



18 September 2025

Mr Robert Benjamin
Child Safety Reform Implementation Monitor
GPO Box 1126 Hobart 7001

By Email: submissions@oim.tas.gov.au

Dear Mr Benjamin

**Implementation of Recommendations of the Commission of Inquiry into the
Tasmanian Government's Responses to Child Sexual Abuse in Institutionalised
Settings**

I am one of the convenors of Amnesty Southern, a small but active advocacy organisation based in Cygnet. We sit under the broader umbrella of Amnesty International, but work at a grass-roots, local and regional level to advance and protect human rights.

For the last five years, Amnesty Southern has been at the forefront of the campaign to raise the Minimum Age of Criminal Responsibility (MACR) in Tasmania. We met with members of Parliament to discuss this issue and were instrumental in organising a letter of support from 50 prominent Tasmanians. We also supported the Hon Meg Webb's motion to raise the MACR to 14 years, which passed successfully in the Legislative Council in 2021.

We understand you have been appointed to monitor and report on the recommendations of the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutionalised Settings ("the COI"). We welcome the opportunity to make this submission regarding our concerns about some aspects of the implementation process.

1. Raising the Minimum Age of Criminal Responsibility

We note **Recommendation 12:11(a)** of the COI:

The Tasmanian Government should:

- (a) introduce legislation to increase the minimum age of criminal responsibility to 14 years, without exception.*

We strongly support this recommendation. Raising the age of criminal responsibility in Tasmania is a reform that is long overdue. It is simply not acceptable that in Tasmania,

children as young as 10 can be arrested, questioned, searched, detained by police, charged, subjected to forensic procedures, remanded in custody, convicted of an offence and sentenced to a range of dispositions, including detention.

However, it is disappointing to see that this reform is now unlikely to come into effect until 2029 (*Youth Justice Blueprint 2023*). We can see no acceptable justification for the delay to this urgent child safety reform. Every day of delay means:

- More 10 to-13-year-old children are subjected to arrest, handcuffs, and detention trauma.
- Continued criminalization of children who, by law, are presumed incapable of criminal understanding.
- Disproportionate impact on Indigenous and disadvantaged children who need support, not punishment.
- Creation of pathways to adult imprisonment rather than rehabilitation.

The Government's stated need for extended timelines to 'build alternative support systems' represents flawed logic. Alternative support systems already exist in Tasmania in the form of child protection services, mental health supports for children, family intervention services and therapeutic services.

If children under 14 lack criminal culpability (which science confirms), then continuing to criminalize them while building 'better alternatives', is fundamentally wrong. It makes no sense to continue harmful practices, simply because improved systems aren't fully developed.

We also note the disturbing trend for other states (such as Victoria) to "walk back" previous commitments to raise the age of criminal responsibility, for reasons of political expediency. The longer the Tasmanian Government delays in raising the age, the more opportunity there is for similar back-tracking to take place here. It is therefore vital that this recommendation be implemented as soon as possible.

2. Closure of Ashley Youth Detention Centre (AYDC)

We, like many Tasmanians, were horrified by the instances detailed in the COI Report of sexual, psychological and physical abuse suffered by young people at Ashley Youth Detention Centre (AYDC). We were therefore very pleased to see that the COI recommended that AYDC should be closed by the Tasmanian Government as soon as possible (**Recommendation 12.1**)

However, we were very concerned by the Government's recent announcement that the closure date of AYDC will likely be extended to 2028. This perpetuates a criminal justice system response to youth offending rather than a child protection or health system response. Criminalising children in this age group increases the likelihood they will 'become entrenched in the youth justice system'. It also increases the likelihood they will go on to serve a custodial sentence in adult prison.

3. Recommendations to prevent human rights abuses of children and young people in detention

Given that children as young as 10 in Tasmania will continue to be remanded or sentenced to detention in places such as AYDC for the foreseeable future, it is imperative that steps are taken to ensure that these young people are safe and that they are not subjected to human rights abuses.

We note that the COI made significant recommendations aimed at preventing human rights abuses of young people in detention. In particular, we note:

1) Recommendation 12:31 (1)

Introduce legislation to amend the *Youth Justice Act, 1997* to ensure that it expressly prohibits fully unclothed searches of children and young people in detention.

2) Recommendation 12:32 (1)

Introduce legislation to amend the *Youth Justice Act 1997* to ensure the Act:

- a. makes clear that confining a detainee in their room or unit and preventing them from having contact with other detainees (other than overnight) constitutes isolation, regardless of the label used to refer to the practice
- b. clarifies that the use of isolation as a punishment is a prohibited action and makes it a criminal offence for a person to punish a detainee by isolating them or causing them to be isolated
- c. refers expressly to the principle that isolation should only be used as a measure of last resort and for the minimum time necessary.

3) Recommendation 12:33 (1)

Introduce legislation to amend the *Youth Justice Act 1997* to provide that:

- a. subject to sections 25E and 133, force may only be used when reasonable and necessary to prevent an imminent and serious threat of harm to a person or to prevent an imminent escape, and when all other means of control have been exhausted
- b. force must be used for the minimum time necessary
- c. force must never be used to punish a child or young person, or solely to secure their compliance with an instruction or direction
- d. using force in contravention of the Act is a criminal offence.

We strongly support these recommendations. We note that the COI expressed “grave concerns” about human rights abuses in AYDC, particularly in relation to isolation. The suggested amendments should be made to the *Youth Justice Act 1997* as a matter of urgency. Legislating these amendments should be relatively straightforward and would bring Tasmania into line with other jurisdictions in Australia. Such reforms would enhance the safety of young people in detention and ensure that the horrific abuses uncovered by the COI do not happen again. They would also demonstrate that the Government is serious about implementing the recommendations of the COI and would help to restore public confidence in a broken system.

We have written to the Government seeking its urgent advice on what steps are being taken to implement these recommendations. We are yet to receive a satisfactory response.

Amnesty Southern would like to thank you for your work in Tasmania, both in your role as a Commissioner of the COI and in your current role as Implementation Monitor. We would welcome the opportunity to meet with you to discuss how we can best advocate further for the implementation of these crucial reforms.

Kind regards

A handwritten signature in dark ink, appearing to read 'Anne Mainsbridge', followed by a horizontal line.

Anne Mainsbridge

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