



Tasmanian OPCAT Network (TOPCAT)

Mr Robert Benjamin AM KC
Child Safety Reform Independent Monitor

Dear Mr Benjamin,

Implementation of the Recommendations of the Commission of Inquiry into the Tasmanian Government's Response to the Sexual Abuse of Children in Public Institutions (COI)

Tasmanian OPCAT Network (TOPCAT) welcomes your appointment as Child Safety Reform Independent Monitor (CSRIM) and the opportunity to submit the attached for your consideration.

Tasmanian OPCAT Network (TOPCAT) has often acknowledged the positive work of Government and the public sector to respond to the COI, and the significant resourcing to make change.

TOPCAT's fundamental question is whether we can be confident that child abusers are not in the community "shopping" for victims, or that there are watertight processes for identifying offenders? The Australian Attorney General has stated that these are key issues following alleged child abuse in childcare centres in three States. The Attorney-General identifies wide-spread fragmentation of regulation which the Australian Royal Commission identified in 2017 but which has not been addressed. This is important national context for the CSRIM, we suggest.

Together with the powers and functions of your office, TOPCAT points to the opportunity Tasmania has to help prevent child abuse through the Tasmanian NPM and the *OPCAT Implementation Act 2021*. We also make these contextual points:

- Children continue to be at risk because although it is 21 months since Meg Webb exposed that Department of Justice had disrupted the COI process to ensure accountability - to deal with abusers of children and those who should have prevented abuse - it appears that offenders may still be in the community, some on suspension with full pay. Procedural fairness is a key concern but is this proportionate to children's safety;
- public sector leadership is not yet child centred, as identified by the COI, and does not act urgently regarding accountability under human rights law, or remedy for contraventions;
- the government and public service appear not to have begun broad leadership reform - including that recommended for the Tasmanian National Preventive Mechanism - that is child centred, to stop fragmentation and siloed decision-making, to address the criticism of departments and public servants by the COI in its 2021 report;
- confidence in the capacity of the CSRIM to implement COI recommendations is potentially at risk when the recommendation to close Ashley (for 2023) has failed and the alternative is located at Pontville.

Thank you again for the way in which you are engaging civil society in this important consultation.

Dr Val Kitchener
Professor Rob White
Adjunct Assoc Professor Terese Henning
Professor Nicole Asquith

Mr Patrick Burton
Ms Rikki Mawad
27 August 2025



Tasmanian OPCAT Network (TOPCAT)

TOPCAT combines professional and academic expertise with practitioner experience. TOPCAT is a civil society group comprised of members of the Australian OPCAT Network who live in Tasmania. Members include:

- Dr Val Kitchener, now retired, TOPCAT, former public administrator and adjunct researcher in human rights and OPCAT processes and procedures;
- Professor Rob White, Emeritus Distinguished Professor, member of Youth Justice Reform Taskforce Expert Panel, and a Tasmanian Patron of the Justice Reform Initiative (JRI);
- Adjunct Associate Professor Terese Henning, now retired legal academic and former Director of Tasmanian Law Reform Institute, and a Tasmanian Patron of the JRI;
- Professor Nicole Asquith, Professor of Policing and Emergency Management, University of Tasmania;
- Mr Patrick Burton, JRI Coordinator for Tasmania, advocate, researcher and long-time practitioner in youth justice services; and
- Ms Rikki Mawad, skilled in creative, strategic and whole system thinking drawing on a professional background in law, politics, education, research, advocacy and communications.

Tasmanian OPCAT Network (TOPCAT)

raises awareness and promotes education of people in Tasmania about OPCAT (Optional Protocol to the Convention against Torture and Cruel, Inhuman and Degrading Treatment) and the *OPCAT Implementation Act 2021*.



Tasmanian OPCAT Network (TOPCAT)
Submission to the Child Safety Reform Independent Monitor (CSRIM)

Implementation of the Recommendations of the Commission of Inquiry into the Tasmanian Government's Response to the Sexual Abuse of Children in Public Institutions

There is little that TOPCAT can add to the extensive research and resources, and the experience of the Child Safety Reform Independent Monitor (CSRIM) who has been a Commissioner on the Commission of Inquiry into the Tasmanian Government's Response to the Sexual Abuse of Children in Public Institutions (COI), chair of the Expert Panel of the Youth Justice Reform Taskforce (YJRT) as well as longstanding Family Court judge in Tasmania. Therefore, this submission is evidence-based and interdisciplinary but does not spend time in detailed explanation of law and policy concepts, and in detailed referencing, to which the CSRIM undoubtedly has access. While TOPCAT recognises the complexity of the issues and the commitment of many to make a difference, the aim here is to raise questions as to whether safety governance is child centred consistent with the COI findings.

TOPCAT references the COI report (COI, 2024) on public sector leadership, especially with regard to 6.3.6 which states:

"Leadership efforts to mitigate the risk of child sexual abuse have not been strategic, persistent or coordinated, and there is little accountability for failings".

The COI went on in para 6.3.6 (no page number) to lament public sector "inability to govern in a child-centred way". The COI documented lack of "individual and collective" leadership, "callous lack of care for victims and survivors", "defensiveness and blame-shifting" with "lack of reflection". While Department of Education Children and Young People (DECYP) was the focus of recommendations for change, heads of agency generally were held to account in the COI report.

TOPCAT seeks urgent action in leadership, as distinct from monitoring and reporting, to protect children from abuse in Tasmania; urgent response to the COI recommendations on leadership to drive other change; an embedded human rights, child-centred, framework, especially the *OPCAT Implementation Act 2021* (Government of Tasmania, 2021) and the National Preventive Mechanism (NPM) it creates, with close involvement of civil society. The definition of civil society will include community, people with lived experience – notably aboriginal people - whistle-blowers, academics, and lawyers and advocates.

There is one other point to flag, but which TOPCAT will raise in other forums. TOPCAT urges the CSRIM to not look away from the failed recommendation to close the Ashley Youth Detention Centre (AYDC) in 2023, because there were live and current concerns about abuse of children. AYDC remains open and is argued to be different, and better. But the Custodial Inspector still reports concerns including that children endure ill-treatment in contravention of the *OPCAT Implementation Act 2021* when systemic lockdowns cause isolation most unhealthy for young developing brains. Are children front and centre in government decisions about places of detention?

TOPCAT addresses three matters: a sense of urgency and action; observations on leadership so far; human rights and the Tasmanian NPM.

A Sense of Urgency and Action

Tasmanians know from the COI Report (COI, 2023) that public sector leadership needs reform and, as discussed below, that people who have offended against child safety have not yet been held to

account. Is it possible that child abusers might be “shopping around” child-care centres in Tasmania, and perhaps social care more broadly, with no barriers to their potential crimes because leadership is wanting and regulatory systems are “fragmented”, and incapable of keeping children safe?

This is an issue because at the time of writing this submission, the Australian Attorney-General, Michelle Rowland, on 15 August 2025, reported on alleged appalling abuse of children in childcare centres in Queensland, Victoria and New South Wales and said that abusers were “shopping around” (RN Breakfast, 2025) public institutions for victims. Abusers could do this because of “fragmented” (RN Breakfast, 2025) systems that were not child-centred, that did not raise red flags or ignored them when they did. In Tasmania, the Child Safety Reform Independent Monitor (CSRIM) undertakes to monitor, evaluate and to prevent abuse of children (Government of Tasmania, 2024) and this must surely now entail urgent oversight of a broad jurisdiction including child-care centres in this State.

The experience in other States shows why and how the *OPCAT Implementation Act 2021* makes Tasmania unique so far in Australia in its capacity to protect people who are, or may be deprived of their liberty, such as children in childcare centres. The National Preventive Mechanism (NPM) has called for OPCAT jurisdiction to extend to social care, to ensure preventive, independent oversight, and recent events in other States shine light on why this should be done. The CSRIM knows also that NPM best practice means engagement with civil society in formal and informal ways.

Also, at this time of writing, the Secretary of Department of Premier and Cabinet reported (The Mercury, 2025) that the public sector would continue in caretaker mode until a government was installed by Parliament. Yet again, the safety of children is stalled and where there should be an extreme sense of urgency to implement recommendations of the COI, progress is halted.

In sum:

- lessons must be learned from the failure of the Australian Royal Commission into Institutional Responses to Child Sexual Abuse (2017) to implement recommendations to prevent “shopping around” by child abusers in areas of social care, including childcare centres;
- child safety must be an urgent priority requiring action including oversight through the NPM, and civil society must also be assured that every possible action is taken to avoid the repeat of class actions that cost the public purse \$75 million in 2024.

Leadership – Some Observations

TOPCAT has interacted in many ways with DPAC and DECYP, as well as the community sector, with regard to the COI Report. TOPCAT, and many others, observe that the leadership recommendations seem not to be addressed in a child-centred, strategic and comprehensive manner. There are many ways of looking at this. TOPCAT here refers to observations on the Parliament Joint Sessional Committee (JSC, 2025), and the Youth Justice Reform Taskforce (YJRT).

Parliamentary Joint Sessional Committee

We have chosen to respond to the Hansard of the Parliamentary Joint Sessional Committee (JSC 2025) to let the CSRIM know how informed and caring members of civil society react to what is happening to keep children safe in Tasmania. The Joint Sessional Committee (JSC) does not reveal recognition of the importance of leadership reform, nor a plan to address COI recommendations in this area. There appear to be underlying currents that tip focus away from child centred governance to other considerations, including possible disproportionate emphasis on due process.

The JSC does reveal that, while there is a level of managerial activity with the formation of the Shared Capability and Centralised Investigations Unit (SCCI) (JSC, 2025, p2,3) and Project Artemis (JSC, 2025, p5, 6), children continue to report abuses and that police and Justice Department have not yet acted significantly on COI adverse findings of abuse and failure to prevent abuse. The JSC Hansard appears to show that there are offenders identified by the COI who are still in the community who may still be grooming family and community and abusing children.

On the one hand, through actions by the DPAC Secretary to improve transparency and through the JSC Hansard, Tasmanians may have increased opportunity to evaluate COI recommendations and to be confident that leadership is improving. On the other hand, what, or how much, has changed since 31 October 2023 when the Hon Meg Webb (Meg Webb, 2023) took steps to shine light in the

Legislative Council on the Commission's concern that they had been blocked by public and statutory officers in matters of adverse findings, and accountability, with regard to abuse of children. The slow progress in holding people to account seems like a shocking state of affairs that leaves concern as to public sector capability to keep children safe in public institutions, and to govern in a child-centred way. Further, the Woolcott Review instigated by Government to respond to the issues raised by the Hon Meg Webb, must be published as a matter of urgency and brought into the public domain.

The JSC is an important part of the transparency about sexual abuse of children and an opportunity for civil society to see how Parliamentarians and leaders in the public service work together. The Hansard shows a respectful, open exchange of information and an attempt for parliamentarians and public servants to work together.

Nonetheless, we look at the JSC account and wonder how it would read to the victims of sexual abuse, and to whistle-blowers, identified in the COI report, and to those bringing new allegations. TOPCAT members consider there isn't a great deal there that would be reassuring that the COI recommendations will soon be given effect, offenders will be held to account, and children will be safe.

How to evaluate and ensure accountability are key aspects of public sector leadership. The COI showed that these skills are not always evident in the decision-making processes of leaders, and managers. In the JSC, we were concerned to see what could be continuing evidence of lack of commitment to rigorous evaluation and to accountability, with children in the centre. Two examples follow with regard to the Ombudsman – who has legislative duties also as Tas NPM and Custodial Inspector – and the DPAC Secretary.

The Ombudsman/Tasmanian NPM/Custodial Inspector is noted for detailed, comprehensive, independent reporting on contraventions of rights of children in detention. However, in response to a question (JSC, p. 27) from the Hon Cassie O'Connor, he responded that he is not in a position to comment on Government policy. In the Hansard this appears as a failure to evaluate whether a "tough on crime" approach is consistent with the duty to prevent ill-treatment of children and to uphold human rights in Convention on the Rights of the Child (CRC), Optional Protocol to the Convention Against Torture and Cruel and Degrading Treatment (OPCAT) and the *OPCAT Implementation Act 2021*. The Ombudsman/NPM/Custodial Inspector is a highly regarded public officer and has a fine line to tread, but surely his first duty is to inform the public when rights are, or may be, contravened, when ill-treatment is not prevented, and to frankly and fearlessly make it clear to decision-makers what their duty is, and where and how they are accountable.

If the Ombudsman cannot hold Government and the Public Sector to account for policy that potentially contravenes children's rights, who can?

The DPAC Secretary also should demonstrate a more rigorous evaluation of leadership reform, and clear child-centred steps to the intended outcome of keeping children safe and holding abusers accountable. It is not enough to be "incredibly proud" (JSC, p. 15) of the number of people receiving training in trauma informed and grooming practice. Leadership transcends management to evaluate whether policy has put children in the centre and made them safe. Real questions arise as to whether there is comprehension of the imperative to be trauma responsive, not merely informed, to distinguish education from practice. In present circumstances, how is it known whether those receiving trauma informed training, are in fact undetected abusers who will enhance their grooming skills as a result of expertise in understanding trauma? The report of the DPAC Secretary raises the question as to whether there is a child-centred human rights approach in determining accountability of people who have abused children, or who had a duty to prevent abuse and did not.

It is to be hoped that:

- the CSRIM will prefer to hold the leadership reform to account more rigorously than we see in the JSC in matters of child-centred governance;
- leadership reform in the public sector, preferably with the benefit of the advice of the Woolcott Report, should run concurrently with the role of the CSRIM to evaluate implementation of COI recommendations;
- the evaluation by the CSRIM might provide us with more confidence that reforms are in place to embed the rule of law, and of human rights – of CRC, OPCAT, and *OPCAT*

Implementation Act 2021 - and to let all decision-makers know how they will be held to account when steps are not taken to prevent ill-treatment of children and their rights are contravened. This is more than education and training, and more than culture change.

Youth Justice Reform Taskforce

Tasmanians need to be informed of how leadership will not make the mistakes of the past, that there will be root and branch reform. Consistent with the COI report (COI 2023), people need to be up-skilled and the silo-ed structure of the public service reformed to a systems-centred approach. There has to be sound evaluation, clear lines of accountability and remedy available for people when their rights are contravened. Public sector leadership will engage the rule of law and human rights as foundations that enable accountability, and evaluation that puts people in the centre of policy.

TOPCAT has drawn attention that the design of the Youth Justice Reform Taskforce (YJRT), with a hierarchical governance structure, adds to COI concerns of silo-building in policymaking. The Community Engagement Group, TOPCAT has argued, is not “strategic, persistent and co-ordinated” (COI, 2023, 6.3.4) and does not interact with the Expert Panel, to the detriment of both groups. The YJRT is potentially an opportunity for best practice civil society engagement but the project lacks leadership.

TOPCAT wrote to the DPAC Secretary in August 2024 to congratulate her on her role and to offer support to the work of the Youth Justice Reform Group. There is no reply to a request for a meeting.

In the Community Engagement Group of the YJRT, TOPCAT has orally and in writing advocated for a shift of focus that respects human rights law and obligations and effectively engages civil society. While there is increasing human rights language within the various departments, we do not see human rights embedded. It is even more concerning that beyond international conventions, the *OPCAT Implementation Act 2021* is often invisible in public policy, both with regard to parliament and the public service.

With regard to the future of YJRT, it is to be hoped that leadership reform will:

- re-design the way in which the YJRT works so that there is an inherent systems-centred, strategic approach to policy development, evaluation and accountability;
- the YJRT will become child-centred with central involvement of the Commissioner for Children, Department of Justice, and the Tasmanian NPM.

Human Rights

COI and Human Rights

It can be argued that the COI missed an opportunity to decidedly embed human rights in leadership and governance of safety of children. The concept is commonly used in the Report and a recommendation made to establish a NPM for children, but a coherent statement of how to proceed to embed human rights, with remedies for contraventions, may have laid a foundation for the public sector to adopt. At least, the COI might best have referred to the obligations of public sector staff under the *OPCAT Implementation Act 2021* and the possibility of broad jurisdiction of the National Preventive Mechanism (NPM) to ensure independent, preventive oversight of places of detention and also social care.

National Preventive Mechanism

The COI recommendations cannot be fully implemented until the National Preventive Mechanism (NPM) (Tasmanian NPM, 2025) fulfils its legislative role to provide independent, preventive oversight of people who are or may be deprived of liberty and engages civil society formally and informally as a matter of international best practice.

In the JSC (JSC, 2025, p.28), the Custodial Inspector reported positive outcomes arising as a result of increased and regular presence of staff of his office at AYDC and this is consistent with best practice OPCAT in places of detention and social care where people are, or may be, deprived of liberty. This is the kind of evidence that shows the effectiveness of the NPM.

The *Youth Justice Act 1995* should be concurrently reformed with intersecting human rights objectives, and remedies for children whose rights are contravened. Why is reform of the Act taking so long to emerge for public and Youth Justice Reform discussion?

The evaluation framework of the Independent Monitor might address contexts to:

- provide a comprehensive statement of human rights law and obligations for public sector, parliament, and community;
- address urgently “Final Recommendations” (Tasmanian NPM, 2025) for reform in the Ombudsman’s/Custodial Inspector’s organisational framework to embed an effective NPM to prevent harm to children.
- develop a rigorous evaluation framework that will hold leadership to account;
- consistent with COI recommendations, strong and visible emphasis on children as front and centre in public policy;
- rights be addressed not just rhetorically, but with rigorous evaluation consistent with the Convention on the Rights of the Child (CRC) and the inter-related Optional Protocol to the Convention Against Torture (OPCAT), and *OPCAT Implementation Act 2021* together with best-practice rehabilitation and restorative justice for children in detention.
- promote the expression of rights of children in detention in reforms to The *Youth Justice Act 1995* and embed obligations under CRC, OPCAT and the *OPCAT Implementation Act 2021*.

Conclusion

TOPCAT seeks urgent action on implementation of the recommendations of the COI Report especially with regard to child centred leadership and human rights.

To emphasise and summarise, TOPCAT would like to see:

- a rigorous, transparent evaluation framework of the CSRIM to hold public sector leadership to account for implementation of the recommendations of the COI. This would recognise the urgency of matters of child safety and take a systems-centred and human rights approach, together with leadership in engagement with civil society;
- release now of the findings to date of the Woolcott Review which was the Government’s response to the concerns of accountability and transparency raised by the Hon Meg Webb, and include a process for public engagement with the findings;
- urgent response to the recommendations for reform of the Ombudsman’s Office by the Tasmanian NPM (Tasmanian NPM 2025) with commitment to uphold the rule of the law of the *Implementation Act 2021* to prevent ill-treatment in detention, and in social care. TOPCAT has repeatedly expressed concerns that there is insufficient understanding of the broad jurisdiction of the NPM, and the Government’s obligations to ensure resourced, independent oversight of places where people are, or may be deprived of liberty;
- a fulsome strategy of DPAC plans to change leadership in the public sector relying on the submissions over the past several months calling for a systems theory approach and embedded human rights, especially regarding the CRC, OPCAT and the *OPCAT Implementation Act 2021*. This strategy should stop the use of KPMG consultants and build public sector capability to make change as part of root and branch public sector reform;
- better leadership of the opportunity presented through the establishment of the Youth Justice Reform Taskforce which would integrate, not silo, the Community Engagement Group and the Expert Panel. The YJRT has a great deal of potential through the efforts of the 25 plus service providers represented in the Community Engagement Group, and the local and national expertise of the Expert Panel. TOPCAT members welcome the formation of the Taskforce but are frustrated by the lack of leadership of the group to take its work beyond an advisory role to meaningful implementation. Requests for the Community Engagement Group and the Expert Panel to work together have been ignored;

- consultation soon on reform of the *Youth Justice Act 1995* entailing issues of leadership, accountability and human rights.

Dr Val Kitchener
Distinguished Emeritus Professor Rob White
Adjunct Associate Professor Terese Henning
Professor Nicole Asquith
Mr Patrick Burton
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27 August 2025

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