



2 July 2021

The Commission of Inquiry into the
Tasmanian Government's Responses to Child Sexual Abuse
in Institutional Settings
GPO Box 229
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Dear Sir/Madam,

We welcome the opportunity to provide feedback in relation to the Terms of Reference for the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (the Commission of Inquiry).

Maurice Blackburn Pty Ltd is a plaintiff law firm with 33 permanent offices and 30 visiting offices throughout all mainland States and Territories. The firm specialises in personal injuries, medical negligence, employment and industrial law, dust diseases, superannuation (particularly total and permanent disability claims), negligent financial and other advice, and consumer and commercial class actions. The firm also has a substantial social justice practice.

Our Abuse Law practice has represented 100s of survivors of historic child sexual and physical abuse endured in government, religious and other institutions, including in Tasmania. All staff in the practice are specially trained to observe trauma informed care and practice principles when dealing with survivors.

All Maurice Blackburn responses to public policy inquiries are based on the lived experience of those we represent, and the experiences of our staff in supporting them.

In this submission, we bring to the attention of the Commission of Inquiry a number of observations drawn from our direct experience in helping Tasmanian abuse survivors achieve access to justice.

Each of our responses directly addresses one or more of the matters that the Commission has been asked to have regard to in satisfying the Terms of Reference, specifically:

1. 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

AND

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 its inquiry, the adequacy and appropriateness of:

- i. the responses by the Department of Education to allegations of child sexual abuse in Tasmanian Government schools;*

AND

III. the need to focus its inquiry and recommendations on systemic issues, recognising nevertheless that it may be informed by individual cases and may need to make referrals to appropriate authorities in individual cases.

For ease of readership, we have grouped our observations under two headings:

- Impediments to disclosure and reporting of child sexual abuse allegations; and
- The Tasmanian Government's track-record in relation to early investigation

Where possible and appropriate, we have provided case studies, drawn from our case files, to illustrate the issues and impacts.

It is our hope that the Commissioners might identify these institutions and circumstances as potential case studies for the Commission of Inquiry, worthy of further consideration and investigation.

Our Submission

1. Impediments to disclosure and reporting of child sexual abuse allegations

Maurice Blackburn has identified two common themes in our identification of factors which impede disclosure and the reporting of child sexual abuse allegations in Tasmania. We offer these as factors which we encourage the Commission of Inquiry to examine in detail as part of their investigation. They are:

- i. The role of Support Services*

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) tabled a number of recommendations to encourage abuse disclosure, in particular, dedicated community support services for victims and survivors, with an acute understanding of trauma and institutional child sexual abuse.¹

¹ See, in particular, recommendation 9.1 of the final report: https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_recommendations.pdf: p.30

The Tasmanian Government response to this recommendation reads “*noted*” and points to two established, government funded initiatives:²

- The Sexual Assault Support Service (SASS) in Southern Tasmania and
- Laurel House in North Tasmania.

Both organisations, despite offering valuable community services, do not necessarily offer targeted, specialist services for *institutional* child abuse survivors. They are sexual assault services that provide a global service to a broader assault, survivor base. This birds eye approach to counselling may overlook the particular vulnerability of a child in institutional care and the complexity of guardianship trauma.

Thus, the Tasmanian Government’s response to providing a dedicated service to institutional abuse survivors is a broad-based community assault clinic. The lack of a specialised counselling service may, in our experience, deter institutional abuse survivors from sharing their intricate testimony.

Counselling, support and reunification of the survivor’s past and present identity often comes by way of receiving and inspecting personal, departmental records. We are aware that some generic counselling services apply additional charges to the client if the client’s educational requirements are outside the scope of our Department of Health and Human Services funding.

We urge the Commission of Inquiry to ascertain whether ‘education requirements’ encompass requesting department records on behalf of the institutional abuse survivor. If that is the case, we submit that this provides a significant barrier to disclosure. It would be intolerable if a survivor would be unable to provide disclosure due to an inability to pay for the support materials and having to navigate through a legalistic system of record requests.

Similarly, we are concerned that Right to Information (RTI) Requests need to be continually revised to yield any useful result, and what may seem like a once-off nominal fee of \$40.50, can easily evolve into multiple payments. Once again, we see this expense as a potential barrier to disclosure.

We invite the Commission of Inquiry to find that the introduction of a specialist counselling service, in line with Recommendation 9.1 of the Royal Commission would be an appropriate response by the Tasmanian Government, and that costs associate with the production of Government records should be factored into the costs of that service

ii. The role of Tasmania Police

We observe a general trepidation amongst survivors in reporting historical child sexual abuse allegations to Tasmania Police. The failures of the Tasmania Police to act on five complaints in relation to charged serial paedophile, James Geoffrey Griffin made in 2009, 2011, 2013, 2015 and 2019 sent shock waves through the community³, as ventilated though Journalist, Camille Bianchi’s podcast ‘*The Nurse*’.⁴

² https://www.justice.tas.gov.au/_data/assets/pdf_file/0010/418186/Tasmanian-Response-Child-Abuse-Royal-Commission.pdf: p.46

³ See for example: <https://www.abc.net.au/news/2020-12-08/nurse-james-geoffrey-griffin-what-we-know/12953076>

⁴ https://podcasts.google.com/feed/aHR0cHM6Ly9yc3MuYWNhc3QuY29tL3RoZS1udXJzZQ/episode/MjI1ODM2NWQzM2M1MS00ZjNmLWFjMWMtYmNiYTZINzkwNWE0?hl=en-AU&ved=2ahUKEwisp82qt_3wAhWDzDgGHY7HApQQjrkEegQIBBAF&ep=6

The failure of Tasmania Police to act from as early as 2009 allowed time to pass with Griffin taking his own life in 2019 and justice being left perpetually suspended for the survivors.

The Tasmania Police 'Outcomes Report – Internal Review of Police Actions relating to James Geoffrey Griffin',⁵ puts forward three immediate actions:

- *New protocols for the information exchange between the Department of Police, Fire and Emergency Management (DPFEM) and Department of Justice for Working with Vulnerable People checks.*
- *Review the MoU between Children, Youth and Families and Tasmania Police, and recommend amendments to ensure appropriate responses and actions are undertaken when either party receives information relating to child sexual abuse.*
- *Review and refine Tasmania Police guidelines for investigating child sexual abuse. This will ensure information relevant to these investigations is consolidated into a single protocol for ease of reference by police.*

While these actions are valuable, the report fails, we believe, to put forward the formation of a specialised police taskforce, akin to Victoria's SANO taskforce and the Sexual Offences and Child Abuse Investigations Team (SOCIT).

We believe there would be great benefit in implementing a taskforce which ties the needs of the abuse survivor with a trauma informed practice. We invite the Commission of Inquiry to examine whether the creation of such a taskforce at the time may have led to vastly different outcomes for survivors.

Delayed responses by Tasmanian police have created barriers to disclosure in other ways. Consider the following case study:

Case Study #1:

Our client's child abuse allegations involve alleged perpetrator [REDACTED]

[REDACTED] Our client instructs that he was abused by [REDACTED] during his time at [REDACTED] and whilst our client was a [REDACTED]

Tasmania Police responded to our record request for previous complaints and investigations into [REDACTED] with the following:

"...a previous report has been completed by the report officer and submitted. The reporting officer has been unable to locate this report. A decision was made to file the complaint with the possibility of further investigation upon other avenues of investigation arising. No offence report has been generated in relation to the alleged matters".

Tasmania Police further noted that the suspect is believed to reside in [REDACTED] and this provides "difficulty in relation to any proposed interview of the accused". There is no comment on whether the matter has been referred to the Australian Federal Police.

⁵ <https://www.police.tas.gov.au/uploads/Outcomes-Report-James-Geoffrey-Griffin.pdf>

This response from Tasmanian Police lays the same footprint as the Griffin investigation. To obtain a response from Tasmania Police that exposes direct failure due to being '*unable to locate this report*' has been retraumatising for our client and allows for the harrowing prospect of drawn out, subpar investigations that continue to wait for "*other avenues*" to make themselves known to Tasmania Police before any real attempts to contact the alleged perpetrator are made.⁶

2. The Tasmanian Government's track-record in relation to early investigation

Within the Health sector

During our investigations on behalf of our client whose experiences are documented as Case Study #1 above, we wrote to the State of Tasmania (Department of Health) for disclosure of [REDACTED] period of tenure as a state employee. The Government's initial response was to deny that the alleged perpetrator was ever a state employee.

It was not until we presented evidence of publicly available, public service awards in the alleged perpetrator's name, that we began to receive piecemeal information from the Office of the Solicitor General, confirming [REDACTED] employment and positions held. At best, it was communicated that [REDACTED] was a State employee between [REDACTED] however any further certainty beyond this period could not be given.

The Department of Health's response to our RTI request for a complaint history stated that no complaints have been located in relation [REDACTED]. The use of the word "*located*" leaves ambiguity as to whether complaints were made and then lost or destroyed.

Within the Education sector

We also hold concerns about the Tasmanian Government's track record in responding early to complaints within the school system.

We recognise the State of Tasmania's strong legislative framework of mandatory reporting however it is clear from our experience that complaints of abuse when made contemporaneously, are not always escalated beyond the School Principal level.

We refer to our case files related to alleged abuses at [REDACTED] and [REDACTED] [REDACTED] where complaints were made to the acting School Principals of the time, however it remains unclear as to whether the complaints were reported to the Department of Education and if so, what action was taken by them to investigate and remove the alleged perpetrator from accessing children.

A clear pattern is forming within our client and witness database that allegations of institutional child sexual abuse appear systemic, unchecked and prolific.

⁶ Our client has advised us that he would be willing to speak directly with the Commission of Inquiry. We also note that another survivor has made allegations of [REDACTED] dating from the early 2000's, when [REDACTED]

The transfer of ██████████ between state schools highlights the same problem that existed in the case of convicted paedophile, Darrel George Harington.

A Mercury article in The Mercury dated 19 May 2020 "*Pressure builds for answers on Tasmania's paedophile teachers*"⁷ notes that Harington was transferred from state school to state school following his 1973 charges of two counts of indecent practice against a minor. The article notes (in the timeline) a number of concerns that were raised in 1985.

We are aware that another former student of ██████████ made allegations dating from in or around 1985 against two other teachers, one for having a sexual relationship with a student and the other for distributing pornographic material amongst students.

These allegations date from the same time period as ██████████ tenure at the school.

It is our hope that the Commissioners might identify the individuals and institutions featured above as potential case studies for the Commission of Inquiry, worthy of further consideration and investigation. Of particular concern is why the Department failed to act in a timely manner upon receipt of notifications, and what circumstances might lead to a number of known paedophiles working in the same institution or area at the same time.

Case Study #3:

Our client is a survivor of ██████████ a teacher at ██████████ during the late 1970's early 1980's. He states that his mother reported ██████████ behaviour of sitting kids on his lap whilst he fondled them, to the School Principal at the time.

The response was to move the individual student from ██████████ classroom, and allow ██████████ to remain a teacher and ██████████ the after-hours school ██████████, where he had exclusive and unsupervised access to children.

⁷ <https://www.themercury.com.au/news/pressure-builds-for-answers-on-tasmanias-paedophile-teachers/news-story/983fdc1ba190346369ff0253666308c1>

We respectfully suggest that the Commission of Inquiry recommend a system of periodic auditing of recorded complaints made by parents within state schools to the residing School Principal.

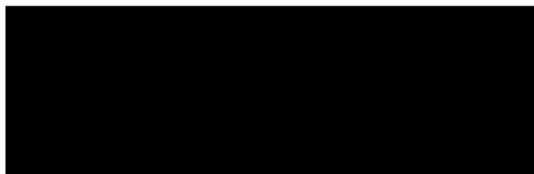
This auditing measure by an independent arm of the Department of Education should satisfy itself that mandatory reporting provisions are being adhered to and the integrity of the school's internal complaints system is maintained.

We further urge the Commission of Inquiry to investigate whether current Working with Children's Check processes are adequate to prevent repeat offending across institutions and jurisdictions.

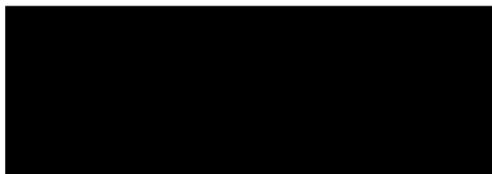
Maurice Blackburn would be pleased to meet with the Commissioners and/or inquiry staff in private session, to discuss our observations in more detail.

Please do not hesitate to make contact via the contact details below if we can further assist with the Commission of Inquiry's important work.

Yours faithfully,



**Principal Lawyer
Maurice Blackburn**



**Lawyer
Maurice Blackburn**

