is unregulated and that the outcomes of these programs are under-evaluated.*<sup>xxiv</sup>

The paper highlights the need for change in four key areas:

1. For Government to develop policy which drives a whole-of-government, whole-of-system or whole-of-community approach to preventing child sexual abuse;
2. For coordination, quality control and evaluation to ensure that child sexual abuse prevention programs are reaching all relevant target audiences and that they are effective;
3. Increased focus on training, education and resources on child sexual abuse prevention for professionals working with children;
4. Filling the significant service and support gap for adults and children with problematic sexual thoughts toward children, and their families.<sup>xxv</sup>

Engender Equality believes Tasmania has a unique opportunity to develop a primary prevention strategy that addresses these four key areas, drawing on the contributions of Tasmanians, returning Tasmanians and non-Tasmanians, and on the *magnified impact of face-to-face community education in an interconnected community such as Tasmania.*<sup>xxvi</sup>

## Recommendations

Engender Equality identifies three priority areas of work for a child safe Tasmania.

<p><b>Recommendation 1</b></p>	<p><b>A revised approach to the implementation of the RCIRCSA recommendations in Tasmania that includes:</b></p> <ul style="list-style-type: none"> <li>• An independent, external Advisory Group providing input into prioritisation, design, evaluation and implementation of RCIRCSA recommendations, whose membership includes children and young people, adult survivors of child sexual abuse, specialist agencies, Tasmanians, returning Tasmanians and non-Tasmanians.</li> <li>• Independent and expert oversight of implementation that includes children and young people, adult survivors of child sexual abuse, specialist agencies, Tasmanians, returning Tasmanians and non-Tasmanians.</li> <li>• An evaluation strategy.</li> <li>• Rescheduling implementation to allow intensified focus on child safe organisations, drawing on a comparative review of the Child Safe Organisation Bill against the approaches of other states and territories.</li> <li>• Public reporting that tells Tasmanians for each area of implementation:             <ul style="list-style-type: none"> <li>○ What the RCIRCSA found;</li> <li>○ What the RCIRCSA recommended;</li> <li>○ What the Tasmanian Government is doing;</li> <li>○ The advice given to the Tasmanian Government by its Advisory Group;</li> <li>○ The Government’s response to that advice.</li> </ul> </li> </ul>
<p><b>Recommendation 2</b></p>	<p><b>Investigate, design and implement a long-term transparency and accountability strategy across the Tasmanian Government and funded agencies that embeds ‘speak out’ culture, including:</b></p> <ul style="list-style-type: none"> <li>• Commissioning an independent scoping paper to identify the parameters and scope of the strategy.</li> <li>• As an immediate priority, implement requirements that Tasmanian Government agencies, and agencies funded by the Tasmanian Government to work with children:</li> </ul>

	<ul style="list-style-type: none"> <li>○ Use best practice recruitment and selection procedures;</li> <li>○ Implement annual confidential surveys of staff and service users' views and include the results and organisational responses in their annual reports;</li> <li>○ Dismantle entrenched processes that prevent disclosures, punish 'whistle-blowers' and obscure individual accountability.</li> </ul>
<p><b>Recommendation 3</b></p>	<p><b>Develop a whole-of-community Tasmanian child sexual abuse primary prevention strategy that:</b></p> <ul style="list-style-type: none"> <li>● Is co-designed and co-governed by Government, specialist agencies, victim-survivors and the community sector.</li> <li>● Draws on the contributions of Tasmanians, returning Tasmanians and non-Tasmanians.</li> <li>● Ensures prevention programs are evidence-based, coordinated, quality-assured and evaluated and that they: <ul style="list-style-type: none"> <li>○ Educate and empower the community;</li> <li>○ Respond to both adults and children with problematic sexual thoughts and behaviours and their families.</li> </ul> </li> <li>● Ensures the Tasmanian health, education, sport, justice and community sectors are skilled in the prevention of child sexual abuse.</li> </ul>

## References

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- <sup>xvii</sup> Cica, N. Op. Cit.
- <sup>xviii</sup> Denny, L. Op. Cit.
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- <sup>xx</sup> Ibid.
- <sup>xxi</sup> *Tasmania transparency 'worst in nation'*. Canberra Times, 2020.
- <sup>xxii</sup> Baker, E. *Tasmania 750 per cent more likely than others to refuse Right to Information requests – is it Australia's most secretive state?* ABC News, November 2020.
- <sup>xxiii</sup> Saunders and McArthur. Op. Cit.
- <sup>xxiv</sup> Ibid.
- <sup>xxv</sup> Ibid.
- <sup>xxvi</sup> Croome, R. Op. Cit.