

Statement of GINNA WEBSTER**RFS-TAS-007**

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| Position | Secretary, Department of Justice |

1. This statement is a supplementary statement made by me in response to RFS-TAS-007 ('RFS') issued on 29 March 2022 by the President of the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings ('the Commission'), the Honourable Marcia Neave AO.
2. My name is Ginna Webster and I am the Secretary of the Department of Justice ('the Department').
3. As a leader in the Tasmanian State Service since 2002, I unreservedly apologise to the victims and survivors who suffered sexual abuse as children and young people in Tasmanian Government settings. Our systems and our people should have protected child and young people and we have failed to do so. I would also like to acknowledge those victims who are tragically no longer with us. Friends, families and loved ones of victims have also been devastatingly impacted. I would also like to acknowledge the immense courage shown by all victims who have spoken up to share their experiences and advocate for reform. I want to assure you that I have listened and commit to working to ensure that our children and young people are safe from abuse in the future.
4. I would also like to acknowledge the evidence of other witnesses who have appeared before the Commission to provide their insights, knowledge and experience in working to protect children and young people. I look forward to learning from other experts and specialists as the Commission continues their public hearings.

BACKGROUND

Question 1. What is your current role and professional background (particularly within the Tasmanian State Service)?

5. I have worked in the public sector for almost 40 years in both Federal and Tasmanian State Government.

6. Between 1984 and 2002 I was employed by the Australian Customs Service (now Border Force), commencing as an 'Assistant Customs Officer' and working through the uniformed ranks to Senior Inspector upon my resignation. I held a variety of supervisory and management roles throughout this time and worked in Tasmania, the Northern Territory, New South Wales and the Australian Capital Territory. I undertook a wide range of training programs specific to the positions I held at the time.
7. In April 2002 I commenced employment with the Department of Justice in Tasmania and from that time to March 2017 I held the following positions:
 - Policy Officer, Tasmania Prison Service
 - Manager, Organisation Development, Tasmania Prison Service
 - Director, Community Corrections
 - Deputy Secretary, Administration of Justice
8. In March 2017 I transferred to the then Department of Health and Human Services as the Deputy Secretary, Children and Youth Services.
9. In July 2018 I was appointed as the inaugural Secretary of the Department of Communities Tasmania.
10. In September 2019 I was reassigned to the role of Secretary, Department of Justice.
11. I have undertaken the following relevant professional development:
 - Towards Strategic Leadership, Australian and New Zealand School of Government
 - Tasmanian Leaders Program
 - Cranlana 'Colloquium' (Program for Ethical Leadership)
 - Executive Fellows Program, Australian and New Zealand School of Government
12. As Secretary of the Department I have a Performance Development Agreement that commits to the delivery of the Department's Strategic Priorities which have been agreed with the Minister relevant to the Department's portfolio responsibilities and the Premier.
13. I have not had any personal performance measures, key performance indicators or financial outcomes in relation to how the Department responds to child sexual abuse or safeguards children. I note that each output and service has key performance indicators that are contained in annual reports and in budget papers.
14. On 25 May 2022 the Premier announced the changes to Heads of Agency Performance Agreements to clarify expectations and improve accountability, including embedding child safety and wellbeing in organisational leadership, governance and culture. This will include training for all Heads of Agency in trauma-informed practice. I welcome and strongly support these changes.

Questions 2. Did you or your Department make a submission to the Commission?

15. The Department did not make a departmental submission to the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings ('Commission of Inquiry'). This reflects the agreed position that Government submissions to the Commission of Inquiry be coordinated at a whole of government level.
16. The Department's State Service Officers and Statutory Office holders, and individual State Service Officials were invited to make, and may have made, individual submissions to the Commission of Inquiry.

Questions 3. Has your Department been the subject of significant changes (for example, machinery of government changes or restructures) in the Relevant Period? If so, describe any changes that are relevant to the Commission's Terms of Reference.

17. The Department has not been the subject of significant structural or machinery of government changes in the Relevant Period. However, during the Relevant Period the Department of Justice has been tasked with the following Government initiatives relevant to the Commission's Terms of Reference:
 - (a) administering the *Registration to Work with Vulnerable People Act 2013*;
 - (b) leading the Tasmanian Government response to the Royal Commission into Institutional Responses to Child Sexual Abuse and the Commission of Inquiry;
 - (c) managing the Tasmanian Government's participation in the National Redress Scheme for Institutional Child Sexual Abuse;
 - (d) developing and administering the Tasmanian Government's 3-year Witness Intermediary Scheme Pilot; and
 - (e) coordinating the national reporting requirements about the Tasmanian Government's implementation of the Royal Commission's recommendations.

ANNOUNCEMENT OF THE COMMISSION

Question 4. Did you provide advice about the establishment of the Commission? In general terms, what was this advice?

18. The Department of Justice provided procedural advice in relation to the establishment of the Commission of Inquiry, including advice in relation to legislative and regulatory reforms required to support the operation of the Commission of Inquiry. The Office of the Solicitor-General provided legal advice.

Question 5. Did you think there was a need for the Commission? Why or why not?

19. On 29 November 2020, the then Premier, the Honourable Peter Gutwein MP, determined that a Commission of Inquiry was required to investigate the adequacy of the Tasmanian

Government's responses to child sexual abuse. As Secretary of the Department my role is to implement the decisions of the government of the day.

20. As Secretary of the Department, I have responsibility for implementing a number of reforms arising from the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse ('Royal Commission') and welcome any additional advice or learnings from the work of the Commission of Inquiry that will improve the outcomes for children and young people and operate to prevent child sexual abuse from occurring.

Question 6. Do you think there is support for the Commission within the Tasmanian State Service?

21. In my experience there is universal support within the State Service for the work of the Commission of Inquiry and support from the Tasmanian Government to improve the approach to safeguarding children and young people.

ORGANISATIONAL STRUCTURE AND CULTURE

Question 7. Provide an organisational structure identifying key reporting lines within the Department

22. The Department of Justice's Organisational Structure and reporting lines are provided at Annexure TRFS.0007.0115.0001.

Question 8. Provide an organisational structure for the Department's Royal Commission Response Unit. What are its roles and functions and how does it work with any other Government Institutions?

23. The Child Abuse Royal Commission Response Unit's Organisational Structure and reporting lines are provided at Annexure TRFS.0007.0115.0002.
24. On 1 July 2019 the Department established the Child Abuse Royal Commission Response Unit to coordinate the Tasmanian Government's response to, and implementation of, the recommendations of the Royal Commission, as well as Tasmania's role as a participating institution under the National Redress Scheme for Institutional Child Sexual Abuse.
25. The Child Abuse Royal Commission Response Unit provides strategic policy and legislative advice in relation to the Tasmanian Government's activities to prevent and respond to child abuse, including the development of legislation.
26. Since its establishment, the Child Abuse Royal Commission Response Unit has been tasked with the implementation and management of a number of related projects. Child Abuse Royal Commission Response Unit is currently responsible for the following priority government initiatives:
 - (a) the management of the State's participation as a responsible institution in the National Redress Scheme;
 - (b) the management of the delivery of Direct Personal Responses arising from the National Redress Scheme;

- (c) the 3-year Witness Intermediary Scheme Pilot to support Tasmania Police and Tasmanian Courts; and
 - (d) the development of a Child Safe Organisations legislative framework for Tasmania incorporating the implementation of Child Safe Standards and a Reportable Conduct Scheme.
27. The Child Abuse Royal Commission Response Unit works with other government agencies, including Tasmania Police, to respond to information requests from the National Redress Scheme. The Unit also engages with those agencies to provide direct personal responses under the National Redress Scheme, including providing advice and/or facilitating training to Senior Government Officials about trauma-informed engagement with victim-survivors.
 28. The Child Abuse Royal Commission Response Unit engages with the Courts, Tasmania Police and the Office of Director of Public Prosecutions in relation to the provision of witness intermediary services. During the development of the Witness Intermediary Scheme Pilot, the Unit led consultation with the Judiciary, the Office of the Director of Public Prosecutions, Tasmania Legal Aid, the Department of Health and Tasmania Police.
 29. The Child Abuse Royal Commission Response Unit leads consultation with the Departments of Premier and Cabinet, Communities Tasmania, State Growth, Health, Tasmania Police, Education and statutory office holders in relation to the development of the Child and Youth Safe Organisations Framework. There is an interagency working group chaired by the Department of Justice in relation to this work.
 30. The Child Abuse Royal Commission Response Unit engages with all responsible Agencies in relation to the reporting of progress and implementation of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, including the development of the Annual Report.
 31. The Child Abuse Royal Commission Response Unit undertakes consultation with relevant Agencies in relation to other projects and law reform initiatives.
 32. The Child Abuse Royal Commission Response Unit also consults with the Commissioner for Children and Young People for Tasmania as appropriate.

Question 9. What, if anything, is your Department's role in preventing, identifying and reporting and responding to child sexual abuse in the Institutional Context, including a description of the various units or areas that contribute to this work?

33. As I indicated in my evidence of 6 May 2022 the Department of Justice is not tasked to provide dedicated child-related services, however, there are areas of the Department that have contact with children including:
 - (a) Tasmania Prison Service;
 - (b) Witness Intermediary Scheme Pilot;
 - (c) Office of the Director of Public Prosecutions;

- (d) Supreme Court of Tasmania;
- (e) Magistrates Court of Tasmania;
- (f) Tasmania Legal Aid;
- (g) Tasmanian Civil and Administrative Tribunal;
- (h) Equal Opportunity Tasmania;
- (i) Victim Support Services; and
- (j) Safe at Home

34. I note that some of the above areas will have more interaction with children, whilst others will have more incidental contact.

35. I also note the statutory nature of some of the areas outlined in paragraph 33.

Preventing child sexual abuse in an institutional context

36. The Department's role in preventing child sexual abuse in institutional contexts primarily relates to the administration of the Registration to Work with Vulnerable People Scheme and the development of strategic policy and legislative reforms responsive to the Royal Commission into Institutional Responses to Child Sexual Abuse.

Registration to Work with Vulnerable People

37. The Department, through the Consumer, Building and Occupational Services output, is responsible for the administration of the *Registration to Work with Vulnerable People Act 2013*. The Executive Director of that output performs the role of Registrar, Working with Vulnerable People.
38. The *Registration to Work with Vulnerable People Act 2013* establishes Tasmania's worker screening scheme for people who work or volunteer with vulnerable people, including children. It does this by requiring individuals who undertake certain 'regulated activities' to hold Registration to Work with Vulnerable People (RWVP).
39. Between 2014 and 2017, services for children were progressively designated 'regulated activities'.
40. To obtain an RWVP, a risk assessment is undertaken by the Registrar. This risk assessment considers information obtained through a National Criminal History Check as well as any other information held by the Registrar relating to the applicant. This can include non-conviction information, criminal intelligence and past reportable behaviour provided to the Registrar from Tasmania Police or State Service agencies.
41. The purpose of a risk assessment is to determine whether an applicant poses an unacceptable risk to vulnerable people, including children, and is conducted in line with the

Registration to Work with Vulnerable People (Risk Assessment for Child-related Activities) Order 2014.

42. Once registered, an individual will continue to be monitored and an additional risk assessment can be undertaken if the Registrar believes on reasonable grounds that there is new relevant information about a registered person. In the event an additional risk assessment is undertaken, the Registrar may suspend the registration. The outcome of an additional risk assessment can result in the cancellation of an individual's registration.
43. Taken together, the risk assessment and additional risk assessment process seek to preclude or remove individuals, who by virtue of their past behaviour pose an unacceptable risk to children, from environments where they may cause harm. This includes perpetrators of child sexual abuse.
44. From the Department's perspective, the RWVP is one system intended to prevent harm to children and young people, but it is not the only system required to provide holistic protection of children and young people.
45. While the RWVP Act commenced in 2014, amendments were made to the Act in 2018 to reflect recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, namely:
 - (a) creating a nationally standardised approach so that key aspects of all schemes across all Australian jurisdictions are dealt with in the same way;
 - (b) allowing checks to be portable across jurisdictions to avoid complexity, duplication and movement of abusers between jurisdictions without detection; and
 - (c) improving information sharing so that there is continuous monitoring of cardholders' national criminal history records, and visibility of working with children check decisions across all jurisdictions.
46. The Government is currently exploring options to expand the scope of regulated activities under the Registration to Work with Vulnerable People legislation to ensure Tasmania's worker screening scheme is the best it can be. This will include possible additional categories of vulnerable people, such as older people and people with disabilities as well as reviewing the services and activities where registration is required.
47. The Department is responsible for introducing the Child and Youth Safe Organisations Framework in response to the recommendations of the Royal Commission. The Framework is described in detail in response to Question 13 in this statement.

Child Abuse Royal Commission Response Unit and Strategic, Legislation and Policy

48. As described in response to Question 8, the Child Abuse Royal Commission Response Unit is tasked with coordinating the Tasmanian Government's response to, and implementation of, the recommendations of the Royal Commission, as well as Tasmania's role as a participating institution under the National Redress Scheme for Institutional Child Sexual Abuse. This involves leading the majority of the implementation of the Royal Commission's

recommendation that are allocated to the Department of Justice and whole of government recommendations that are allocated to the Department of Justice to lead.

49. The Child Abuse Royal Commission Response Unit and the Strategic, Legislation and Policy divisions of the Department of Justice provide strategic policy and legislative advice in relation to the prevention of child sexual abuse. In recent years, those divisions led the following reforms that may address prevention strategies for child sexual abuse, including:
- amendments to mandatory reporting framework, including the abrogation of confessional privilege;
 - amendments to the Registration to Work with Vulnerable People Scheme; and
 - the development of the Child and Youth Safe Organisations Framework.

Identifying and reporting child sexual abuse in an institutional context

50. There is currently no singular system to monitor, measure, track, report or evaluate any complaints, allegations or incidents relating to child sexual abuse in an institutional context, noting that the Tasmanian Government is a direct provider of services and also purchases services from other organisations to deliver services to children and young people. There are a broad range of mechanisms to identify and report child sexual abuse in an institutional context as outlined in my response below, however I do not believe there is one coordinated or central system.
51. Once established, the Reportable Conduct Scheme, as a component of the Child and Youth Safe Organisations Framework, will be a central repository for reportable conduct and the investigation outcomes related to child sexual abuse in organisations, government and non-government. The Reportable Conduct Scheme will have an important role in data collection and monitoring the incidence of child sexual abuse.
52. The Department of Justice's workforce contain a diverse number of professionals, a number of which require registration with an independent regulatory body.
53. All Department of Justice employees are subject to our general reporting obligation to notify Tasmania Police of any suspected conduct that may constitute an offence.
54. The Department also has reporting responsibilities to the Australian Health Practitioners Regulation Agency (AHPRA) in relation to a small number of employees that fall within the scope of that Agency, such as Psychologists. AHPRA requires that employers make mandatory notifications about employees in relation to the following, dependant on the risk of harm to the public:
- (a) impairment;
 - (b) intoxication while practicing
 - (c) significant departure from accepted professional standards; and
 - (d) sexual misconduct.

55. Employers can also make voluntary notifications about employee if they believe:
 - (a) a practitioners conduct is placing the public at risk;
 - (b) a practitioner is practicing their profession in an unsafe way; or
 - (c) a practitioner's health is having a detrimental effect on their capacity to practice safely.
56. The Department also employs a number of legal professionals and these are covered by the *Legal Profession Act 2007*. Under that Act, the Legal Profession Board of Tasmania deals with complaints and potential misconduct of lawyers. The Department has the capacity to refer complaints to the Board in relation to the conduct of our legal practitioners.
57. Like all State Service agencies, the Department is a reporting body under the *Registration to Work with Vulnerable People Act 2013*. Reporting bodies have an obligation to provide the Registrar, Working with Vulnerable People with reportable behaviour. Reportable behaviour is any behaviour that poses a risk to vulnerable persons by reason of neglect, abuse or other conduct.

Responding to child sexual abuse in an institutional context

58. The Department of Justice responds to child sexual abuse, including in an institutional context through the implementation and administration of the Witness Intermediary Scheme Pilot (WISP). The WISP is administered by the Child Abuse Royal Commission Response Unit.
59. At a high level, the WISP responds to child sexual abuse by providing witness intermediaries to children and young people engaging with the police and courts during criminal investigations and prosecutions for sexual offences or homicide related offences. The WISP is an independent service that provides assistance to witnesses, prosecutors and defence counsel to effectively communicate with children and young people in an effective and trauma-informed manner. Statistics regarding the number of interactions provided by the WISP can be provided upon request.
60. The Child Abuse Royal Commission Response Unit is also tasked with the provision of direct personal responses and access to counselling as part of the Tasmanian Government's participation in the National Redress Scheme for Institutional Child Sexual Abuse. Statistics regarding the number of direct personal responses and counselling interactions facilitated can be provided upon request.
61. The nature of a direct personal response is led by victim-survivors and can include a face-to-face facilitated meeting with a senior government official, an apology (written and verbal as requested), supported access to records and other symbolic responses such as tree planting.
62. Direct personal responses are overseen by a specialist clinician and/or independent facilitator engaged by the Child Abuse Royal Commission Response Unit to ensure a trauma-informed approach. Participants in face-to-face meetings are usually senior government officials who have received training and supervision in trauma-informed practice.

63. Recently, the Attorney-General has approved the transfer of management of direct personal responses and the preparation of apologies in relation to civil litigants to the Child Abuse Royal Commission Response Unit. This will be undertaken consistent with the same principles as the National Redress Scheme. The management of direct personal responses for civil litigants will be considered during the review of the structure and processes across civil litigation.
64. The Registration to Work with Vulnerable People Scheme is also a mechanism by which the Department responds to child sexual abuse in an institutional context by conducting risk assessments and making determinations in relation to reportable behaviour for those who are registered to work with vulnerable people, including children, in prescribed child-related activities.
65. The *Registration to Work with Vulnerable People Act 2013* requires State Service agencies and Tasmania Police to report to the Registrar any behaviour that poses a risk to vulnerable persons by reason of neglect, abuse or other conduct ('reportable behaviour' for the purposes of the Act).
66. The Department's Victims Support Services may respond to child sexual abuse in the following ways:
 - (a) The Victims of Crime Assistance team administer the *Victims of Crime Assistance Act 1976* and support the Criminal Injuries Compensation Commissioners in finalising awards. It allows for the payment of costs of medical, counselling and support services, as well as compensation for pain and suffering to victims of violent crime or certain sexual offences where the victim has suffered an injury or death. Children and young people under the age of 18 can apply for Victims of Crime Assistance, but their application must be lodged by a parent or guardian.
 - (b) Victims Support Services also administers the Eligible Persons Register. Victims and survivors are entitled to be provided with certain information about the offender while they remain within the prison system, including their location, security classification, parole and hearing dates, as well as possible release dates and times. The role of the Eligible Persons Register is to provide information about leave and convey any concerns from the victim.
 - (c) The Victims of Crime Service team provides a counselling, support and referral service to victims of serious interpersonal violence and sexual offences. This includes young people who are aged over 15 years.
 - (d) The Service also provides assistance with the provision of Victim Impact Statements, completing Victims of Crime Assistance applications, referral to other service providers and information regarding the criminal justice system.
 - (e) The Court Support and Liaison Service is funded through Safe at Home. The role of the unit is to provide support to victims of family violence and guide them through the justice system, before, during and after court appearances.

Question 10. What is your Department's budget and resourcing allocation (including staffing levels) for preventing, identifying, reporting and responding to child sexual abuse within Institutional Contexts? How has it been acquitted?

67. The Department has the following budget and resource allocations relevant to for preventing, identifying, reporting and responding to child sexual abuse within institutional contexts.

Child Abuse Royal Commission Response Unit

68. The Child Abuse Royal Commission Response Unit has CARCRU will receive appropriation funding of \$13.1 million in 2022-23 including overheads. This includes new funding of \$829,000 per year for three years to support the design and implementation of a Child and Youth Safe Organisations Framework for Tasmania.

Registration to Work with Vulnerable People Scheme

69. The Registration to Work with Vulnerable People Scheme is funded by cost recovery through registration fees.
70. Fees for employed persons are currently \$115.50 and \$19.80 for volunteers and are granted for a five year period. This equates to an annual registration fee for employed persons of approximately \$23.00 and \$4.00 for volunteers. Fees are tax deductible for employed persons.
71. Revenue from the fund was \$3.25 million (as at the 31 March 2022). This funding is used to pay employees, meet the costs associated with the National Police Checking Service agreement and fund IT systems and support.

Victims Support Services

72. The Victims Support Services has a 2022-23 budget allocation of \$7,738 million of which \$4 million is reserved by law.

Question 11. Identify the number of people employed by the Department, divided by public service band.

73. A table outlining the Department of Justice's staffing levels by public service band is at Annexure TRFS.0007.0115.0003.

CHILD SAFEGUARDING

Question 12. Describe the following information:

- (a) any overarching government policy in relation to the protection of children and young people, including from child sexual abuse in an Institutional Context

74. I acknowledge that this is an area for improvement and I anticipate that the introduction of the Child and Youth Safe Organisations Framework will provide a structure for policy improvement across government.
 75. I believe a clear government policy that supports placing the protection and wellbeing of children and young people at the centre of decisions that impact or relate to them will improve organisational decision-making and culture.
 76. I also believe that we need to embed trauma-informed practice across all areas of policy and procedures to work towards addressing the harm that has been caused by our responses to child sexual abuse in all areas. I am committed to carry out the work necessary to ensure this is undertaken within the Department of Justice.
 77. I have been working with my Agency Executive to determine the approach to embed the Principles for Child Safe Organisations at departmental level.
- (b) what, if any, governance arrangements are in place to ensure that there is leadership and coordination across the Tasmanian Government in relation to preventing, identifying, reporting or responding to allegations or incidents of child sexual abuse in Institutional Contexts*
78. The Department of Justice is the current lead Agency for the implementation of recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse and the response to the Commission. In practice, recommendations that relate to the functions of relevant Agencies have been assigned to those Agencies to progress. My Department implements those recommendations which are whole of government or within the Department's portfolio responsibilities. On some occasions, my Department has led law reforms for other Agencies such as the Departments of Communities Tasmania and Police, Fire and Emergency Management.
 79. During evidence, Counsel Assisting asserted that 'dual accountability equals no accountability'. I have been reflecting on this statement and I do not agree that dual accountability equates to deficiencies in accountability per se. There are many benefits, particularly in a relatively small public service, from working collaboratively and drawing from the expertise available within the public service as a whole
 80. As a starting point, I support the Premier's recent commitment to clarify expectations and improve accountability in Heads of Agency Performance Agreements. We all have a responsibility to keep children safe and this makes it clear that, from a leadership perspective, we are all accountable. However I do acknowledge that the lines of accountability, with respect to the individual recommendations, could be clearer and more rigorously embedded.
 81. The Premier's Statement to Parliament on 23 May 2022 noted that throughout "the COVID pandemic we have seen unprecedented levels of collaboration within Government". I strongly support the Premier's statement and acknowledge that this is the level of collaboration, cooperation and shared responsibility we can create with respect to the protection of children.

- (c) *which Government Institution has the lead responsibility for safeguarding children in Tasmania, including from child sexual abuse in Institutional Contexts*
82. As noted above, the Department of Justice has lead responsibility for coordinating the implementation of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and responding to the Commission of Inquiry.
83. It is anticipated that the new Department of Education, Children and Young People will have a significant role in safeguarding children.
- (d) *which other Government Institution has a role in the safeguarding of children in Tasmania, including from child sexual abuse in Institutional Contexts*
84. In my view all Government Departments have a role in safeguarding children. In addition, the following statutory offices supported by the Department have a role in safeguarding children:
- (a) the Custodial Inspector;
 - (b) Equal Opportunity Tasmania;
 - (c) Integrity Commission;
 - (d) Tasmania Legal Aid;
 - (e) Office of the Director of Public Prosecutions; and
 - (f) the Ombudsman
- (e) *the resources in place to support the safeguarding of children in Tasmania, and*
85. I have identified the resources in place to support safeguarding children within the Department in my response to Question 10.
- (f) *any key performance indicators (or equivalent) for Secretaries of the Relevant Departments in relation to safeguarding children and preventing, identifying, reporting or responding to child sexual abuse in Institutional Contexts*
86. As indicated at paragraph 80, the Premier has recently announced changes to Heads of Agency Performance Agreements to clarify expectations and improve accountability, including embedding child safety and wellbeing in organisational leadership, governance and culture. This will include training for all Heads of Agency in trauma-informed practice. I fully support this approach.

Question 13. In the Fourth Annual Progress Report and Action Plan 2022: Implementing the Recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, the Tasmanian Government committed (at page 8) to 'developing a comprehensive Child and Youth Safe Organisations Framework (CYSOF) for Tasmania, overseen by an independent oversight and regulation body'. Describe:

- (a) *the Child and Youth Safe Organisations Framework (CYSOF), including whether this will include the adoption of nationally consistent child safe standards and a reportable conduct scheme.*

87. The Tasmanian Government has committed to establishing a Child and Youth Safe Organisations Framework (CYSOF) for Tasmania. The CYSOFF will be comprised of legislatively mandated Child Safe Standards and a Reportable Conduct Scheme. The National Principles for Child Safe Organisations will be adopted as Tasmania's Child Safe Standards consistent with the agreement of First Ministers at the meeting of the Council of Australian Governments on February 19, 2019.

- (b) *the implementation plan and timeline for the Child and Youth Safe Organisations Framework*

88. The project to develop and fully implement the Child and Youth Framework is expected to be completed by 1 July 2024, noting that the Parliament is responsible for the implementation of legislation. The proposed milestones for the project are as follows:

- (a) The Bill to establish the Child and Youth Safe Framework and an independent statutory office will be introduced by the end of 2022.
- (b) The Independent Regulator and Oversight Body be established by 1 July 2023.
- (c) The proposed commencement date for the Framework is:
 - i. Phase one including all organisations in scope for the Child Safe Standards and the Reportable Conduct Scheme (1 January 2024); and
 - ii. Phase two including all remaining organisations in scope for the Child Safe Standards (1 July 2024).

89. The phased implementation will ensure that the diverse sectors required to comply with the Child Safe Standards are supported to build capability through a variety of mechanisms, including grant funding, resources and tailored approaches to supporting compliance that reflect different forms of engagement with children amongst organisation types.

90. I note the commentary regarding my evidence to the Commission on 6 May 2022 and the 3 year time frame for implementation of the CYSOFF and Reportable Conduct Scheme. I wish to clarify that this related to full implementation in accordance with the above estimated timelines. I also note that to fully embed and achieve cultural change will go beyond the implementation of the CYSOFF.

91. It may also be that many are seeing 'implementation' as the things that we would see as the beginning of that process, legislation being enacted and proclaimed, the commencement of rolling out information resources, training, etc., whereas we are thinking about 'implementation' correctly as a more complete and fulsome process that actually embeds the principles in practice in an operational sense.

92. The Bill is intended – and always was intended – to be introduced before the end of 2022.

93. As outlined above, following the passing of the relevant legislation the next step will be the establishment of an independent statutory oversight body and whilst there is strong

agreement that the Victorian legislation and model currently in place to undertake this function can be used as a 'template', there is also a need to contextualise for the Tasmanian environment. It will also be important to undertake an environmental scan of other jurisdictions to ensure we have the best possible model in place to protect children.

94. The Royal Commission noted in its Final Report that in establishing an independent statutory oversight body...“governments might enhance the roles of existing children’s commissioners or guardians for this purpose.” Therefore, the establishment of an independent statutory oversight body will require the analysis of current legislation in Tasmania to identify the best placement and analysis around what existing functions of current statutory officers may need to be reviewed.
95. Establishment of the independent regulator and oversight body by 1 July 2023 will require consideration of the specific structure, appropriate resourcing and logistics to ensure the body can effectively fulfil its functions. Again, whilst other jurisdictions that have already established the body can be used to guide this work, it is noted that the Tasmanian context – including the small size of our state – will need to be carefully considered.
96. In terms of the phased implementation of the CYSOF and the Reportable Conduct Scheme, the Royal Commission also noted that institutions in-scope for a reportable conduct scheme are those that exercise a high degree of responsibility for children and/or ‘engage in activities that involve a heightened risk of child sexual abuse due to institutional characteristics, the nature of the activities involving children, or the additional vulnerability of the children the institution engages with’. These are institutions referred to in paragraph 88 (c) (i).
97. The Royal Commission also noted that “legislative requirements to comply with the child safe standards should apply to institutions that provide (Recommendation 6.9):
 - a. accommodation and residential services for children, including overnight excursions or stays
 - b. activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children
 - c. childcare or childminding services
 - d. child protection services, including out-of-home care
 - e. activities or services where clubs and associations have a significant membership of, or involvement by, children
 - f. coaching or tuition services for children
 - g. commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions
 - h. services for children with disability
 - i. education services for children
 - j. health services for children
 - k. justice and detention services for children, including immigration detention facilities
 - l. transport services for children, including school crossing services.”
98. It is estimated that over 8000 child-related services, including businesses, clubs and associations from throughout Tasmania will be mandated to comply with the Child and

Youth Safe Organisations Framework. These are institutions referred to in paragraph 88 (c) (ii).

99. The work to embed the child safe principles within these organisations and the Tasmanian community will take time. Each organisation and association will be at different levels of maturity and readiness and I would envisage a need to identify what guidance and support is necessary to ensure there is long-term cultural change.
100. I note the Government's strong commitment to fast track this work and draw the Commission's attention to the timeframe outlined in paragraph 88, which proposes an estimated revised timeframe of just over two years (July 2024).

(c) which body is intended to be the oversight and regulation body, and what functions and powers will it have

101. It is the Tasmanian Government's intention to create a new standalone, dedicated independent regulation and oversight body for the Child and Youth Safe Organisations Framework.
102. The powers and functions of the independent body will be aligned with the recommendations of the Royal Commission and the models operating in other Australian jurisdictions, including:
 - (a) the provision of education, training, guidance and advice to relevant organisations to promote compliance with the Child and Youth Safe Organisations Framework;
 - (b) monitoring and enforcing compliance with Child Safe Standards;
 - (c) overseeing and monitoring investigations of reportable conduct;
 - (d) conducting own motion investigations of reportable conduct where necessary;
 - (e) the exchange of information with relevant statutory authorities and sector regulators;
 - (f) powers to inspect premises;
 - (g) issuing of notices;
 - (h) apply penalties for failure to comply; and
 - (i) reporting annually.
103. In accordance with paragraphs 94 and 95 above, it is intended that existing oversight bodies – such as the Offices of the Commissioner for Children and Young People and the Public Guardian – will be considered along with the Victorian and NSW models that will allow Tasmania to fast track this work.
104. Upon establishment, the Department will work closely with the new body to further develop regulations required to implement the regulation and oversight functions.

(d) any planned funding for the Child and Youth Safe Organisations Framework, including for its implementation

105. The project team has received a budget allocation of \$2.4 million for the three-years. This funding will be acquitted through the recruitment of a people with the following experience and expertise:

- (a) project management
- (b) stakeholder engagement
- (c) legislative development
- (d) policy development; and
- (e) communications.

106. Funding for the implementation of the Framework will be established as the model, including the establishment of the independent oversight and regulation body, is finalised during 2022. Funding for the establishment of the new body will be the subject of a budget submission for funding in the 2023-24 Budget.

(e) the planned governance for the implementation of the Child and Youth Safe Organisations Framework, and

107. An Interdepartmental Working Group is operating, which provides governance on the development and implementation of the Child and Youth Safe Organisation Framework.

108. Advisory Panels comprising of key stakeholders will be established which will provide further governance to the Framework design and implementation. These Advisory Panels are further explained at paragraph 157-59.

(f) any systems used to monitor, measure, track, report, evaluate any complaints, allegations or incidents relating to child sexual abuse in the Tasmanian State Service? How robust is your data?

109. There is currently no singular system to monitor, measure, track, report or evaluate any complaints, allegations or incidents relating to child sexual abuse in the Tasmanian State Service. I note the Government, through the Department of Premier and Cabinet, has already made significant progress towards the creation of a central register of employees who have been terminated as a result of an ED5 investigations.

110. Once established, the Reportable Conduct Scheme will be a central repository for reportable conduct and investigation outcomes related to child sexual abuse in Tasmanian government institutions.

Question 14. What reflections do you have on any feedback received in response to the Child Safe Organisations Bill 2020 (Tas)? How do you intend to respond to that feedback?

111. By way of context it is important to note that some of the delays in relation to drafting the Child Safe Organisations Bill 2020 were due to urgent legislation required to manage the COVID-19 pandemic. This is not to say that the Bill was not a priority for Government however the capacity of the Office of Parliamentary Counsel (OPC) and the State Service in a state the size of Tasmania presents some limitations. Therefore the original Bill was released for public consultation in late 2020.
112. The Bill proposed three principles for the safety and well-being of children and five child safe standards. The scope of their application was proposed to be child-related services (including government agencies), and prescribed bodies receiving funding from a government agency to provide health, welfare, education, child-care, or residential services wholly or partly for children. Monitoring and enforcement of the child safe standards would be via funding agreements and annual reporting.
113. The feedback received on the Child Safe Organisations Bill supported the acceleration of the project to include independent regulation of the Child Safe Standards and a reportable conduct scheme. Despite intentions to align the Bill with the Principles for Child Safe Organisations endorsed by First Ministers at the Council of Australian Governments, during the drafting of the Bill some drafting changes were made to accommodate the structure of the Bill. Many stakeholders provided feedback about the departure from the wording of the Principles. This will be resolved in future drafts.
114. Stakeholder feedback on the Bill demonstrated the preparedness in key areas of the child services sector and supported the acceleration of the Child and Youth Safe Organisations Framework project. It is still anticipated that there will be significant work to build capacity in other areas such as trades, retail, entertainment and hospitality services and transport.

Question 15. What do you believe will be the main challenges in implementing the Child and Youth Safe Organisations Framework (for example, achieving legislative changes, information sharing sector engagement and independent oversight)?

115. The main challenges in implementing the Child and Youth Safe Organisations Framework will include:
 - (a) Complex interfaces between the Framework and interrelated Government projects, such as amendments to information sharing and right to information, review of employment directions, Out of Home Care Standards, review of the *Children, Young Persons and their Families Act 1997*, and Youth Justice Reforms.
 - (b) Capability and literacy related to child sexual abuse amongst the diverse sectors required to comply with the Framework.
 - (c) Tailoring approaches to supporting compliance that reflect different forms of engagement with children amongst organisation types.
 - (d) Minimising regulatory and administrative duplication and burden in a small jurisdiction.

- (e) Managing impacts of implementation of the Child and Youth Safe Organisations Framework and providing compliance support in small, close-knit communities with fewer resources.

Question 16. In an editorial published in The Mercury on 17 March 2022, Premier Peter Gutwein referred to a number of reforms that were underway or complete, including the:

- (a) establishment of the Office of Safeguarding Children*
- (b) development of memoranda of understanding between various government departments, and*
- (c) development of three multidisciplinary centres offering support and safety to victim-survivors of child abuse*

Describe the nature and current status of each of the above reforms and which Government Institution is leading these reforms

- 116. The establishment of the Office of Safeguarding Children is an organisational reform within the Department of Education, soon to be the Department of Education, Children and Young People. The Office was established as part of the Department of Education's response to the recommendations of the final report of the Independent Inquiry into the Department of Education's Responses to Child Sexual Abuse by Professors McCormack and Smallbone. The Department of Education leads this internal departmental structural reform. Information about the nature and current status of these reforms should be directed to the Department of Education.
- 117. The Registrar, Working with Vulnerable People works closely with the Executive Director of the Office of Safeguarding Children to improve the knowledge and capacity of the Department of Education to meet its obligations under the *Registration to Work with Vulnerable People Act 2013*. This engagement has covered reportable behaviour and the development and review of staff training materials.
- 118. As part of the Tasmania Police response to its review of the Griffin matter, the Registrar, Working with Vulnerable People has worked closely with Tasmania Police to review and strengthen information sharing arrangements and associated business rules of the two organisations.
- 119. The development of three multidisciplinary centres offering support and safety to victim-survivors of child abuse and the development of memoranda of understanding between various government departments to support the functions of those centres is a government initiative led by the Department of Police, Fire and Emergency Management. Information about the nature and current status of these reforms should be directed to the Department of Police, Fire and Emergency Management.
- 120. The Registrar, Working with Vulnerable People is a member of the information sharing working group supporting the development of the multidisciplinary centres.

Question 17. How will the machinery of government changes announced on 24 February 2022 impact the safeguarding of children?

121. The Department is not affected by the proposed machinery of government changes and the operational details are being worked through. It is difficult to speculate on the impact on safeguarding children as a result of the establishment of the new Department of Education, Children and Young People.
122. I anticipate that machinery of government changes will provide opportunities to breakdown any existing barriers to sharing information about risks to children and support a more coordinated and consistent approach to child safety across the key child services provided by government.
123. Aligning all services for children and young people within the one Agency will ensure that there is consistent and coordinated leadership and the identification of key priorities to keep children and young people safe and engaged in learning.
124. It will allow the creation of a child-centred organisation and the development of budget initiatives and the alignment of resources that prioritise the needs of children and young people regardless of – and in accordance with – their level of need and vulnerability. This machinery of government change should also reduce bureaucracy and remove silos.
125. As the Premier said in his statement to the Parliament: “...all parts of the new agency will benefit from the leadership and cultural change provided by the Office of Safeguarding Children.” I note the commentary regarding the separation of Child Protection from SA Families (Education) in South Australia following a Royal Commission. Whilst we often compare Tasmania and South Australia, I think the best approach is to do what is best for children and young people in this state and to put them at the centre of all decision-making. It is my understanding that the machinery of government changes that will take place on 1 September 2022 will facilitate this across a very broad range of services to children and young people.

Question 18. What are your reflections on how effectively the Tasmanian Government is preventing, identifying, reporting and responding to allegations or incidents of child sexual abuse, including:

(a) what is working well and what needs to be continued or built upon

126. The work of the Commission of Inquiry to date and particularly the evidence of people with lived experience during the public hearings in May 2022, have unequivocally demonstrated that there remains much work to do to improve the effectiveness of the Tasmanian Government in preventing, identifying, reporting and responding to allegations or incidents of child sexual abuse. I was distressed to hear the ways in which the Tasmanian Government has failed to respond to the risk and incidences of child sexual abuse in our organisations. We must do better and I firmly believe that there is unilateral support within government to improve our approach to safeguarding children.
127. In my view, it is essential that we work collaboratively to create a consistent and coordinated approach to safeguarding children. That approach must include the alignment of all areas have a role in preventing, identifying, reporting and responding to child sexual abuse and provide clear lines of accountability.

128. I note the implementation of 206 of the 306 Royal Commission recommendations that relate to the Tasmanian Government. An additional 92 have commenced, four are under consideration and four have not yet progressed.
129. The Redress and Civil Litigation Report was released in September 2015, making 99 recommendations. This Government has completed all 99 of those recommendations.
130. The Criminal Justice Report was released in August 2017, making 85 recommendations. Of the 79 recommendations that relate to the Tasmanian Government, 75 have been either completed (49) or commenced (26).
131. Later this year the Tasmanian Government will be progressing further recommendations from the Royal Commission's Criminal Justice Report by introducing a Bill that will:
- reform tendency and coincidence laws, consistent with the Model Bill agreed by the Council of Attorneys-General;
 - introduce a new crime of 'failing to protect' a child, within a relevant institution, from a substantial risk of sexual abuse by an adult associated with the institution;
 - create a rebuttable presumption that a child or any person with a mental impairment, does not consent to sexual intercourse where the offender is in a position of authority in respect of the victim-survivor;
 - introduce interlocutory appeals to reduce the need for re-trials and for victim-survivors to give evidence on multiple occasions; and
 - ensure that all child sexual offence charges are not the subject of a limitation period.
132. I suggest that is evidence of what has been, and will shortly, be achieved.

(b) what is not working well and needs to be changed

133. There are a number of areas that have been highlighted by the Commission of Inquiry's public hearings that require attention and where can take immediate steps to improve and identify pathways for reform.
134. On 24 May 2022, the Premier issued a Ministerial Statement acknowledging areas requiring reform and committing to action, including:
- (a) Accelerating of the implementation of Child Safe Standards and a Reportable Conduct Scheme through the establishment of Child and Youth Safe Organisation Framework;
 - (b) Fast-tracking the implementation of the implementation of any outstanding recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse;
 - (c) Addressing any barriers to the accessing or sharing information that could keep children safe from harm and has been operating to prohibit victim-survivors from receiving timely and transparent information about the investigation of matters raised including

how to better educate employees regarding the circumstances where they can and should share information;

- (d) Increasing capacity in Tasmanian Government schools including appointing a School Safeguarding Officer in every Government school, requiring mandatory professional development for all Department of Education staff, additional senior support staff to increase support for children and young people affected by harmful sexual behaviours or child sexual abuse, and the appointment of additional psychologists and social workers to further support student well-being and safety;
- (e) Supporting the timely investigation of complaints and disciplinary processes, with an additional \$758,000 for the Teachers Registration Board for additional investigators;
- (f) Increasing supports for children and young people impacted by trauma;
- (g) Providing additional frontline workers for the Advice and Referral Line and Child Safety Services;
- (h) Exploring options to expand the scope of regulated activities under the Registration to Work with Vulnerable People legislation;
- (i) Building shared capability for investigations related to serious Code of Conduct breaches across the State Service, with \$240,000 allocated including increasing the pool of impartial investigators;
- (j) Providing mandatory trauma informed practice professional learning, for investigators and other state servants involved in ED5 investigation processes to ensure interactions with victim-survivors are both trauma-informed and child-centred;
- (k) Exploring any barriers to the sharing of investigative material gathered for one process (for example an ED5) can be shared for the purposes of another (for example an investigation by the Teachers Registration Board);
- (l) Creating a central register will make it easier to identify where an employee has been terminated as a result of a breach of the code of conduct, to ensure an appropriate assessment can be made if they apply for a different government job;
- (m) Investigating options to roll out trauma-informed training across the State Service starting with those in leadership positions, including Heads of Agency;
- (n) Improving the RTI processes, including providing training across the state service to ensure more consistent responses must break away from the siloed approach of our departmental structures to facilitate improved information sharing and deliver better outcomes for victim-survivors;
- (o) Reviewing the structure and processes across civil litigation to ensure our approach is trauma informed and that all our legal practitioners recognise evidence-based understandings of the nature and impact of child sexual abuse; and

- (p) Amending Heads of Agency Performance Agreements to clarify expectations and improve accountability, making sure child safety and wellbeing is embedded in organisational leadership, governance and culture.

Question 19. Are there any barriers to achieving the changes you identify in response to paragraph 18 (for example, budgetary constraints, recruitment, State/Commonwealth responsibilities, legal obstacles or cultural resistance)?

135. As I have indicated, I believed there is a shared commitment across government to improve child safety. From my perspective one of the most difficult areas of reform will be to improve access and the sharing of information. These reforms impinge on the existing privacy rights of individuals. Legislative reforms to information sharing and erosion of privacy protections can be fraught and controversial. I fully support the need to significantly increase the rights of children to be safe and understand the processes that have affected them, but I note that these reforms will need to be carefully considered and balanced. I also note that these reforms will be complex drafting exercises because of the numerous Tasmanian statutes that contain confidentiality provisions for a various policy reasons. The Department of Justice is committed to progressing these reforms as approved by Government and directed by the Attorney General.

Question 20. What do you think is required for Tasmania to successfully implement reforms to the prevention, identification, reporting and response to child sexual abuse in Institutional Contexts (for example, budgetary constraints, governance and oversight)?

136. The successful development and implementation of any significant whole of government reforms requires effective engagement with stakeholders, appropriate funding, and good governance and leadership.
137. Policy and legislative reforms to reduce the incidence of child sexual abuse and improve identification, reporting and responses to child sexual abuse are complex and multifaceted. At a State-level, the development and implementation of child safeguarding reforms requires a clear understanding of:
- (a) the affected sectors and any structural, resourcing and legislative barriers that exist within the sector that may inhibit change;
 - (b) existing regulatory and legislative frameworks, including gaps; and
 - (c) broad consultation with key stakeholders, including people with lived experience and people from diverse backgrounds.
138. Successful development and implementation of child safeguarding reforms requires alignment and coordination with initiatives in other states and territories. The Tasmanian Government is a signatory to the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030*. The National Strategy supports a nationally coordinated, strategic framework for preventing and responding to child sexual abuse across Australia.

139. Successful implementation also requires clear accountability, monitoring and evaluation and regular risk assessments should be undertaken where there are interactions with children and young people.
140. The inclusion of the voices of children and young people as well as those with lived experience is necessary. Successful implementation requires working collaboratively across Government and the community sector.
141. Recruitment processes should ensure appropriate screening and ongoing training for employees and lines of accountability and responsibility should be clear.

RESPONSE TO THE ROYAL COMMISSION

Question 21. Provide a list of the Royal Commission's recommendations which the Department is responsible for implementing.

Question 22. Identify the senior Department Officials with responsibility for the implementation of any of the Royal Commission's recommendations.

Question 23. Describe any barriers to the implementation of any of the Royal Commission's recommendations that are within the responsibility of the Department. If so, provide details.

Question 24. Describe whether there are any barriers unique to Tasmania to the implementation of the Royal Commission's recommendations.

142. A table outlining my responses to Questions 21 to 24 is provided at Annexure TRFS.0007.0115.0004.

Question 25. In which, if any, areas do you think Tasmania should depart from the Royal Commission's recommendations (for example, due to its size, circumstances, culture or other factors)?

143. The Tasmanian Government should, like other states and territories, depart from the Royal Commission's Child Safe Standards as provided in Recommendation 6.5 and implement as its standards the Australian Human Rights Commissioners' Principles for Child Safe Organisations endorsed by the Council of Australian Governments on February 19, 2019.
144. These Principles are broader than the Royal Commission's Child Safe Standards in that they include all types of child abuse.
145. There have been occasions where the implementation of criminal justice reforms has been broader than recommended noting the terms of reference of the Royal Commission have been implemented to broader cohorts. For example, the Witness Intermediary Scheme Pilot applied to adults with communications needs as well as children.
146. Another example of the Tasmanian Government's departure from the Royal Commission recommendations is the legislative reforms to the *Registration to Work with Vulnerable People Act 2013*. The Royal Commission recommendations concerned working with children

checks. The Tasmanian Government's implementation of the recommendations is broader in that reforms to the RWVP Act apply to children and vulnerable persons (including adults) who engage in child-related or prescribed activities.

147. The Tasmanian Government in considering the criminal justice recommendations has sought to extend the application of the recommendation to other similarly affected people, victims and witnesses to limit inequity in access to justice and protect those who are vulnerable in our community.

Question 26. Are there gaps in what the Royal Commission considered or recommended that relate to the Department which are relevant to Tasmania?

148. I have noted that a particularly difficult area of reform is improve access and the sharing of information for the purposes of safeguarding children and providing trauma-informed responses to victims and survivors of child sexual abuse. The Royal Commission undertook significant work in this area but fell short of providing definitive guidance about balancing privacy and risk to children.

Question 27. What do you hope will occur as a result of the Commission?

149. I want to acknowledge the victim survivors and those with lived experience who have come forward to the Commission, both privately and publicly. I note that at the time of writing this statement there are many that we are yet to hear from. They deserve our sincere respect and thanks for coming forward and I hope that as a result of the Commission they have felt heard and believed.
150. I also acknowledge those people who have been engaged in providing services to children and young people who have provided, or will provide in future hearings or by written statement, valuable information to the Commission. I hope the Commission provides them with validation of their important role in keeping children and young people safe.
151. It is my hope that the Commission's work will provide a roadmap for effective and long term cultural change in the Tasmanian context that will enable the safety of children to be embedded in all organisations.

STAKEHOLDER ENGAGEMENT

Question 28. Who do you consider to be your internal and external stakeholders in relation to preventing, identifying, reporting or responding to child sexual abuse in an Institutional context, and how the Department engages those stakeholders?

152. As an example of the Department's approach to stakeholder engagement, the Child and Youth Safe Organisations Framework will engage with a wide range of diverse stakeholders that are involved in advocacy and/or service provision related to children. Stakeholders include government and non-government organisations; approximately 8000 Tasmanian companies and businesses; clubs and associations; volunteer entities; children, young people and their families; and children, young people, and adults with lived experience of child sexual abuse in institutional settings.

153. As a result of the diverse and numerous stakeholders, it is not possible to identify an exhaustive list all individual agencies, organisations, businesses, clubs, and associations in Tasmania that will be subject to mandatory compliance with the Framework. Therefore the individuals and organisations named in this Strategy are an initial curated example of stakeholders identified from across the various sectors affected by the Framework and are subject to change as the project progresses and evolves.
154. The Framework respect Aboriginal culture and embed safety and wellbeing for Aboriginal children and families into institutional settings engaging with children. Therefore, engagement with the Aboriginal community and Aboriginal Community Controlled Organisations in the design and implementation of the Framework is a priority.
155. People with lived experience of child sexual abuse in institutional settings and children and young people are critical stakeholders in the project to develop and implement the Framework. Their expertise gained through lived experience will be a valuable contribution to the policy development and implementation planning for the Framework. Genuine engagement with children and young people and victim-survivor advocates through the project cycle also reflects the Government's commitment to the Child Safe Standards.
156. Peak bodies, industry authorities, and/or sector regulators representing or leading in-scope organisations are also key stakeholders, as well as state-wide independent authorities with a role in monitoring the safety and well-being of children in institutional settings in Tasmania.
157. Due to the broad cross-section of stakeholders with an interest in the Child and Youth Safe Organisations Framework, the project will have five external advisory panels. Each advisory panel will be consulted on the same content, tailored to their area of expertise and interest.
158. The advisory panels will be the primary engagement mechanism through which the Tasmanian Government will partner with external stakeholders to design and implement the Framework. Consultation with the advisory panels will be continuous throughout the life of the project – engagement will include regular meetings, email, and surveys in line with the project work plan. Each panel will have their own terms of reference and agenda. Presentations, discussion papers, draft policy documents and legislation, and participatory workshops will be used to consult and generate input into key policy elements and evidence for policy decisions.
159. Membership of the sector advisory panels will include approximately 15 organisations and will target representative bodies of stakeholder groups and organisations or businesses with a large footprint in the child-related services sector and/or a specific focus and expertise on child sexual abuse in institutional settings.

| <i>Advisory Panel</i> | <i>Membership</i> |
|-----------------------|---|
| Lived Experience | <ul style="list-style-type: none"> Adult victim-survivors of child sexual abuse in institutional settings Family and/or friends of victim-survivors |

| | |
|--|--|
| Children and Young People | <ul style="list-style-type: none"> • Children and young people with experience of the out of home care system • Children and young people in the community |
| Community Services | <ul style="list-style-type: none"> • Community Sector Peak Bodies • Sexual Assault Support Services • Targeted Statewide Services |
| Businesses, Clubs and Associations, and Local Government | <ul style="list-style-type: none"> • Business Regulators and Associations • Sport Peak Bodies/Major Sporting Bodies • Clubs • Local Government |
| Independent and Private Schools | <ul style="list-style-type: none"> • Independent School Associations • Faith-Based School Peak Bodies • Education Sector Regulators |

160. As a priority, the project will proactively engage with targeted stakeholders who have a high interest in the Framework but face additional barriers to participating in consultations for policy development via individual organisation meetings and/or workshops. These may be one-off or ongoing depending on the preferences of the organisations and the policy issues being discussed.
161. Aboriginal community controlled organisations have been invited to advise on how they would like to participate in and be consulted on the development of the Child and Youth Safe Organisations Framework. In particular, the views of Aboriginal community will be sought on how cultural safety in institutional environments for Aboriginal children and young people should be embedded in the Framework.
162. Organisations representing or delivering services to children and young people with disabilities, from culturally and linguistically diverse and refugee backgrounds, and/or who are members of LGBTIQ+ communities will also be specifically sought out.
163. Regular and ongoing engagement with key statutory authorities and advocates via consultation meetings will be an important element of the consultation plan, including with the Commissioner for Children and Young People, the Ombudsman, and the Child Advocate.
164. Meetings with individual organisations will be convened when they have specific expertise on a policy issue, and/or if any concerns are being raised by them as stakeholders.
165. Focus groups, roundtables, and/or workshops will be used when required for targeted consultations and information sharing at critical points during the project, such as specific policy decisions or when a key element of the Framework is reaching finalisation. They may be sector or regional specific, one-off or part of a series. These will largely be open invite to

all in-scope entities, but existing networks, groups, and engagement mechanisms will also be utilised where appropriate.

166. The Department utilises full, broad public consultation on draft legislation, with accompanying discussion papers and/or explanatory notes if required. These consultations are published on the Department of Justice's external website and accompany a mail out to target stakeholders who are identified as relevant and/or impacted by the proposed reforms. This enables all individuals, organisations, and sectors, including those who otherwise have not had the chance, to provide feedback on the Framework while also raising awareness of the initiative throughout the community.

PREVENTION

Question 29. What role does the Department have in preventing child sexual abuse in Institutions Contexts. In your answer, you should address:

(a) the screening of Officials

167. Various positions within the Department of Justice require a pre-employment check of prospective employees because of the nature of the duties and responsibilities attached to those positions. These procedures balance an individual's right to privacy with the responsibility of management to undertake pre-employment check for appointment, promotion or transfer to certain positions. Examples where these checks apply are for specific positions within the Tasmania Prison Service and Community Corrections. Unless such checks are actually authorised, panels are not authorised to conduct such checks without first obtaining approval through HR, who will then seek SSMO approval.
168. Additionally, a number of Departmental employees are required to have Registration to Work with Vulnerable People. This includes the Registrar and all employees who perform functions delegated by the Registrar under the *Registration to Work with Vulnerable People Act 2013*.
169. The Department of Justice does not have any services specifically targeted towards children, with the role of the Tasmania Prison Service in relation to the delivery of services to young people entering the criminal justice system being an exception. In addition, children engage with other services delivered by the Department such as the Child Abuse Royal Commission Response Unit, Office of the Director of Public Prosecutions, Tasmania Legal Aid, Supreme Court of Tasmania, the Magistrates Court of Tasmania and others named earlier in this statement.

(b) Registration to Work with Vulnerable People

170. The *Registration to Work with Vulnerable People Act 2013* establishes Tasmania's worker screening scheme for people who work or volunteer with vulnerable people, including children. It does this by requiring individuals who undertake certain 'regulated activities' to hold Registration to Work with Vulnerable People (RWVP).

171. Between 2014 and 2017, services for children were progressively designated 'regulated activities'.
172. To obtain an RWVP, a risk assessment is undertaken by the Registrar. This risk assessment considers information obtained through a National Criminal History Check as well as any other information held by the Registrar relating to the applicant. This can include non-conviction information, criminal intelligence and past reportable behaviour provided to the Registrar from Tasmania Police or State Service agencies.
173. The purpose of a risk assessment is to determine whether an applicant poses an unacceptable risk to vulnerable people, including children, and is conducted in line with the *Registration to Work with Vulnerable People (Risk Assessment for Child-related Activities) Order 2014*. Once registered, an individual is monitored and an additional risk assessment can be undertaken if the Registrar believes on reasonable grounds that there is new relevant information about a registered person. In the event an additional risk assessment is undertaken, the Registrar may suspend the registration. The outcome of an additional risk assessment can result in the cancellation of an individual's registration.
174. Taken together, the risk assessment and additional risk assessment process seek to preclude or remove individuals, who by virtue of their past behaviour pose an unacceptable risk to children, from environments where they may cause harm. This includes perpetrators of child sexual abuse.
175. From the Department's perspective, the RWVP is one system intended to prevent harm to children and young people, but it is not the only system required to provide holistic protection of children and young people.

(c) Child safe practices

176. The Department is the lead Agency in the development and establishment of the Child and Youth Safe Organisations Framework and relevant legislation.

(d) Protective behaviours curriculum and other educational programs

177. The Department does not currently provide education programs in relation to protective behaviour or other prevention measures.

(e) Training

178. The Department does not deliver training in relation to the prevention of child sexual abuse.

(f) Raising awareness of child sexual abuse, particularly in an Institutional Context

179. The development of the Child and Youth Safe Organisations Framework will involve a comprehensive communications strategy to raise awareness in relation to the requirements of the Framework.

(g) Any other relevant matters.

180. Other than those areas outlined throughout this statement, I have not identified any other roles for the Department in the prevention of child sexual abuse.

Question 30. Budgeted and expended funding by the Tasmanian Government for prevention programs at a state and national level that are part of the National Strategy to Prevent and Respond to Child Sexual Abuse 2021 – 2030 ('National Strategy').

181. The Australian Government has invested \$307.5 million to support the National Strategy implementation. The Tasmanian Government has not yet provided a specific budget allocation for the implementation of the National Strategy because the National Strategy is not yet at a stage where funding is required for implementation. It is likely that next year's budget for 2023-2024 will include specific provision for the implementation of the National Strategy.

Question 31. What activities is the Tasmanian Government undertaking or planning to undertake as a part of the National Strategy?

182. I note that the Australian Government, through the Office for Child Safety, is responsible for leading the development and implementation of the National Strategy, whereas the Tasmanian Government is responsible for specific action taken within Tasmania to implement the National Strategy.
183. The Tasmanian Government has agreed to prioritise collaboration with other jurisdictions to progress a new National Framework on Child Safety. The framework focuses on prevention, education, evaluation and cultural change.
184. The National Strategy was released in October 2021 and includes the first national action plan to run from 2021-24. There are five themes in the action plan. Many of the measures under the action plan relate to establishing systems, processes and resources at a national level. There are a number of existing Tasmanian initiatives that align with actions under the Strategy, including the development of the Tasmanian Child and Youth Safe Organisations Framework, Tasmania's Action Plan for Family and Sexual Violence, and the Tasmanian Child and Youth Wellbeing Strategy.
185. Since early 2022, the Australian Government has coordinated inter-jurisdictional working groups comprised of representatives from relevant State Government Agencies. The Tasmanian Government has representatives from relevant Agencies, including the Department of Justice, in the working groups, including representatives from the Child and Youth Safe Organisations Framework and information sharing frameworks and law reform. The inter-jurisdictional working groups aim to develop and implement synchronised policies to maintain consistency across jurisdictions against the key themes of the National Strategy.

Question 32. How is success measured and evaluated (including what data is relied on) in relation to preventing child sexual abuse in Institutional Contexts?

186. The *National Strategy to Prevent and Respond to Child Sexual Abuse 2021 – 2030* contains inbuilt governance, measurement and evaluation frameworks. The Office for Child Safety will assess progress through regular reporting under a monitoring and evaluation framework.

The Tasmanian Government will similarly develop its own evaluation framework prior to implementation of the first themes of the National Strategy.

Question 33. Reflections on how effectively the Department is contributing to the prevention and early intervention of child sexual abuse in Institutional Contexts, including what:

(a) has changed within the Relevant Period. Describe any proposed reforms in detail, including any proposed implementation plans;

187. In my view, it is essential that we work collaboratively to create a consistent and coordinated approach to prevention and early intervention. It is clear to me that the Tasmanian Government has hard but important work ahead of it to ensure that prevention and early intervention are achieved in all contexts. This is reflected in recent statements by the Premier and Attorney General.

188. The implementation of Child and Youth Safe Organisations Framework is aimed to prevent and provide early intervention to child sexual abuse in institutional contexts.

189. The Department will continue to participate and collaborate with other jurisdictions, and where relevant, implement any legal or policy reforms resulting from the National Strategy.

(b) is working well and needs to be continued or built upon, and is not working well and needs to be changed

190. I believe that I have provided comprehensive information regarding areas that are working well, work undertaken to improve the prevention of, and response to, institutional child sexual abuse. I also suggest that my statement outlines considerable area for improvement and those actions proposed to make those improvements.

Question 34. Are there any barriers to achieving the changes you identify in your response to paragraph 33 (for example, budgetary constraints, recruitment, State/Commonwealth responsibilities, legal obstacles or cultural resistance)?

191. I believe that my statement has already addressed these barriers.

Question 35. How does the Department ensure any activities described in response to questions 29 – 34 meet the diverse needs of children and young people, particularly those who are Aboriginal and/or Torres Straight Islanders, have come from culturally and linguistically diverse backgrounds, identify as LGBTQIA+, have disability, experience socio-economic disadvantage or lack of protective parental figures?

192. The Office of Child Safety has, and continues to, undertake consultation with children and young people with diverse needs, including those who are Aboriginal and/or Torres Straight Islands, culturally and linguistically diverse backgrounds, identify as LGBTQIA+, have disability, experience socio-economic disadvantage or those who lack protective parental figures for the purpose of the National Strategy. The National Strategy identified priority groups and children and young people with diverse needs is a priority group.

193. Where the Department of Justice is responsible for implementation, the Department will follow its ordinary procedure in undertaking consultation and community engagement with

stakeholders and those directly affected by any change, including children and young people with diverse needs, including those who are Aboriginal and/or Torres Straight Islands, culturally and linguistically diverse backgrounds, identify as LGBTQIA+, have disability, experience socio-economic disadvantage or those who lack protective parental figures.

194. From an internal perspective, the Department has recently launched the *LGBTIQ+ Action Plan* which provides information about how the Department of Justice engages with diversity. The *Action Plan* is Annexed at TRFS.0007.0115.0015. The *LGBTIQ+ Action Plan* is aimed to embed a culture of acceptance and diversity within the Department and in the Department's community engagement.
195. I personally co-chair (with a member of the community) the LGBTQIA+ Whole of Government Working Group, a role I voluntarily sought to continue beyond my role as Secretary, Department of Communities Tasmania. I have held this position since 2018.

SUPPORTS FOR VICTIM-SURVIVORS

Question 36. Tasmanian Government funded support available for victim-survivors of child sexual abuse in Institutional Contexts, including

(a) legal aid, including for civil claims

196. My understanding is that Tasmania Legal Aid ('TLA') does not generally provide funding for civil claims. However, limited assistance is available and is described below.
197. TLA employs a civil lawyer who provides limited assistance with civil matters (limited legal services and legal tasks) and assists clients prepare victims of crime applications.
198. I understand that a person could apply to the Civil Disbursement Fund ('CDF') for funding to cover the disbursements associated with a civil action. While the CDF is administered by TLA, it operates separately from the grants and practice functions of TLA.

(b) the victims of crime assistance scheme

199. The Department's Victims Support Services may respond to child sexual abuse in the following ways:
200. Victims of Crime Assistance administers the *Victims of Crime Assistance Act 1976* and supports the Criminal Injuries Compensation Commissioners in finalising awards. Awards offered provide for the payment of costs of medical, counselling and support services, as well as compensation for pain and suffering to victims of violent crime or certain sexual offences where the victim has suffered injury or death.
201. Children and young people under the age of 18 can apply for Victims of Crime Assistance, but their application must be lodged by a parent or guardian.
202. Victims Support Services also administers the Eligible Persons Register. Victims and survivors are entitled to be provided with certain information about the offender while they remain

within the prison system, including their location, security classification, parole and hearing dates, as well as possible release dates and times. The role of the Eligible Persons Register is to provide information about leave from the prison and convey any concerns from the victim.

- 203. The Victims of Crime Service provides a counselling, support and referral service to victims of serious interpersonal violence and sexual offences. This includes young people who are aged over 15 years.
- 204. The Victims of Crime Service also provides assistance with the provision of Victim Impact Statements, completing Victims of Crime Assistance applications, referral to other service providers and information regarding the criminal justice system.
- 205. The Court Support and Liaison Service is funded through Safe at Home. The role of the unit is to provide support to victims of family violence and guide them through the justice system, before, during and after court appearances.

(c) therapeutic services

- 206. The Child Abuse Royal Commission Response Unit provides direct personal responses and access to counselling as part of the Tasmanian Government's participation in the National Redress Scheme for Institutional Child Sexual Abuse.
- 207. Direct personal responses are overseen by a specialist clinician and/or independent facilitator engaged by the Child Abuse Royal Commission Response Unit to ensure a trauma-informed approach. Participants in face-to-face meetings are usually senior government officials who have received training and supervision in trauma-informed practice.
- 208. Recently, the Attorney-General has approved the transfer of management of direct personal responses and the preparation of apologies in relation to civil litigants to the Child Abuse Royal Commission Response Unit. This will be undertaken consistent with the same principles as the National Redress Scheme.
- 209. The Victims of Crime Service team provides a counselling, support and referral service to victims of serious interpersonal violence and sexual offences. This includes young people who are aged over 15 years.

RESPONSE TO COMPLAINTS AND INVESTIGATIONS

Question 37. What role do you or the Department play in overseeing the conduct of the Tasmanian State Service in relation to child sexual abuse in Institutional Contexts?

- 210. As Secretary of the Department of Justice, it is my role to conduct employment investigations consistent with the process outlined under Employment Direction 5. I have not commenced an ED5 process in relation to allegations and incidents of child sexual abuse within the Department of Justice.

211. I do not have a specific oversight function for the conduct of the Tasmanian State Service generally in relation to allegations of child sexual abuse.
212. I note that the development of the Reportable Conduct Scheme will provide for an independent oversight body whose remit will include oversight of employment investigations resulting from reportable conduct under the Scheme. This will provide a mechanism for systemic oversight of any processes being undertaken in response to conduct under that Scheme.

Question 38. What, if any, role do you or the Department play in overseeing the use of employment directions in Government Institutions in relation to child sexual abuse in institutional contexts

213. My Department does not oversee the use of employment directions in Government Institutions in relation to child sexual abuse in institutional contexts.

Question 39. What training and professional development is available to the Tasmanian State Service in relation to:

(a) professional conduct in relation to child sexual abuse

214. The Department provides a suite of training resources for Departmental staff. It is mandatory for new employees to undertake *DoJ Induction*. In addition, Departmental employees must undertake the following mandatory training courses:
- Department of Justice Workplace, Health and Safety Induction (mandatory on commencement with the Department), including:
 - Legislation
 - Department Policy and Procedures
 - WHS Concepts and Definitions
 - Roles and Responsibilities
 - Risks, Hazards and Controls
 - Reporting
 - Health and Wellbeing
 - Ethics and Behaviour (optional), including:
 - State service Principles
 - State Service Code of Conduct
 - Ethical Framework
 - Ethical and Behavioural Challenges

- Ethical Decision-Making
 - Social Media
 - Reporting and Tasmania Integrity Commission
 - Violence against Women (mandatory), including:
 - Workplace Culture
 - Recognising Violence
 - Responding to Violence
 - Department of Justice Workplace, Health and Safety Refresher (mandatory, annual)
- (b) *identifying and responding to child sexual abuse (including grooming behaviour, boundary breaches and harmful sexual behaviours)*
215. The Department does not provide training in identifying and responding to child sexual abuse, including grooming behaviour, boundary breaches and harmful sexual behaviours.
- (c) *reporting requirements, and*
216. The Department does not provide training in reporting requirements for child sexual abuse.
- (d) *making public interest disclosures, including in relation to the handling of complaints.*
217. The Department does not provide training in relation to public interest disclosures, including in relation to the handling of complaints. The Department does have a Public Interest Disclosure Procedure (Annexure TRFS.0007.0115.0008) which is available to all departmental staff through the Department's intranet.
218. The Ombudsman provides information about the making public interest disclosures and the handling of complaints. The relevant materials include:
- *Blowing the whistle in Tasmania* - fact sheet at Annexure TRFS.0007.0115.0009;
 - *Reprisal for blowing the whistle in Tasmania* – fact sheet at Annexure TRFS.0007.0115.0010;
 - *Receiving, assessing and investigating a disclosure* – fact sheet at Annexure TRFS.0007.0115.0011;
 - Public Interest Disclosure - Guideline One: *Serious or significant improper conduct* - 25 November 2020 at Annexure TRFS.0007.0115.0012;
 - Public Interest Disclosure - Guideline Two: *Procedures for public bodies* - 25 November 2020 at Annexure TRFS.0007.0115.0013; and

- Public Interest Disclosure - Model Procedures: *Model procedures to be followed by public bodies* - 25 November 2020 at Annexure TRFS.0007.0115.0014.

Question 40. How are issues related to breaches of the Tasmanian State Service Code of Conduct in relation to child sexual abuse, monitored, audited and overseen across the Tasmanian State Service? Are there any governance groups or committees that consider these issues? If so, what are their roles, functions, powers, membership, processes and the frequency of their meetings?

219. There is currently no singular system to monitor, measure, track, report or evaluate any complaints, allegations or incidents relating to child sexual abuse in the Tasmanian State Service.
220. Once established, the Reportable Conduct Scheme will be a central repository for reportable conduct and the investigation outcomes related to child sexual abuse in organisations, government and non-government.
221. The Tasmanian Government is progressing a central register of employees who have been terminated as a result of an ED5 investigation. The administration of the central register will make it easier to identify where a State Service Official has been terminated as a result of a breach of the Code of Conduct to ensure that an appropriate assessment can be made if that person subsequently applied for a different position within the State Service.

Question 41. Identify how Government Institutions determine whether there is sufficient nexus between allegations and or incidents of child sexual abuse or misconduct and an Officials' employment to enable a Government Institutional to undertake disciplinary action or manage risks to children.

222. Should I become aware of any allegations or incidents of child sexual abuse I would refer the matter to the Tasmania Police who are the appropriate body to investigate these matters. I would also make the necessary and appropriate referrals to other relevant authorities including, but not limited to, Child Safety Service (Advice and Referral Line), RWVP, Integrity Commission, etc.
223. Notwithstanding the information above, if the Department received advice of an allegation of child sexual abuse relating to a Departmental official, the Director of Human Resources would undertake an assessment and provide me with advice, including whether the alleged incident occurred in the course of State Service employment.
224. In considering whether the alleged conduct is within the course of employment, I would seek advice from my Human Resources branch and the Office of the Solicitor-General if necessary.
225. If I was unable to proceed with an ED5 in relation to an allegation of child sexual abuse that was considered outside the course of the employee's employment, I would consider options open to manage the potential risk that employee may pose working for the Department.

Question 42. Identify any legal or other advice which guides the approach referred to in response to question 41.

226. Since I have been Secretary of the Department, I have not commenced an ED5 process in relation to allegations and incidents of child sexual abuse and not had cause to seek legal advice.

Question 43. Identify which employment directions are generally used when responding to allegations or incidents of child sexual abuse. Are some directions more appropriate to managing or responding to allegations or incidents of child sexual abuse than others? Explain your answer.

227. As indicated, during my tenure as Secretary of the Department, I have not commenced an ED5 process in relation to allegations and incidents of child sexual abuse. However, the following Employment Directions are used when responding to allegation or incidents of child sexual abuse:

- Employment Direction No. 4 - Procedure for the Suspension of State Service Employees with or without Pay
- Employment Direction No. 5 - Procedures for the Investigation and Determination of whether an employee has breached the Code of Conduct.
- Employment Direction No. 6 - Procedures for the Investigation and Determination of whether an employee is able to efficiently and effectively perform their duties.

228. The most applied sections of the State Service Code of Conduct used in investigations relating to allegations of child sexual abuse are:

(2) An employee must act with care and diligence in the course of State Service employment.

(3) An employee, when acting in the course of State Service employment, must treat everyone with respect and without harassment, victimisation or discrimination.

(4) An employee, when acting in the course of State Service employment, must comply with all applicable Australian law.

229. Subsection (4) is only available as a basis of an ED5 process if a person alleged to have abused a child has been convicted in an Australian court. Reliance on this subsection can often result in significant delays where a criminal investigation has commenced, charges have been initiated and/or court proceedings are pending.

Question 44. Describe the limitations of the ED5 investigation process as it applies to allegations or incidents of child sexual abuse in relation to Tasmanian State Service Officials.

230. As I have not commenced an ED5 process in relation to allegations and incidents of child sexual abuse. However, I make the following observations about the ED5 process that may impact its application to allegations of child sexual abuse:

231. I am aware that there can be issues in undertaking an ED5 where the matter relates to a historical allegation of child sexual abuse. This is more about the availability of witnesses and relevant information, etc. rather than a limitation of the ED5 process itself.

232. Any allegations or incidents relating to child sexual abuse would be referred to Tasmania Police for investigation.
233. The ED5 process is centred on the rights of the employee with underpinning principles of procedural fairness. In the case of allegations of child sexual abuse there is clearly a need to address any risk to child safety as a priority. The facilitation of trauma-informed engagement with the victim-survivor of child sexual abuse is an area that is recognised as requiring particular focus.
234. The current code of conduct is largely limited to investigations within 'the course of employment' or 'in connection with employment'. There are limitations on investigations under ED5 where the alleged conduct occurs outside the workplace, and where the threshold for a criminal investigation or prosecution is not reached.
235. The ED5 process can take significant time to reach resolution and can only be determined by the relevant Head of Agency. It establishes a single process that does not distinguish between allegations of differing severity, resulting in resource intensive processes for all investigations. This can potentially detract from resources being focused on the more serious instances of alleged conduct. In addition, the need to appoint investigators to investigate all alleged breaches of the Code of Conduct potentially diminishes the availability of external investigators, noting there is only a small pool of service providers operating in Tasmania.
236. The State Service Review undertaken by Dr Ian Watt ('Review') identified a number of limitations in relation to ED5. I would support a number of statements made in that Review, notably that the system is "overly prescriptive" and I support the progression of Recommendation 55 of that Review to "amend ED5 to be standards based, allowing the relevant head of agency to tailor an investigative process based on the circumstances surrounding an alleged breach".
237. I also note Recommendation 56 of the Review to "rewrite ED5 to allow for a simple, local process to be used where the facts are clear and not disputed and the agency seeks to impose a low-level sanction".
238. I am aware that work with respect to Dr Watt's recommendations is currently being prioritised and led by the Department of Premier and Cabinet and I understand that funding has been provided in the 2022-2023 budget for that purpose.

Question 45. Describe how investigators are appointed to carry out ED5 investigations.

239. When appointing an investigator, I receive a recommendation from the Human Resources Branch on the investigator selected. This selection is based on factors including their suitability for investigating alleged conduct of the nature involved, their availability and their experience with allegations of that nature and other matters such as the work environment in which the conduct was alleged to have occurred.
240. Investigators are provided correspondence that outlines the scope of their investigation and establishes requirements for their process as provided for in ED5. Investigators have the

capacity to regulate their own process but must meet these requirements. The correspondence to the investigators includes an Instrument of Appointment.

Question 46. Describe whether ED5 investigators involved in investigations of allegations or incidents of child sexual abuse receive any training or direction in best practice in the investigation of matters involving children or trauma-informed investigations.

- 241. There is a paucity of appropriately skilled external investigators who undertake employment investigations in Tasmania which can lead to high demand on their services and impact the timeliness of investigations.
- 242. There is at least one investigator in Tasmania undertaking ED5 investigations that was previously a member of Tasmania Police. If I were appointing an investigator to investigate alleged child sexual abuse today, I would seek to appoint that investigator unless there were investigators available with specific training in that area.
- 243. I note the Premier's commitment to increase the pool of independent investigators; making trauma informed practice professional learning mandatory, for investigators and other state servants involved in ED5 investigation processes; and addressing the gender balance. I fully support these initiatives.

Question 47. Describe whether ED5 investigators are independent from the Department and the Tasmanian Government.

- 244. The majority of ED5 investigations at the Department are undertaken by investigators are external consultants who have been appointed to conduct investigations to support ED5 processes independently of government. Their conduct of investigations allows the Department to remain at 'arm's length'.
- 245. The Department has recently explored using internal investigators for less serious matters. It is highly likely that I would appoint an external independent investigator for a matter involving alleged child sexual abuse, if there was such a situation in the my Department.

Question 48. Describe any protocols or guidelines in relation to standing down Tasmanian State Service Officials who are subject to an ED5 investigation involving allegations of child sexual abuse.

- 246. The protocols for suspending Tasmanian State Service Officials who are subject to an ED5 investigation are contained in Employment Direction 4.

Question 49. Identify who is responsible for making the decision to stand down a Tasmanian State Service Official while an ED5 investigation is being conducted.

- 247. The Head of Agency employing the Tasmanian State Service Official is responsible for making a decision to suspend the Official with pay pursuant to Employment Direction 4.
- 248. The Head of the State Service may determine that the Tasmanian State Service Official should be suspended without pay after submissions from the relevant Head of Agency and the Official pursuant to Employment Direction 4.

Question 50. Describe the factors that determine whether an ED4 occurs with or without pay.

249. The Head of the State Service may suspend an employee without pay, after considering submissions by the relevant Head of Agency and the concerned employee. The Head of Agency must have reasonable grounds to believe that it is in the public interest that the employee be suspended without pay.
250. The factors that are to be addressed by the Head of Agency to the Head of the State Service, include:
- why suspension is in the public interest; and
 - any consideration of the employee's response to the alleged breach of the code of conduct or alleged inability; and
 - affect on the employee; and
 - affect on the workplace; and
 - consideration of any alternatives to suspension.

Question 51. Describe the timeframe within which an investigation involving allegations of child sexual abuse should be carried out.

251. Employment Direction No. 5 requires that investigations and processes be undertaken 'within a reasonable time and free from unreasonable delay'. The Department does not have a required timeframe for an investigation to be carried out but following the evidence during the Department of Education public hearing will implement timeframes when appointing independent investigators.

Question 52. Describe how effective the current employment directions issued by the Minister administering the State Service Act 2000 (Tas) are in addressing complaints, allegations or incidents of child sexual abuse.

252. As I indicated in response to Question 42, I have not commenced an ED5 process in relation to allegations and incidents of child sexual abuse.
253. In my view there are areas in which the employment directions could be improved to support the investigation of complaints, allegations or incidents of child sexual abuse including embedding a trauma-informed approach to communication with a victim-survivor both during the investigative process and by providing information about the status of the employment process.
254. The current code of conduct could be strengthened in my view where the alleged conduct occurs outside the workplace, and where the threshold for a criminal investigation or prosecution is not reached.
255. As I indicated above, the ED5 process can take significant time to reach resolution and can only be determined by the relevant Head of Agency. It establishes a single process that does not distinguish between allegations of differing severity, resulting in resource intensive processes for all investigations. This can potentially detract from resources being focussed on the more serious instances of alleged conduct. In addition, the need to appoint investigators to investigate all alleged breaches of the Code of Conduct potentially diminishes the availability of external investigators, noting there is only a small pool of service providers operating in Tasmania.

Question 53. What are your reflections on how effectively the Department is investigating allegations of child sexual abuse, including:

- (a) what is working well and needs to be continued or built upon, and*
- (b) what is not working well and needs to be changed*

256. The Department has not investigated allegations of child sexual abuse, to my knowledge. However I refer to the comments in my statement regarding improvements to the ED5 process.

Question 54. Are there any barriers to achieving the changes you identify in response to paragraph 53 (for example, budgetary constraints, staff recruitment, State/Commonwealth responsibilities, legal obstacles or cultural resistance)?

257. The availability of appropriately training independent investigators has been a challenge as the current pool is limited.

CIVIL LITIGATION, REDRESS AND ACCESS TO INFORMATION

Question 55. How does the Department manage and respond to requests made under the:

- (a) Right to Information Act 2009, or*
- (b) Personal Information Act 2009*

258. All requests for information submitted under the *Right to Information Act 2009* (RTI Act) are managed by the Office of the Secretary.

259. Each RTI request is acknowledged and disseminated to the relevant business unit within the Department to provide the information for assessment. Each request is assessed in accordance with the RTI Act, and the *Right to Information Act 2009 Tasmania: Ombudsman's Manual* and *Ombudsman's Guidelines* and any advice received from the Office of the Solicitor-General.

260. Section 15 of the RTI Act provides for the statutory timeframes for responding to Right to Information applications. That section also allows for discussions with the applicant to clarify scope of the application.

261. Between 1 January 2017 and 31 December 2021, I am not aware of any applications made to the Department under the *Personal Information Protection Act 2004* (PIP Act). However, the management of PIP Act requests can be managed directly by business units, such as the Victims Support Services. Guidance from the Office of the Secretary or advice from the Office of the Solicitor-General is available if the business unit is unsure if the information can be released.

Question 56. Applications under the Right to Information Act 2009 or the Personal Information Act 2009 between 1 January 2017 and 31 December 2021

262. The Department predominantly receives applications made under the RTI Act.
263. Between 1 January 2017 and 31 December 2021, I am not aware of any applications made to the Department under the PIP Act. Applications under the PIP Act may be managed directly by the individual business units.
264. It is difficult for the Department to identify the purpose of any person's application other than by inference from the nature of the records that the person is requesting or that a plaintiff law firm is involved in the application. The RTI Act enables people to access information without providing reasons as to why the information is sought.
265. There has been an increase in the number of RTI applications made by plaintiff law firms in recent years. The bulk of applications have been received from Angela Sdrinis. The first application from that firm was received in December 2019, but significant numbers have been received since February 2021 onwards.
266. In some instances, the Department receives applications for information held by other government agencies. Those applications are promptly transferred to the relevant agency under section 14 of the RTI Act.
267. In the event that an application seeks information relating to a person's detention at Ashley, in addition to partially transferring the application to the Department of Communities Tasmania, the Department searches and provides any relevant records within the scope of the application about detention on remand without the applicant being required to make a second application.
268. An Excel spreadsheet outlining RTI applications either received from plaintiff law firms or requesting information relating to a person's correctional records identified as potentially within the scope of the Commission is at Annexure TRFS.0007.0115.0005.
269. The average number of days from receipt for the Department to respond to these types of RTI applications are as follows:

| <i>Year</i> | <i>Days</i> |
|-------------|-------------|
| 2018-19 | 21 |
| 2019-20 | 18 |
| 2020-21 | 13 |

Question 57. Has the Department issued any directions, instructions or legal advice in relation to the management of requests under the above legislation since January 2021?

270. I am not aware of any legal advice in relation to the RTI Act and PIP Act since January 2021. As indicated, information requests other than those made under the RTI Act are decentralised and managed by individual business units.

Question 58. How are civil litigation cases involving allegations or incidents of child sexual abuse in Institutional Contexts managed in Tasmania?

271. The management of civil claims is currently the responsibility of the Office of the Solicitor-General. The Attorney-General directed the Solicitor-General, under s 7 of the *Solicitor-General Act 1983*, to manage the State's civil litigation.
272. The Department refers all civil litigation matters to the Office of the Solicitor-General and provides the Office of Solicitor-General with information relevant to the claim as requested. The Department follows the advice of the Office of the Solicitor-General in relation to the conduct of the matters consistent with the Treasurer's Instruction FC-17.

Question 59. Describe the Department's approach to civil litigation in relation to allegations or incidents of child sexual abuse in Institutional Contexts?

273. The Department follows the Solicitor-General's Model Litigant Guidelines and Guidelines for the Conduct of Civil Claims. To my knowledge there are no other specific policies, guidelines or materials for the conduct of civil litigation.
274. The Department's Right to Information Officers have been the point of contact for civil litigation matters and have received advice from the Office of the Solicitor-General (Litigation) regarding the preparation of responses to the civil litigation claims.

Question 60. What are the key policies, systems and guiding materials that shape the Department's role in responding to civil litigation claims in relation to child sexual abuse in the Department? Please describe how they operate and intersect.

275. The policies that shape the Department's role in responding to civil litigation claims in relation to child sexual abuse are the Solicitor-General's *Model Litigant Guidelines* and *Guidelines for the Conduct of Civil Claims*. I am not aware of any other policies.
276. In response to the evidence of victim-survivors and plaintiff law firms, the Tasmanian Government has announced a review of the structure and processes across civil litigation to determine what changes may be necessary to ensure that this process does not cause victim-survivors further harm.

Question 61. Identify any training provided to Departmental Officials in the application of the Model Litigant Guidelines and Guidelines for the Conduct of Civil Claims that is directed to the support the timely and trauma-informed management of civil claims concerning child sexual abuse in Institutional Contexts.

277. The management of civil claims is currently the responsibility of the Office of the Solicitor-General. The Attorney-General directed the Solicitor-General, under s 7 of the *Solicitor-General Act 1983*, to manage the State's civil litigation.
278. The training and conduct of legal practitioners assigned to conduct civil litigation is the responsibility of that Office and if requested, supported by the Department of Justice.
279. Members of the Litigation Division of the Office of the Solicitor-General participated in training in Trauma Awareness in Institutional Settings and providing trauma-informed Direct Personal Responses provided by Blueknot and organised by the Child Abuse Royal Commission Response Unit on 27 and 28 May 2021. A copy of the training materials are provided in the Annexures named TRFS.0007.0115.0006 and TRFS.0007.0115.0007.

Question 62. Identify who has responsibility for making decisions (including decisions in relation to settlement) in relation to the conduct of civil litigation involving the Department to settle allegations or incidents of child sexual abuse in which any part of the Tasmanian Government is a defendant.

In your answer, you should address the role of:

(a) the Department,

- 280. The Department refers all civil litigation matters are referred to the Office of the Solicitor-General Litigation Division.
- 281. During my tenure as Secretary, I am aware of only one civil litigation matter, relating to child sexual abuse, involving the Department.
- 282. The role of the Department in civil litigation brought against the Crown is to provide all relevant information as requested by the Office of the Solicitor-General. I do not approve the filing or content of court documents or the management of civil claims.
- 283. If a settlement is recommended by the Office of Solicitor-General, I have the responsibility for authorising the expenditure of the settlement funds consistent with my role as an accountable authority for the purposes of the *Financial Management Act 2016*, the purpose of which is to ensure that the expenditure of public monies is properly supervised by Parliament.
- 284. I have on occasion queried the advice about settlement quantum in cases where I have been concerned that settlement amounts have been reduced or inconsistent based on matters which I did not consider reflected what is known about the nature and impact of child sexual abuse and trauma. While I have asked questions and sought clarification about the basis of the settlement amounts recommended by the Office of the Solicitor-General, the Office of the Solicitor-General has decision-making responsibility for the conduct of settlement conferences and settlement amounts.

(b) the Office of the Solicitor-General,

- 285. The Office of the Solicitor-General has the responsibility for making decisions in relation to the conduct of civil claims, including decisions as to settlement pursuant to Treasurer's Instruction FC-17. The Crown must obtain its legal advice from the Law Officers of Crown Law.
- 286. In November 2015, the Office of the Solicitor-General was directed under section 7(b) of the *Solicitor-General Act 1983* (Tas) to control and be responsible for the State's functions in relation to civil litigation.
- 287. I am advised by the Office of the Solicitor-General that advice in relation to the conduct of civil litigation is binding on the Department. As indicated above, any input that I might have in relation to the conduct of civil litigation must fall within the parameters if the advice and direction provided by the Office of the Solicitor-General.

(c) the Child Abuse Royal Commission Response Unit,

288. The Child Abuse Royal Commission Response Unit (CARCRU) formerly liaised with the Office of the Solicitor-General on behalf of Agencies in relation to civil litigation. The function of CARCRU was intended to be to triage, assess, and investigate the factual circumstances and merits of a civil claim of child abuse and support the Office of the Solicitor-General to implement trauma-informed approaches to civil litigation. During this period, I authorised any settlement amounts rather than the Head of the responsible Agency.
289. Despite best efforts, this arrangement did not have the intended effect of improving the timeliness by triaging civil claims and identifying matters suitable for early settlement. There were a number of barriers to the effective implementation of this arrangement, including, but not limited to, the retention of decision-making responsibility with the Office of the Solicitor-General in relation to the extent to which factual investigations were conducted and the circumstances in which factual concessions could be made.
290. On 9 August 2021, the factual investigation of civil claims returned to the affected Agencies and the Head of the affected Agency authorises the settlement funds.

(d) any other relevant Government Institution, and

291. No other Government Institution has decision-making responsibility in relation to civil litigation.

(e) the insurance body.

292. The State of Tasmania is self-insured through the Tasmanian Risk Management Fund (TRMF). The TRMF was established on 1 January 1999 and provides a whole-of-government approach to funding and managing specific identified insurable liabilities of participants.
293. The administration of claims is undertaken by a contracted Fund Administration Agent - Jardine Lloyd Thompson Public Sector (JLT). JLT do not have any decision making role in relation to the conduct of civil litigation.

Question 63. Describe any training or guidance provided to the individuals responsible for making decisions (including decisions as to settlement) in relation to the conduct of civil litigation involving allegations or incidents of child sexual abuse in which any part of the Tasmanian Government is a defendant.

294. As described above, decision making in relation to civil claims is the responsibility of the Office of the Solicitor-General and as such, training and conduct of legal practitioners assigned to conduct civil litigation by the Solicitor-General is the responsibility of that Office.

Question 64. The Tasmanian Government's Third Annual Progress Report on implementation of the National Royal Commission recommendations noted that the Child Abuse Royal Commission Response Unit would support the Office of the Solicitor-General by undertaking the investigation and analysis of child sexual abuse claims against the Tasmanian Government to ensure 'a consistent and expedient response' for claims arising from any Government Institutions. Why was this change needed? How does the Child Abuse Royal Commission Response Unit support the Office of the Solicitor-General?

295. On 30 June 2020, the Tasmanian Government approved the *Guidelines for the Conduct of Civil Claims* and approved a process whereby the Office of the Solicitor-General would be supported by the Child Abuse Royal Commission Response Unit by triaging, assessing, and investigating the factual circumstances and merits of a civil claim of child abuse provide advice on trauma-informed approaches to civil litigation. During this period, I authorised any settlement amounts rather than the Head of the responsible Agency.
296. This change was needed due to the exponential increase in potential child abuse claims indicated against the State resulting in capacity stress for the Office of the Solicitor-General and concerns about:
- (a) a lack of responsiveness to correspondence from plaintiff law firms;
 - (b) delays in capacity to progress a claim to settlement conference; and
 - (c) criticism of the State's approach to the management of claims as not sufficiently 'trauma-informed'.
297. The decision was that Tasmania adopt a whole-of-government policy to ensure a consistent response to child abuse civil claims, one that minimised the potential for re-traumatisation of claimants and avoids unnecessary adversarial responses to claims in accordance with Recommendation 97 of the *Redress and Civil Litigation Report*.
298. CARCRU was identified as a business unit that could readily assist the Office of the Solicitor-General because its business practices were similar to the factual investigation and analysis contemplated as required to respond to a civil claim. CARCRU also had existing relationships and information sharing pathways with all affected Agencies because of its management of claims made under the National Redress Scheme.
299. The additional benefit of transferring the management of these claims to CARCRU was that claims are dealt with by a specialised team with existing knowledge specific to nature and impact of child sexual abuse and support consistency in Agency's response to civil claims.
300. The operational arrangements as a result of this decision were:
- (a) Agencies would deal directly with any information requests made either under the *Personal Information Protection Act 2004* or the *Right to Information Act 2009*. The usual first step made by law firms seeking to represent claimants;
 - (b) Agencies would be responsible for the retrieval and collation of records;
 - (c) Factual investigation and analysis is to be undertaken by CARCRU. That is CARCRU would receive, triage, assess and investigate the factual circumstances and merits of a civil claim of child abuse;
 - (d) The engagement of additional staff, mainly within CARCRU, to manage this process; and
 - (e) The engagement of additional staff with the OSG to respond to claims.

301. Unfortunately the process outlined above did not have the result of relieving capacity pressure on relevant Agencies and the Office of the Solicitor-General (Litigation). It did not prove to be the most effective and efficient use of resources resulting in, among other things, duplication. In addition, the Office of the Solicitor-General provided subsequent advice that identifies additional legislative impediments to the necessary information sharing with the Child Abuse Royal Commission Response Unit. These information protection provisions only permit the relevant Agency or the Office of the Solicitor-General to undertake factual investigation and analysis of civil claims for child abuse.
302. Similarly, the Office of the Solicitor-General remained responsible for acting for the State in child sexual abuse claims, including providing Government with advice on liability and the quantum of any damages that may arise in relation to claims. Unlike the typical solicitor-client relationship, CARCRU and affected Agencies are not able to instruct the Solicitor-General in relation to the conduct and resolution of these claims.
303. As indicated in response to Question 62, despite best efforts this arrangement did not achieve the intended outcomes. On 9 August 2021, the Tasmanian Government returned the management of factual investigation and analysis of civil claims to the affected Agencies.

Question 65. Describe the Department's approach to redress for civil claims arising from child sexual abuse in an Institutional Context. In your answer you should address:

- (a) the approach of the Department to communication with victim-survivors of child sexual abuse*
 - (b) the approach of the Department to apologies to victims-survivors of child sexual abuse*
 - (c) whether any conditions are routinely imposed on victims-survivors as part of settlement terms (such as non-disclosure agreements or other requests that the matter not be spoken about publicly, including for legal reasons), and*
 - (d) whether the Department provides apologies to victim-survivors of child sexual abuse where it forms the view that the Department has not acted appropriately.*
304. On 30 June 2020, the Tasmanian Government approved the Guidelines for the Conduct of Civil Claims which outlines the framework and approach to the management of civil claims arising from child abuse. The Guidelines include the manner of engagement and provision of redress to civil claimants. The management of civil claims is the responsibility of the Office of the Solicitor-General including the provision of redress elements.
305. The Office of the Solicitor-General has recently sought to improve their provision of trauma-informed redress to civil litigants. The Child Abuse Royal Commission Response Unit will engage with civil litigants to access redress by preparing personal apologies using a trauma-informed principles and support other forms of redress as requested.

Question 66. Identify the relevant insurer(s) in relation to civil litigation involving allegations of child sexual abuse in which any part of the Tasmanian Government is a defendant.

306. The State of Tasmania is self-insured through the Tasmanian Risk Management Fund (TRMF). The TRMF was established on 1 January 1999 and provides a whole-of-government approach to funding and managing specific identified insurable liabilities of participants.

307. The TRMF is not an insurer, but a self-insurance arrangement, to manage a set of understood and identified insurable risks. The Fund does not deal with, nor cover, all insurable risks for Government nor does it provide cover to all Government entities.
308. The Department of Treasury and Finance is responsible for the administration and management of the Fund and reports to the Minister for Finance on policy issues.
309. The administration of claims is undertaken by a contracted Fund Administration Agent - Jardine Lloyd Thompson Public Sector (JLT). JLT's role includes:
- (a) administering claims in accordance with a TRMF participant's directions;
 - (b) reviewing all claim and payment documentation to make sure that it is complete, accurate and appropriate;
 - (c) providing claims management (but not legal) advice to participants;
 - (d) providing regular reports to participants on the progress, and actual and outstanding costs associated with each claim; and
 - (e) brokering the purchase of external insurance cover, as required.
310. The TRMF will respond to child sexual abuse related claims where:
- (a) the claim is incurred after a participant joins the Fund (generally 1 July 1999); and
 - (b) the Crown is found to be legally liable.
311. Where the Crown is found to be liable, but the abuse occurred prior to the relevant Agency joining the fund (general 1 July 1999) – that Agency will be responsible for meeting the legal liability.

Question 67. In respect of each insurer identified in response to paragraph 66, describe their role in making decisions (including decisions in relation to settlement) in relation to the conduct of civil litigation involving allegations of child sexual abuse in which any part of the Tasmanian Government is a defendant.

312. Neither the Tasmanian Risk Management Fund nor Jardine Lloyd Thompson Public Sector have any decision making role in respect of civil litigation involving allegations of child sexual abuse brought against the State of Tasmania.

Question 68. What is the average timeframe for the resolution of a civil claim against the Tasmanian Government in relation to child sexual abuse in Institutional Contexts?

313. The average timeframe for the resolution of a civil claim against the Tasmanian Government in relation to child sexual abuse in Institutional Contexts is 506 days.

Question 69. How is success measured and evaluated (including data relied upon) in relation to the Tasmanian Government's response to civil claims in relation to child sexual abuse in Institutional Contexts?

314. I acknowledge that this is an area that should be improved. The Office of the Solicitor-General provides annual reports including statistics in relation to civil litigation. The Solicitor-General is not subject to any performance agreement in relation to the conduct of civil litigation. This is a matter for the Government and Solicitor General, noting that the Department could provide support as required.

Question 70. What has been done to inform organisations of their responsibilities under the 2018 – 2019 amendments in relation to civil litigation outlined in the Tasmanian Government’s Fourth Annual Progress Report and Action Plan 2022: Implementing the Recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, including changes to limitation periods, the introduction of a duty of care for organisations and vicarious liability (for example, the Justice Legislation Amendment (Organisational Liability for Child Abuse) Act 2019 (Tas))?

315. The Department did not lead any education and awareness raising in relation to the impacts on the child services sector.

Question 71. What is your view of these changes and any impacts of these changes on the conduct of Departments or the management of civil claims?

316. I support the changes to limitation periods, the introduction of a duty of care for organisations and the extension to vicarious liability. It is clear from the work of the Royal Commission into Institutional Response to Child Sexual Abuse and the Commission of Inquiry (to date) that organisations must be held more accountable for the safety and wellbeing of children in their care and the behaviour of their employees and members.

Question 72. Is the combined impact of section 3B and 7 of the Civil Liability Act 2002 (Tas) that apologies can be admitted as evidence of fault or liability for civil claims involving allegations or incidents of child sexual abuse? If so, what advice does the Department provide on the impact of these provisions?

317. The Department does not provide advice on the impact of legislative provisions. Any advice on this issue is provided by the Office of the Solicitor-General.

Question 73. What, if any, action is taken to assess current or future risk based on information received through civil claims?

318. The Office of the Solicitor-General, in conjunction with the affected Agency, reports any current or future risk based on the information it receives through civil claims.

NATIONAL REDRESS SCHEME

Question 74. What role does the Tasmanian Government play in a person’s application for redress under the National Redress Scheme?

319. On 1 July 2018, the National Redress Scheme for Institutional Child Sexual Abuse (‘National Redress Scheme’) commenced. The National Redress Scheme will operate until 1 July 2028 and is administered by the Commonwealth Department of Social Services (‘the Scheme Operator’). All applications are received and administered by the Scheme Operator. The

National Redress Scheme is available to any adult who was sexually abused as a child in a participating institution prior to the Scheme's commencement.

320. On 1 November 2018, the Tasmanian Government formally joined the National Redress Scheme. On that date, the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* commenced in Tasmania.
321. The Tasmanian Government's role in a person's application for redress under the National Redress Scheme is limited to the following:
- (a) The Tasmanian Government, as a participating State institution, provides a list of government institutions to the Scheme Operator to assist with the administration of the National Redress Scheme.
 - (b) Where the National Redress Scheme identifies the Tasmanian Government as potentially responsible for the abuse alleged in an application, the Scheme Operator notifies the Tasmanian Government. The notification provides the Tasmanian Government with a copy of the relevant parts of the application. This includes details of the claims as it relates to the Tasmanian Government institution but not details of any other claims made by the applicant.
 - (c) The relevant Tasmanian Government institution is then required to retrieve any relevant records and prepare a summary of the retrieved records and provide those documents to the Scheme Operator.
 - (d) The Scheme Operator employs Independent Decision Makers to determine the person's eligibility for redress under the National Redress Scheme and if eligible, the person is offered monetary redress payment as well as counselling and psychological care services and a Direct Personal Response.

Question 75. Identify the person with responsibility within the Department (or if not in the Department, elsewhere in the Tasmanian State Service) for the operation within Tasmania of the National Redress Scheme.

322. Ms Amber Mignot, Director of the Child Abuse Royal Commission Response Unit.

Question 76. Describe the operationalisation of the Department's role in the National Redress Scheme.

323. The Child Abuse Royal Commission Response Unit ('CARCRU') is responsible for coordinating the Tasmanian Government's response to applications made under the National Redress Scheme.
324. If a Tasmanian Government institution is identified in an application for redress, the Tasmanian Government, through CARCRU, receives notification of claims through the Australian Government's secure portal and manages the information in secured folders of in the Department's Case Management system (CM9). These files are limited to those working in the Redress Division of the CARCRU.

325. Once CARCRU has received the notification of a claim through the Australian Government's secure portal ('the Portal'), CARCRU summaries the claim and confirms the relevant Agency/agencies responsible within the Tasmanian Government. CARCRU sends a request for information to the relevant Agency/agencies to undertake records retrieval and provide a summary of what search methods have been used to CARCRU.
326. In referrals to an Agency/agencies, CARCRU include details of the alleged abuser to enable the Agency to undertake enquiries as to whether the abuser is a current employee or a continuing risk to children. If the abuser is identified and remains affiliated with the Agency the matter is dealt with through the Agency's own internal policies.
327. If the Agency requests additional information to support internal processes, for example contact with the applicant, the CARCRU approaches the Scheme Operator to seek assistance to facilitate providing more details to facilitate records retrieval or to contact the applicant, if the applicant agrees - consistent with the National Redress Scheme's legislation and policies. It should be noted that the State is prevented from contacting the applicant directly and is not provided with the personal contact details of the applicant, consistent with the Scheme legislation.

Question 77. What are the timeframes for responses to information requests from the National Redress Scheme Operator for Departmental information relating to claims and how Tasmania performs against these requirements?

328. The timeliness of responses are managed by the Redress Manager through the use of an Excel spreadsheet and alert system. The Portal provides a daily update of current applications. There are two timeframes for responses from the National Redress Scheme Operator. A non-priority application and a priority application. A non-priority application is an eight week timeframe and a priority application is a four week timeframe. If an applicant is ill or elderly, their application is classified as priority.
329. The Tasmanian Government can request an extension of two (2) weeks if further records retrieval is required to be made. The Tasmanian Government responds to all claims within these statutory timeframes. Since the commencement of the Scheme, 14 extensions have been requested, and granted, and the Tasmanian Government has completed the records retrieval within the additional two week timeframe.
330. After the CARCRU receives notification that the Tasmanian Government has been identified as responsible for abuse, the CARCRU provides the relevant Agency/agencies with a six week timeframe for non-priority applications and two weeks for non-priority applications. The relevant Agency/agencies send the completed request for information to CARCRU and CARCRU provides a summary of the findings to the National Redress Scheme Operator.
331. The Scheme Operator employs Independent Decision Makers to consider applications for redress, make decisions and conduct reviews. The Tasmanian Government response to a notification of claims is used by the Independent Decision Maker to consider the application for redress.

Question 78. What factors may delay a person's National Redress Scheme application, including any processes that precede an official application and the elements of the process that are within the responsibility of the Tasmanian Government?

332. The only delay that may be caused by the Tasmanian Government after an application for redress has been lodged is if the Tasmanian Government requests a two (2) week extension to the timeframe to provide the retrieved records and summary of those records to the Scheme Operator.
333. It should be noted that a key feature of the National Redress Scheme is that applicants are not required to provide any records concerning their claim or records relating to the institution subject to the allegations of child sexual abuse. Additionally, prior to an applicant lodging an official application with the Scheme Operator, if the applicant wishes, the Scheme Operator may request records on behalf of the applicant from the institution subject to the allegation of child sexual abuse. The Tasmanian Government provides the Scheme Operator with requested records prior to an applicant's official application is lodged upon request. This is intended to remove any requirement that an applicant make a formal Right to Information request with the relevant Tasmanian Government institution.
334. Other than what I have outlined in response to Question 76 above, the Tasmanian Government is not responsible for the management or administration of a person's redress application.

Q. 79 Figures relevant to the National Redress Scheme contained in the Tasmanian Government's Fourth Annual Progress Report and Action Plan 2022: Implementing the Recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse concerning 100% of claims against Tasmanian agencies being responded to within the statutory time frame.

335. The figures relevant to Question 79 are, as at 8 April 2022, as follows:
- (a) 689 claims have been made against Tasmanian Government agencies since the National Redress Scheme's commencement.
 - (b) The nature of the response by the Tasmanian Government is to provide a factual response of an applicant's claim to the Scheme Operator.
 - (c) 494 claims have been finalised against the Tasmanian Government. The Scheme Operator has made 494 offers of a monetary redress payment, counselling and psychological care and a Direct Personal Response has been made to applicants.
 - (d) 48 claims have been not approved by the Scheme Operator or withdrawn by the applicant that concern Tasmanian Government agencies. This may occur because the Tasmanian Government was incorrectly identified as the responsible institution. The grounds for not approving a claim is a matter for the Commonwealth Government and not known by the Tasmanian Government in most cases. The remaining 147 claims have not yet been determined by the Scheme Operator.

- (e) The total amount of monetary compensation paid by the Tasmanian Government to applicants who have accepted redress offers made by the Scheme Operator is \$31,204,169.66.
- (f) The Tasmanian Government has received 275 requests by applicants for Counselling and Psychological Care.
- (g) Ten applicants have requested and received a Direct Personal Response (DPR) apology and 10 claimants are currently in the process of receiving a DPR apology.
- (h) The Tasmanian Government does not oppose claims. The Independent Decision Maker considers applications for redress, makes decisions and conducts reviews.
- (i) The Scheme Operator accepts claims for redress. The Tasmanian Government has provided a factual response as requested by the Scheme Operator for 449 claims for redress.
- (j) The Tasmanian Government has an internal policy for staff working in Redress Division of CARCRU, namely, '*Operational Manual – National Redress Implementation – National Redress Implementation Operational Manual*'. The Redress Division of CARCRU regularly engage with the National Redress Scheme guidelines. For example, the National Redress Scheme maintains guidelines for institutions on how to manage and administer a Direct Personal Response.
- (k) Other relevant matters relevant to the Tasmanian Government's role in the National Redress Scheme include the Tasmanian Government's provision of Counselling and Psychological Care ('CPC') and Direct Personal Responses ('DPR'). Any applicant who accepts the Scheme Operator's offer of monetary payment for redress is offered CPC and a DPR. The Tasmanian Government, through the CARCRU, manages and facilitates any requests by applicants for CPC and/or DPR.

Question 80. Are local government entities part of the National Redress Scheme? If not, why not?

- 336. The Department has engaged with Tasmanian local governments (local councils) to encourage participation in the National Redress Scheme, and invited each municipality's council to join as a 'State institution'. All Tasmanian local councils have now entered into Memorandums of Understanding with the State of Tasmania agreeing to join the State and participate in the National Redress Scheme as a 'State institution'. The Department of Justice is currently working with the Commonwealth Department of Social Services to prepare declaration and complete on-boarding of local government entities.
- 337. There has been some delay with this process due to complexities arising in relation to the approach to defunct local councils and the Australian Government's recent period of caretaker. It is anticipated that this process can be finalised shortly.

Question 81 What action is taken by the Tasmanian Government in relation to information acquired during the National Redress Scheme process, beyond responding to the individual application? For example, is information used to inform an assessment of ongoing risk to children? Are reports made

to Child Safety Services or Tasmania Police? Are any actions taken across the Tasmanian Government?

338. The CARCRU acquires information during the process of an application under the National Redress Scheme for the purpose of responding to an individual application. The CARCRU provides the information to the relevant Tasmanian Government Agency/agencies. The information that is provided to Tasmanian Government agencies include details of the alleged abuser to enable that Agency to undertake enquiries as to whether the abuser is a current employee or a risk to children. If the abuser is unnamed, a description is provided of the role or circumstances of the person's relationship to the institution. If the employee is identified as current by the Agency, the matter is dealt with through the Agency's own internal policies. The State is prevented from contacting the applicant directly and is not provided with the personal contact details of the applicant, consistent with the Scheme legislation.
339. The CARCRU as an output of the Department treats all information obtained through the National Redress Scheme as highly confidential. The information relating to applicants and/or applications is securely stored on the Department's information management system (CM9). Only persons employed in the Redress Division of the CARCRU have access to files concerning applicants/applications for redress under the National Redress Scheme. The Department does not use the information obtained through redress applications for any purpose outside responding to the Scheme Operator save for reporting on de-identified figures in annual reports.
340. I am unable to comment on what other Tasmanian Government agencies do in respect of information acquired during the National Redress Scheme process with the exception of current employees who are alleged abusers are dealt with by internal Agency policies.

Question 82. Describe the Tasmanian Government's planned support for victim-survivors of child sexual abuse in Institutional Contexts who are not eligible for the National Redress Scheme because their abuse occurred after June 2018 or their claims arises after the end of the National Redress Scheme.

341. I am not aware of the Tasmanian Government's plans in relation to supports for victim-survivors of child sexual abuse in Institutional Contexts who are not eligible for the National Redress Scheme because their abuse occurred after June 2018 or their claims arises after the end of the National Redress Scheme.

RECORD KEEPING

Question 83. Identify the system by which the Department records the outcome of any application to Register to Work with Vulnerable People.

342. The system used to record all application outcomes for persons applying for Registration to Work with Vulnerable People is the Registration to Work with Vulnerable People Information Management System (the RWVP System). The RWVP system also records any outcome of decisions regarding the ongoing monitoring of registrants following an additional

risk assessment being performed. The RWVP system is a purpose built database that has an external portal for the lodgement of applications. The RWVP system interfaces with other systems for the provision of information, including:

- (a) Australian Criminal Intelligence Commission (ACIC) to be provisioned a person's criminal history record so a risk assessment can be undertaken.
- (b) National Reference System (NRS) being an interoperable system hosted by the ACIC which state and territory screening units connect to via web services for provisioning negative outcomes relating to working with children.
- (c) National Worker Screening Database (NWSD) being a database administered by the National Disability Insurance Scheme Quality and Safeguards Commission connected via web services. The NWSD is a central database for the provisioning of cleared and excluded applicants and used to facilitate the exchange of relevant information about individuals applying to work in the NDIS, and to ensure that a decision to issue an NDIS Worker Screening Check exclusion, interim bar or suspension would be available to all jurisdictions. The NWSD also enables employer verification of applicants working in the NDIS sector.
- (d) Department of Police Fire and Emergency Management systems for the automated provision of reportable behaviour (police intelligence or information of police offence or charging reports).

Question 84. Describe the systems which operate to keep record of:

- (a) *complaints in relation to the National Redress Scheme as it operates in Tasmania, and*
 - (b) *the timing of responses to complaint made to the National Redress Scheme in Tasmania.*
343. The National Redress Scheme is administered by the Australian Government's Department of Social Services. All applications are received are administered by the Department of Social Services as Scheme Operator. The Child Abuse Royal Commission Response Unit administered the Tasmanian Government's responses to application made under the National Redress Scheme.
 344. The Tasmanian Government, as a participating State institution, provides a list of government institutions to assist with the administration of the Scheme. Where the Scheme identifies the Tasmanian Government as potentially responsible for the abuse alleged in an application, the Scheme Operator provides the Tasmanian Government a copy of the relevant parts of the application. This includes details of the claims as it relates to the Tasmanian Government institution but not details of any other claims made by the applicant.
 345. The Tasmanian Government receives notification of claims through the Australian Government's secure portal and manages the information in secured folders created in the Department's Case Management system (CM9). These files are limited to those working in the Redress Division of the Child Abuse Royal Commission Response Unit.

346. The timeliness of responses are managed by the Redress Manager through the use of an Excel spreadsheet and alert system. The Portal provides a daily update of applications awaiting responses.
347. The National Redress Scheme manages complaints about the National Redress Scheme. The Department has a feedback and complaint mechanism relating to the provision of Direct Personal Responses. Complaints reporting is one of the Tasmanian Government's annual reporting obligations to the Australian Government.

WITNESS INTERMEDIARY SCHEME PILOT

Question 85. Provide an update on the implementation of the Witness Intermediary Scheme pilot, including the number of the matters it has supported, (both in pre-trial process and during trials), any evaluations and early feedback and impressions.

348. The Witness Intermediary Scheme Pilot ('the WISP') commenced as a three year pilot on 1 March 2021 with the commencement of the *Evidence (Children and Special Witnesses) Amendment Act 2020*.
349. The commencement of the WISP fulfils the Tasmanian Government's commitment to establish a pilot Witness Intermediary Scheme in response to the recommendations of the Royal Commission in its Criminal Justice Report; and the work of the Tasmanian Law Reform Institute in its 2018 report, *Facilitating Equal Access to Justice: An Intermediary/Communication Scheme for Tasmania?*
350. The WISP applies to:
 - (a) children who are victims and witnesses of sexual crimes and homicide-related matters; and
 - (b) adults with a communication need who are victims and witness of sexual crimes and homicide-related matters.
351. An adult has a communication need under the WISP if the quality or clarity of their evidence may be diminished by their ability to understand, process or express information. The cause of the communication need may be permanent or transitory and may be due to a disability, mental illness, trauma or some other cause.
352. 27 Witness Intermediaries have received specialist training and been appointed to the Intermediaries Panel. Each Witness Intermediary is engaged by the Department on a sessional basis.
353. As at 12 April 2022, Witness Intermediaries have assisted 501 vulnerable witnesses by identifying the witness' communication needs and providing advice on special measures to assist police, lawyers and the Tasmanian courts.
354. A breakdown of the number of vulnerable witnesses that Witness Intermediaries have assisted as at 12 April 2022 is detailed in table 1 below:

Table 1: number of referrals for the use of a Witness Intermediary as at 12 April 2022

| Referral source | Adults | Children and Young People | Referral numbers |
|-------------------|--------|---------------------------|------------------|
| Tasmania Police | 22 | 412 | 434 |
| Magistrates Court | 2 | 24 | 26 |
| Supreme Court | 12 | 26 | 38 |
| Out of pilot | | 3 | 3 |

355. While the use of Witness Intermediaries by Tasmania Police is not covered in the *Evidence (Children and Special Witness) Amendment Act 2020*, Tasmania Police and the Department have an informal arrangement whereby Tasmania Police can request Witness Intermediaries to assist vulnerable witnesses during their participation in a police interview. The Department will continue to provide Witness Intermediaries for vulnerable witnesses participating in a police interview for the remainder of the WISP.
356. I note that the referrals made by courts referred to in Table 1 include ongoing and concluded Magistrates Court and Supreme Court matters. In all court matters, with the exception of one matter in the Supreme Court, a Witness Intermediary has been appointed to assist the witness to communicate with the court and lawyers. There have been 3 matters where the witness or their parent/guardian has not consented to the witness's engagement with a Witness Intermediary. Where consent is not provided, a Witness Intermediary is unable to assist that person.
357. The number of referrals made by Tasmania Police and Tasmanian Courts for the use of Witness Intermediaries within the first year of the WISP significantly exceeded the Department's expectations and projections. The Department has received resoundingly positive informal feedback from judicial officers, lawyers, and police officers.
358. A process evaluation of the first year of the WISP is currently being undertaken by Sprout Labs and an independent researcher. The process evaluation aims to capture broad and specific feedback about the purpose, implementation and early outcomes of the WISP from key stakeholders, such as judicial officers, police and lawyers. The process evaluation will obtain quantitative de-identified information relating to geographical area, date, nature of the case, reason for the referral, source of the referral. That information will be used to analyse the data. An online qualitative questionnaire for stakeholders is being used to gather overall feedback about the WISP, including satisfaction, perceptions about its relevance and value, and key barriers. The data and analysis will then inform the Department about any operational changes that need to be implemented for the remaining 22 months of the WISP.
359. In the final year of the three-year WISP an outcome evaluation will occur to measure whether the objectives of the WISP have been met. The evaluation plan is currently being developed.

Question 86. Is the Witness Intermediary Scheme pilot intended to be extended?

360. It is anticipated that at the end of the 3-year WISP and subject to the evaluation of the efficacy of the Scheme, the Government will determine whether to formalise the Scheme as

an ongoing program. As I have previously noted the Pilot's scope is legislated but there have been occasions where I have approved the use of the Intermediaries Panel for 'out of scope' matters. These cases have included accused persons whose participation in criminal proceedings were considered to be assisted by the use of a witness intermediary.

361. The extension of the scope of the Pilot has not been ruled out. The establishment of the Pilot involved the training of 21 witness intermediaries across the State and intensive supervision in the first year. It is important to recognise that witness intermediaries is a new initiative and skillset. A risk to the Pilot is that witness intermediaries engage in conduct that may risk a criminal trial.
362. I am confident that the WISP will continue beyond its Pilot phase. However, I note that a challenge to extending the Pilot will be building capability and increasing the number of witness intermediaries. The Pilot has already required additional recruitment to meet the demands for services so any extension as to scope will need to be carefully considered with regard to resourcing.

VICTIMS OF CRIME

Question 87. Should there be a limitation period for victim of crime assistance in relation to child sexual abuse matters?

363. No. I do not believe there is any policy justification for a limitation period for victims of crime assistance in relation to child sexual abuse matters.

Question 88. What is the status of the Tasmanian Government's proposal to consult stakeholders in relation to the removal of the requirement to seek an extension of time for child sexual abuse application in relation to victims of crime assistance matters?

364. The Department will progress this amendment to the *Victims of Crime Assistance Act 1976* by the end of the year.

MANAGEMENT OF SEX OFFENDERS

Question 89. Describe any adult sex offender programs available to Tasmanians (either inside or outside a custodial context) including:

365. The New Directions Program is delivered by the Tasmanian Prison Service and is provided to all (except those that refuse to engage in treatment) prisoners in custody for sexual based offending assessed as Below Average Risk to Well Above Average Risk utilising the STATIC-99 sexual offending risk assessment tool. The number of hours spent in the program will vary depending on the level of assessed risk (Below Average – 78 hours, Average – 100-130 hours, Above Average and Well Above Average approximately 350 hours) and the number of identified treatment targets (identified utilising the Violence Risk Scale – Sex Offender version).
366. There are seven key modules within the New Directions Program, these are:

- (a) Understanding - This module targets cognitive distortions, sexual offending cycle and insight.
 - (b) My Life Story - This module focuses on building a fuller understanding of the participants and focuses on self-regulation and intimacy deficits.
 - (c) MAP - In this module participants complete a map of their offending in order to target cognitive distortions, offence planning, sexual offending cycle, insight and release to high risk situations.
 - (d) Healthy Sexuality - This module targets sexually deviant lifestyle, sexual compulsivity, deviant sexual preference, intimacy deficits, impulsivity and insight.
 - (e) Managing My Emotions - This module targets emotional control, intimacy deficits, deviant sexual preference, sexual compulsivity, sexually deviant lifestyle, impulsivity, interpersonal aggression and substance abuse.
 - (f) Me and My Relationships - This module targets interpersonal aggression, intimacy deficits and insight.
 - (g) New Futures - This module focuses on developing a support network and a safety plan for the future.
367. In any one session participants will focus on different issues, on similar issues and with different foci or intensity. This depends on the treatment targets that have been identified prior to program commencement. Everyone participates in each discussion - therefore repeatedly exposed to the issues/targets.
368. The program is centred on the acquisition of behavioural (modifying deviant arousal), cognitive (positive self-schemas, Pro social attitudes) and emotional (self-regulation, adaptive emotional expression) skills sets. This is achieved through group discussions, modelling, written exercises, shaping, rehearsal (repetition of concepts/ideas/skills), interpersonal interaction in group process, some limited didactic learning, role-plays and some DBT skills practice.
369. Participants remain in treatment until facilitators decide appropriate/adequate gains have been made in the assessed treatment targets, or until no further gains can be made at this point in time.
- (a) *eligibility or access requirements*
370. Eligible participants must be convicted of a sexual offence or an umbrella offence that included a sexual offence (for example, persistent family violence that involved indecent assault or rape).
371. The Static-99 and the Violence Risk Scale - Sex Offender risk assessment tools are used together in making professional judgements about individual offenders eligibility for the program.

372. Offenders that fall into the Very Low Risk category on the Static-99 will typically be offered brief intervention, one on one for few sessions focused on safety planning.
373. Intervention can be offered in group or individual format.
- (a) Individual intervention is usually offered due to certain responsivity factors that may make group work difficult or inappropriate
 - (b) Responsivity factors may include learning disabilities, certain anti-social personality traits or association issues.
- (b) *nature, content and duration of the program (and any evidentiary basis for its methodology and whether it related to offending against adults, children or both)*
374. The treatment program draws its theoretical underpinnings from cognitive behavioural therapy, the Risk-Need-Responsivity (RNR) Model, The Good Lives Model and the Self-Regulation Model. This means there is a significant emphasis throughout treatment on participants gaining insight and understanding into their individual cognitive, emotional and behavioural responses to environmental factors, particularly those linked to their offending behaviour. In conjunction with this, participants have the opportunity to practice skills to improve their capacity to self-regulate and meet their needs adaptively
375. Duration of the program may differ for each individual participant. Factors influencing dosage are based on the principles of the RNR model, therefore lower risk participants will receive a lower dosage of treatment to higher risk participants.
- (c) *training or skillset of providers of the program(s)*
376. New Directions is always staffed with a Senior Clinician and a program facilitator. Senior Clinicians have university qualifications in Psychology, Social Work, Counselling or related field.
377. The program uses internal and external supervision to adhere to best practice and to look after the wellbeing of our facilitators.
378. Program facilitators are generally given a handover period before commencing facilitation of the program.
- (h) During this handover period new facilitators coming into the program can expect to be trained by the Senior Clinician.
 - (i) They will be given research that informs the program, opportunities to watch facilitators, training in sex offender specific assessment tools, observation and feedback of their own facilitation.
 - (j) Training is considered on the job and ongoing, with no specific training package being offered.
- (d) *consequences of completion (or non-completion)*

379. Section 31 (7) of the *Corrections Act 1997* states “If the sex offender prisoner chooses not to participate in the appropriate treatment and subsequently becomes eligible for parole, the Director is to give the Board notice of the prisoner's choice together with relevant particulars, including particulars of the treatment.” In practice this means that convicted sex offenders eligible for parole, may not be granted parole if they do not complete sex offender treatment as directed. Those who decline treatment may not be granted parole.

(e) *completion rates within the Relevant Period (year on year)*

380. During the financial year ending 2022, 3 participants completed the New Directions Program. This statistic was greatly impacted by COVID-19, which restricted access to prisoners and resulted in the program being stood down for a period of time during our period of Emergency response modes.

(f) *any evaluations conducted about sex offender programs operating in Tasmania within the Relevant Period.*

381. Since the beginning of 2022, a Senior Clinician of the Intervention Programs team has been compiling data of pre and post VRS-SO scores from the last three years in order to gauge program efficacy.

Question 90. Describe the operation of the Community Protection (Offender Reporting) Act 2005 (Tas) (or any other relevant legislation) in relation to the supervision of, or reporting by, those who have been convicted of sexual offences against children.

382. The *Community Protection (Offender Reporting) Act 2005 (Tas)* is administered by the Department of Police, Fire and Emergency Management. This question should be directed to that Department for a fulsome response.

Question 91. Outline any planned or intended reforms related to post-conviction management of child sex offenders (if any).

383. The Dangerous Criminals and High Risk Offenders Bill 2020 was introduced into Parliament on 18 August 2020 and passed the House of Assembly on 15 September 2020. On 12 November 2020 the Bill passed the Legislative Council with minor amendments.
384. On 13 December 2021 the *Dangerous Criminals and High Risk Offenders Act 2021* was proclaimed by the Governor.
385. The Act updates Tasmania's legislative framework for the indefinite detention of dangerous criminals and introduces a new scheme for the making of high risk offender (HRO) orders, bringing Tasmania into line with other Australian jurisdictions that provide for extended supervision of high risk offenders when they are released from prison.
386. The Act enables the Director of Public Prosecutions to apply for high risk offender (HRO) orders in relation to serious offenders who do not meet the threshold for being declared a dangerous criminal, but may nevertheless pose a risk to the community if no supervising conditions are in place when they are released post-sentence. The Act provides that the safety of the community must be the Court's paramount consideration in determining whether to make an HRO order.

Implementation

387. To support the provisions, the Act establishes the High Risk Offenders Assessment Committee which includes representatives from the Department of Justice, the Department of Health, the Department of Communities Tasmania and the Department of Police, Fire and Emergency Management and a nominated representative of the Chief Forensic Psychiatrist.
388. The Act provides for these agencies to cooperate and exchange information as required to manage and supervise offenders who are subject to HRO orders by being a party to a cooperative protocol agreement.
389. The functions of the High Risk Offenders Assessment Committee are to:
 - (a) ensure the preparation of reports for relevant offenders and where it deems appropriate to cause risk assessments of relevant offenders to be conducted, (s.26(4)(a));
 - (b) facilitate cooperation between and the coordination of the relevant agencies in the preparation of risk assessments of the relevant offenders and the management of relevant offenders subject to HRO orders, (s.26(4)(b));
 - (c) facilitate information sharing between relevant agencies in relation to the risk assessment of relevant offenders, applications for HRO orders and the management of relevant offenders who are subject to an HRO order, (s.26(4)(c)); and
 - (d) advise relevant agencies in relation to the management of offenders subject to HRO orders and any other matters in relation to the operation of the high risk offenders part of the Act, (s.26(4)(d)(i) and (ii)).
390. Behaviour, Management and Risk Assessment reports obtained by the Committee are provided to the DPP to inform their decision as to whether to apply for an HRO order.
391. Those reports will then be provided to the Supreme Court when HRO order applications are made and when reviews of dangerous criminal declarations are undertaken.
392. A Project Manager has been appointed to implement the framework, administration and governance processes, to ensure that high risk offenders are managed.
393. Work on the implementation of this legislation is well progressed, including:
 - (e) identification and triaging of offenders currently serving sentences that ought to be assessed under this legislation underway;
 - (f) a draft “cooperative protocol” agreement to facilitate inter-agency sharing of information advancing;
 - (g) engagement and consultation with a range of stakeholders has taken place to ensure multi-disciplinary services and supports are available in the management and monitoring of persons subject to HRO orders in the community; and

- (h) appropriate reporting mechanisms have been developed for Behaviour/Management reporting of relevant offenders along with suggested triage processes.

REGISTRATION TO WORK WITH VULNERABLE PEOPLE

Question 92. Overview of the Registrar under the Registration to Work with Vulnerable People Act 2013 (Tas) and how the Registrar contributes to safeguarding children from child sexual abuse in Institutional Contexts.

394. The *Registration to Work with Vulnerable People Act 2013* establishes a worker screening and registration process to protect vulnerable Tasmanians. The Registrar has the following functions:
- (a) to advise the Minister in relation to the administration of the Act;
 - (b) to process applications for registration, including the conduct of risk assessments, and to perform all other functions imposed on him or her by this Act in relation to registration;
 - (c) to monitor the compliance with this Act by employers, employees, registered persons and other persons;
 - (d) to perform other functions related to the administration of this Act that are imposed by the Minister, in writing.
395. The Registrar has the power to do all things necessary or convenient to perform his or her functions.
396. The Registrar's contribution to safeguarding children is twofold. The Registrar undertakes employment screening for people working with children or vulnerable adults and the Registrar through risk assessments.
397. In 2015, State Service agencies and Tasmania Police were also required to notify the Registrar of reportable behaviour. Reportable behaviour is any behaviour that poses a risk to vulnerable persons by reason of neglect, abuse or other conduct.
398. The provision of reportable behaviour enabled ongoing monitoring of registrants through their registration period and further strengthened the protections for vulnerable children.

Question 93. Describe the Registration to Work with Vulnerable People process in relation to:

(a) Initial applications

399. Initial applications are typically determined within 21 days, with almost all completed within 42 days. Extended processing times for some applications result from the need to obtain all relevant information from the applicant, police and other authorities prior to making a determination.

400. When an applicant applies for a Registration to Work with Vulnerable People card, a risk assessment is undertaken. The risk assessment is informed by a National Criminal History Check sought from the Australian Criminal Intelligence Commission (ACIC) as well as any other information held by the Registrar relating to the applicant, including any reportable behaviour provided by Tasmania Police and State Service agencies.
401. It is important to note that the *Registration to Work with Vulnerable People Act 2013* provides for an applicant to undertake a regulated activity while their application is being assessed provided their employer has a risk management plan in place.
402. A risk management plan is intended to mitigate risk of harm to vulnerable people by ensuring employers have appropriate measures and controls in place to ensure the safety, welfare and protection of vulnerable persons.
403. A risk management plan could include measures such as supervision or varied duties while the application is assessed.
404. The relevant employer is to determine the appropriate plan to mitigate the risks to ensure the objectives of the Act are met in protecting vulnerable persons. The RWVP unit can assist employers in this process.
405. While an application is being risk assessed the Registrar can place an interim bar on an applicant that prevents the person from working with an application on foot with a risk management plan in place. This will generally occur if the person's criminal history information identifies conduct that may pose an immediate risk to vulnerable persons. If an interim bar is imposed, the Registrar is obligated to advise any named employer of the applicant that the bar is in place.
406. Part 5 sets out what the Registrar is to take into account when conducting a risk assessment. The Minister may make orders in relation to the conduct of a risk assessment, the order related to the conduct of a risk assessment for children is the Registration to Work with Vulnerable People (Risk Assessment for Child related Activities) Order 2014. Clause 5 of the Order sets out the matters the Registrar may take into account when conducting a risk assessment, these matters expand on the matters to be taken into account in Part 5 of the Act.
407. When the National Criminal History Check is returned, some registrations are automatically approved based on the RWVP System business rules. These rules include the identification and coding of a person's criminal history information or other information held by the Registrar. Where a person has criminal history with 'No applicable involvements', a person may be automatically registered. If criminal history information is returned with 'Involvements of interest' or 'Disqualifying' involvements then a further assessment is undertaken by a member of the Registration to Work with Vulnerable People Unit (RWVP Unit).
408. Following the risk assessment if a person is found to be an acceptable risk of harm to vulnerable persons the person is registered, the matters considered, and reasons are recorded in the RWVP system.

- 409. When the Registrar conducts a risk assessment on a person and is satisfied that the person poses an unacceptable risk of harm to a vulnerable person, the Registrar is to notify the person in writing that the Registrar intends to refuse to register them (Proposed Negative Notice (PNN)). The Registrar must provide reasons for the decision and the person is given 20 working days to request the Registrar reconsider the negative assessment.
- 410. If the person does not request a reconsideration of the decision within the 20 working days, the Registrar must provide the person with a negative assessment (Negative Notice (NN)). The PNN and NN are issued to the applicant, in writing, with reasons for the decision.
- 411. There are circumstances outlined in the Act whereby the Registrar is not required to outline the reasons for the negative risk assessment. These are inter alia: prejudice the fair trial of a person; disclose, or enable the person to ascertain the existence or identity of a confidential source of information in relation to the investigation of the law or enforcement of the law; endanger the life or physical, emotional safety of another person; or hinder or delay the ongoing investigation of a person.
- 412. If reasons cannot be provided to the applicant, the reasons are otherwise to be documented in an internal memorandum stating the grounds for the decision. All named employers on the application are notified of the decision, but no reasons are given. Internal memorandums, PNN's, NN's and any notices to an applicant or their employer are saved as attachments to the applicants' record in the RWVP system.

(b) Renewals

- 413. The renewal process involves a risk assessment that is identical to the initial application process. Because, an applicant is monitored during the period of registration, typically the only new information provided at renewal relates to criminal conduct that has occurred in an interstate jurisdiction during the period of registration.

(c) Registration for other subsequent roles

- 414. Registered people and their employers are required to inform the Registrar within 10 days of commencing a subsequent role, where that role is a regulated activity. This can be completed online.

(d) Suspensions

- 415. The Registrar has grounds to determine to suspend a person's registration if the Registrar reasonably believes that the suspension is appropriate.

(e) Cancellations

- 416. The Registrar has grounds to determine to suspend or cancel a person's registration if the Registrar has conducted an additional risk assessment of the person and is satisfied that the person poses an unacceptable risk of harm to a vulnerable person generally. The Registrar must provide to a registered person notice in writing of the Registrar's intention to suspend or cancel a person's registration. A notice must set out the grounds for the suspension or cancellation and state that the person may, within 10 working days after the day the notice

is provided, provide the Registrar with reasons, in writing as to why the Registration should not be suspended or cancelled.

417. If the Registrar suspends or cancels a person's registration the Registrar is to notify the person in writing of the suspension or cancellation and the grounds on which it is done. The Registrar is also to notify any employer the Registrar is aware of in writing of the suspension or cancellation but not the grounds on which it is done. The Registrar is not required to set out the grounds for the intended suspension or cancellation in some circumstances however; the reasons would be recorded in an internal memorandum. Decisions to suspend or cancel a person's registration and any notifications that follow are saved against the registrants' record in the RWVP system.

(f) Investigations, and

418. The Registrar does not have investigative powers. Instead, the Registrar is empowered to seek information and make risk assessments based on information provided by Tasmania Police and State Service Agencies.

(g) *Receiving reports*

419. In 2015, State Service agencies and Tasmania Police were required to notify the Registrar of reportable behaviour. Reportable behaviour is any behaviour that poses a risk to vulnerable persons by reason of neglect, abuse or other conduct.
420. The provision of reportable behaviour enabled ongoing monitoring of registrants through their registration period and further strengthened the protections for vulnerable children.
421. Reports from Tasmania Police and Children and Youth Service in the Department of Communities Tasmania are received on a daily basis through a web service. Reports from other agencies typically come via email.

Question 94. What behaviour should be reported to the Registrar in relation to child sexual abuse and risks to children?

422. In 2015, State Service agencies and Tasmania Police were required to notify the Registrar of reportable behaviour. Reportable behaviour is any behaviour that poses a risk to vulnerable persons by reason of neglect, abuse or other conduct.
423. The provision of reportable behaviour enabled ongoing monitoring of registrants through their registration period and further strengthened the protections for vulnerable children.
424. Pursuant to Clause 5A of the Registration to Work with Vulnerable People Regulations 2014, 'reportable behaviour' is defined as:

For the purposes of Part 7A of the Act, reportable behaviour is behaviour that poses a risk of harm to vulnerable persons, whether by reason of neglect, abuse or other conduct.

Question 95. Are any policies, procedures or other guidance material in relation to reporting child sexual abuse?

- 425. Business rules, practices and procedures exist between the RWVP unit and Tasmania Police and the RWVP unit and Children and Youth Services in the Department of Communities Tasmania.
- 426. Guidance notes have been provided to State Service agencies regarding reportable behaviour obligations.

Question 96. How are notifications of reportable conduct monitored?

- 427. The RWVP unit includes a team with responsibility for reportable behaviour. This team matches reportable behaviour with registered persons and undertakes a 'first review' of the behaviour and refers relevant information to a risk assessment officer.

Question 97. What information sharing arrangements are in place to assist in assessing an application for Registration to Work with Vulnerable People?

- 428. Tasmania Police and State Service agencies have an obligation to provide the Registrar with reportable behaviour. Arrangements have been established with Tasmania Police and Children and Youth Services within the Department of Communities Tasmania for daily provisioning of identified persons to which they hold information which meets the definition of reportable behaviour. This information is matched against records held by the RWVP system and requested where it relates to applicants or individuals who hold registration.
- 429. The Tasmanian Government is party to the Intergovernmental Agreement for a National Exchange of Criminal History Information for People Working with Children (ECHIPWC) which governs the information sharing arrangements between jurisdictions relating to worker screening schemes. This agreement establishes the National Reference System which shares RWVP outcomes with other jurisdiction and outlines the information that will be made available through the Australian Criminal Intelligence Commission. This is supported by agreements between the Department of Justice and the Australian Criminal Intelligence Commission.

Question 98. What information sharing arrangements are in place to assist other Agencies to assess risks to children?

- 430. The scope of information available to the Registrar, Working with Vulnerable People is broader than the information available through a National Criminal History Check or which could sought by registration and licensing bodies (such as the Teachers' Registration Board). This includes a person's criminal history, non-conviction information, the person's past reportable behaviour and if an individual has been refused, suspended or cancelled under a corresponding law in another jurisdiction.
- 431. This information is used by the Registrar to inform a risk assessment or additional risk assessment. In the event the outcome of these processes are negative, this outcome is shared with relevant agencies. Such agencies can use these outcomes to take appropriate employment actions with relevant employees.

Question 99. How is compliance with the Registration to Work with Vulnerable People Act 2013 (Tas) monitored?

432. The Registrar is responsible for enforcement of the Registration to Work with Vulnerable People Act 2013.
433. Compliance practices have predominantly focused on education and engagement to ensure the individuals and employers understand their obligations.
434. A small number of investigations have been undertaken based on complaints or other information reported to the RWVP unit.

Question 100. How many applications have been received, approvals granted and rejections made of applications for each year of the Relevant Period?

435. The table below outlines the number of applications which have been refused, withdrawn or dismissed.

| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | Total |
|-----------------------|------|------|------|------|------|------|------|------|------|-------|
| Refused | 1 | 21 | 19 | 8 | 8 | 3 | 3 | 4 | 1 | 68 |
| Application Withdrawn | 0 | 0 | 164 | 222 | 425 | 93 | 542 | 57 | 2 | 1505 |
| Dismissed | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 243 | 89 | 332 |

436. For the purposes of the table:

- (a) Refused relates to applicants who have received a negative notice on application.
- (b) Application withdrawn relates to individuals who have withdrawn their application following engagement with the RWVP unit regarding historical conduct.
- (c) Dismissed relates to application dismissed by the Registrar. This has been available since 1 February 2021. It is intended to ensure better record keeping of those individuals described in (b)
- (d) Date for 2022 is as at 10 June 2022.

437. The table below outlines the number of people registered as at 30 June in each of the relevant years. Data for 2022 is as at 10 June 2022.

| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---------------------|------|-------|-------|--------|--------|--------|--------|--------|--------|
| Total registrations | 3735 | 40212 | 87598 | 111558 | 122382 | 130887 | 139531 | 145734 | 148724 |

438. The table below includes matched reportable behaviour, additional risk assessments, suspensions and cancellations.

| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|------------|------|------|------|------|------|------|------|------|------|
| RB matched | 0 | 0 | 197 | 906 | 741 | 977 | 828 | 2723 | 1729 |

| | | | | | | | | | |
|--------------|---|---|----|----|-----|----|----|-----|-----|
| ARAs total | 0 | 0 | 0 | 4 | 118 | 82 | 89 | 863 | 419 |
| Suspension | 0 | 5 | 13 | 30 | 69 | 47 | 38 | 73 | 22 |
| Cancellation | 0 | 1 | 1 | 8 | 11 | 7 | 5 | 14 | 8 |

439. For the purposes of the table:

- (a) RB matched is reportable behaviour that is matched to a current registered person or applicant.
- (b) ARAs total is the number of additional risk assessments relating to a registered person that were commenced during the relevant year.
- (c) Suspension is registered persons suspended during the relevant year.
- (d) Cancellation is registered persons cancelled during the relevant year.
- (e) Data is not currently captured for registered persons who surrender their registration during an additional risk assessment. The RWVP is currently reviewing these records to determine this number.
- (f) Data for 2022 is at 10 June 2022.

Question 101. Is there any monitoring of how the Registration to Work with Vulnerable People Act 2013 (Tas) affects people with diverse backgrounds, including those who are Aboriginal and/or Torres Strait Islanders?

440. The RWVP system does not capture data relating to aboriginality or other diversity markers that would enable monitoring of impacts of the *Registration to Work with Vulnerable People Act 2013*.

Question 102. What training and guidance is available to Government Institutions to support them to comply with their reporting obligations under the Registration to Work with Vulnerable People Act 2013 (Tas)? Which Government Institutions have received this training and how often?

- 441. State Service agencies and Tasmania Police have had an obligation to provide the Registrar with reportable behaviour since November 2015.
- 442. At that time, information and guidance was provided to State Service agencies and Tasmania Police regarding reporting obligations.
- 443. In recognition of the likely significant volume of reportable behaviour held by Tasmania Police and Child and Youth Services within the Department of Communities Tasmania, priority was given to developing a web service to automate the provision of relevant information. This went live in mid-2016 for Tasmania Police and mid-2017 for Child and Youth Services.

444. It is fair to say that outside of Tasmania Police and Child and Youth Services, it took longer for other agencies to understand and meet their reportable behaviour obligations. For example, in the period to 2021, only a small number of reports were received from agencies regarding the conduct of their employees. At this time, there was a reluctance to share information when an Employment Directions investigation was underway due to legislative ambiguity. This was addressed in amendments which commenced on 1 February 2021.
445. At that time, the Registrar wrote to all Heads of Agency and the Commissioner of Tasmania Police outlining reportable behaviour obligations and providing guidance for staff. This was followed by engagement by RWVP staff with Human Resource Directors and staff across agencies.
446. Across 2021, there was a significant increase in reportable behaviour provided by reporting bodies, particularly the Department of Education and the Department of Communities Tasmania. This information included historical records and information from the National Redress Scheme.
447. A table outlining the increase in reportable behaviour by year, by agency is included below.

| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|-------------|------|------|------|-------|------|-------|-------|-------|-------|
| RB received | 0 | 0 | 5481 | 12856 | 9945 | 12230 | 12195 | 39667 | 19388 |
| RB matched | 0 | 0 | 197 | 906 | 741 | 977 | 828 | 2723 | 1729 |

448. For the purpose of the table:
- (a) RB received relates to all reportable behaviour reports received.
 - (b) RB matched is reportable behaviour that is matched to a current registered person or applicant.
 - (c) Data for 2022 is at 10 June 2022.

Question 103. What systems that support the retention of information in relation to child sexual abuse in an institutional context and what the threshold and guidance for the use and release of the information?

449. All information gathered relating to applicants and registered persons is included in the RWVP system.
450. This includes information regarding child sexual abuse in institutional settings that is provided to the Registrar.
451. The structure of information held by the RWVP system is organised based on the applicant or registered person. As such, it is not easy to identify institutions where child sexual abuse occurred without examining individual records.

452. There is the capability to identify the source of information (i.e. which reporting body provided the information) or the employer of the applicant or registered person during their period of interaction with the RWVP system. This may provide some ability to target enquiries.
453. Information regarding the particulars of child sexual abuse is not typically released by the Registrar.
454. The *Registration to Work with Vulnerable People Act 2013* contains provisions regarding the release of information. It is an offence for an officer, including the Registrar, to divulge protected information about a person. Protected information is any information about a person that is disclosed to, or obtained by, an officer because of the performance or exercise of a function or power under this Act by the officer or another person.
455. There are limited exceptions to this protection:
- (a) on suspension of a registration, the Registrar is to notify the employer of the registrant where that information is known by the Registrar; and
 - (b) the Registrar can, if he or she considers it appropriate to protect vulnerable persons from the risk of harm disclose a negative risk assessment, or suspension or cancellation of registration, to Tasmania Police or a State Service agency.
456. The Registrar routinely advises employers as outlined in (a) above and considers the release of additional information to one or more agencies in line with (b) above on a case-by-case basis. In such a circumstance, it would be typical for the Registrar to advise a State Service agency of a negative outcome of a risk assessment but not share the underlying information or grounds. This is due to the fact a risk assessment will typically include information available to the Registrar that would not be available to the State Service agency, such as criminal intelligence information. It is important to note that knowledge of a negative outcome of a risk assessment would be adequate for a State Service role to terminate an employee who required registration for their role.

Question 104. Identify the system by which the Department records the outcome of any application for Registration to Work with Vulnerable People.

457. The RWVP system is described in the preceding paragraphs.

Question 105. Has the Registration to Work with Vulnerable People Act 2013 (Tas) been reviewed, and if so, what were the outcomes of the review?

458. The *Registration to Work with Vulnerable People Act 2013* has not been subject to a review.
459. The Act has been updated to align its provisions with the National Standards for Working with Children Checks which were agreed by all jurisdictions in response to recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

Question 106. Provide any available data on behaviour reported to the Registrar under the Registration to Work with Vulnerable People Act 2013 (Tas) in relation to child sexual abuse institutional contexts?

- 460. The ability to report data at the institutional level is limited due to the data structure in the RWVP system.
- 461. The RWVP unit is available to engage with the Commission of Inquiry on the feasibility of any data requests.

Question 107. What are your reflections on how effectively the Registration to Work with Vulnerable People Act 2013 (Tas) operates to protect children from sexual abuse in institutional contexts, including

(a) what is working well and needs to be continued to be built upon, and

- 462. At its core, the success of the *Registration to Work with Vulnerable People Act 2013* rests on the provision of timely, relevant information to the Registrar, Working with Vulnerable People.
- 463. It is clear from the available data that there has been a significant improvement by all reporting bodies (i.e. Tasmania Police and State Service agencies) in understanding and meeting their reportable behaviour obligations.
- 464. In particular, the actions taken by Tasmania Police in 2021 in response to the Griffin matter have significantly increased the information available to the Registrar and have led to a significant increase in additional risk assessments, suspensions and cancellations.
- 465. Similarly, the National Redress Scheme has brought to light conduct that existed in Departmental records that would have been unlikely to have been identified and provided to the Registrar without the prompt provided by the redress claim. This is typically not due to an unwillingness by agencies but a lack of knowledge of their records and a lack of resources to review them.
- 466. The establishment of the Safeguarding Unit in the Department of Education is a particular innovation that has strengthened its organisational capacity and ability to meet its obligations under the *Registration to Work with Vulnerable People Act 2013*. In particular, having a separate function that has the interest of children at its core, and having that function distinct from its human resources function (which typically has the interests of the organisation at its core) is a significant improvement and, I am advised by the Registrar, Working with Vulnerable People, has already led to positive improvements in the way that agency engages with the RWVP unit. This may provide a model for other agencies that provide services to children.
- 467. A particular strength of the current system is the ability of the Registrar to access non-conviction information and criminal intelligence in risk assessments. This has enabled a number of refusals, suspensions and cancellations that would not have been possible without this information.
- 468. The Government is currently exploring options to expand the scope of regulated activities under the Registration to Work with Vulnerable People legislation to ensure Tasmania's worker screening scheme is the best it can be. This will include possible additional

categories of vulnerable people, such as older people and people with disabilities as well as reviewing the services and activities where registration is required. This is a positive step.

(b) *what is not working well and needs to be changed.*

469. If the system is working as it should, the Registrar would get three reports of any child sexual abuse that occurs in a State run or funded service. Firstly, it would be reported by Tasmania Police in the form of criminal intelligence or charges. Secondly, it would be reported by Children and Youth Services as a result of a mandatory notification under the *Children, Young Persons and Their Families Act 1997*. Thirdly, it would be provided directly to the Registrar from the relevant agency under the *Registration to Work with Vulnerable People Act 2013*.

470. I am advised by the Registrar, Working with Vulnerable People, that this does not routinely occur, and suggests that there is room for improvement in the understanding and application of reporting obligations by all state servants and state service agencies. I am advised by the Registrar, Working with Vulnerable People that he considers that a significant uplift in understanding reporting obligations by State Servants would be the single biggest thing that would strengthen the Registration to Work with Vulnerable People scheme.

471. Currently, reporting bodies are limited to State Service agencies and Tasmania Police. As such, they do not include bodies providing services to children that are independent of government. The reportable conduct scheme provides an opportunity to expand the scope of information which may be available to the Registrar relating to conduct which may occur in those settings.

472. I am advised by the Registrar that he intends to undertake a significant increase in engagement with employers, community groups and the general community regarding their obligations under the *Registration to Work with Vulnerable People Act 2013*. These activities have been put on hold initially by COVID-19 and then by prioritising resources to manage the significant increase in reportable behaviour received in 2021.

Question 108. Are there any barriers to achieving the changes you identify in response to question 107 (for example, budgetary constraints, recruitment, State/Commonwealth responsibilities, legal obstacles, cultural resistance)?

473. I am advised by the Registrar, Working with Vulnerable People that available resources have restricted the ability of some reporting bodies to meet their reportable behaviour obligations, particularly as it relates to conduct contained in historical records. This includes a lack of investment in contemporary record keeping systems and practices and the resources to review information held.

474. I am advised by the Registrar, Working with Vulnerable People that cultural resistance has acted as a barrier in the past to the sharing of information. It is the Registrar's view that this has improved significantly in recent years, particularly through the establishment of the Safeguarding Unit in the Department of Education and the sharing of information regarding redress by the Department of Education and the Department of Communities Tasmania. This is welcome but must be maintained.

CRIMINAL JUSTICE REFORMS

Question 109. Outline any planned or intended reforms (legislative or otherwise) in relation to how the criminal justice system responds to child sexual abuse in Institutional Contexts.

475. As reported in the *Fourth Annual Progress Report and Action Plan 2022: Implementing the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse*, the Tasmanian Government has accepted or accepted in principle almost all the recommendations of the Royal Commission's *Criminal Justice Report*.
476. The Tasmania Government has committed to introducing a Bill to implement the following reforms to the criminal justice system in November 2022. These reforms are outlined below.

Indecent Assault

477. The Royal Commission recommended that state and territory governments should introduce legislation to remove any remaining limitation period, or any remaining immunities, that apply to child sexual abuse offences (Recommendation 30).
478. Section 35(3) of the *Police Offences Act 1935* 'Assault with indecent intent' is a summary offence and cannot be charged beyond 12 months from the date of the alleged offence. There is a corresponding indictable crime of 'Indecent assault', contrary to section 127 of the *Criminal Code Act 1924*. Crimes established under the Criminal Code are not subject to any limitation period and may be charged at any time.
479. The summary offence of 'Assault with indecent intent' is outdated and unnecessary. It requires proof that the alleged perpetrator intended the assault to be 'indecent', whereas the more serious crime only requires evidence of 'indecent' physical contact. Perversely, this means that it is 'easier' to prove the crime of 'Indecent Assault' rather than the summary charge.
480. As all conduct that would constitute an offence under the offence of 'Assault with indecent intent' can be charged as 'Indecent assault' under section 127 of the *Criminal Code*, the Tasmanian Government plans to repeal section 35(3) of the *Police Offences Act 1935*.
481. Currently, a person who is charged with 'Indecent assault' under section 127 of the *Criminal Code* may 'elect' for their matter to be determined by a magistrate in the Magistrates Court or by a judge of the Supreme Court.
482. The Tasmanian Government also intends to introduce an amendment to section 72 of the *Justices Act 1959* to require the prosecutor and defence to agree to the matter being heard by a magistrate. This will ensure that matters which are serious are determined in the Supreme Court.

Limitation periods

483. There are two summary offences arising from the *Classification (Publication, Films and Computer Games) Enforcement Act 1995* with limitations periods, being:
- (a) section 72A - Make or reproduce child exploitation material; and

(b) section 73 - Procure a child to be involved in making child exploitation material.

- 484. Section 79(1) of the *Classification (Publication, Films and Computer Games) Enforcement Act 1995* prevents these two offences from being charged if more than 2 years have passed since the alleged offence was committed.
- 485. The Tasmanian Government plans to amend section 79 of the *Classification (Publication, Films and Computer Games) Enforcement Act 1995* to remove the limitation period applicable to these offences.

Tendency and Coincidence Evidence

- 486. The Tasmanian Government committed to implementing reforms, as recommended by the Royal Commission, to the rules of evidence related to tendency and coincidence evidence at the Council of Attorneys-General (CAG).
- 487. In 2019, the Council of Attorneys-General progressed work to finalise Model Provisions to amend the Uniform Evidence Acts of the UEL jurisdictions, consistent with the Royal Commission's recommendations. These reforms enables prosecuting authorities to introduce additional relevant evidence against an alleged abuser consistent with the current evidence about sexual offending against children.
- 488. The Tasmanian Government plans to introduce amendments to the *Evidence Act 2001* (Tas) to facilitate greater admissibility of tendency and coincidence evidence in child sexual abuse trials, using these Model Provisions.

Interlocutory Appeals

- 489. The Royal Commission recommended that state and territory governments introduce legislation, where necessary, to expand the Director of Public Prosecution's right to bring an interlocutory appeal in prosecutions involving child sexual abuse offences (Recommendation 79).
- 490. The Tasmanian Government intends to introduce interlocutory appeals by amending the *Criminal Code Act 1924*. These amendments will align with the approach in Victoria. Specifically, a party to a proceeding may appeal to the Court of Appeal against an interlocutory decision made in the proceeding if the Court of Appeal gives the party leave to appeal.
- 491. This approach was preferred because it provides equal rights to both parties and includes an additional protection that safeguards against unmeritorious appeals, that is, the requirement that the trial judge certify that the matter should proceed. This will ensure that the criminal justice system is not over-burdened by frivolous or meritless appeals or undue delays.

The use of recorded police interviews as evidence-in-chief

- 492. The Tasmanian Government intends to introduce amendments to the *Evidence (Children and Special Witnesses) Act 2001* that will enable the use of a pre-recorded interview as whole or

part of the complainant's evidence in chief will assist complainants by reducing the stress of giving evidence for long periods in criminal proceedings.

493. Currently, the *Evidence (Children and Special Witnesses) Act 2001* gives a judge the discretion to admit into evidence a recorded statement of: (1) an 'affected child', (2) a 'prescribed witness' or (3) a 'special witness' – provided that certain procedural requirements have been met, such as notice to the defendant.
494. In the absence of a 'communication need', disability or a likelihood to suffer severe emotional trauma, many classes of vulnerable witnesses cannot have their recorded police statement admitted into evidence. This includes many adult family violence complainants, or adult complainants of sexual assault are not currently entitled to have a recorded police statement admitted. The planned reforms will resolve this issue.
495. It is also planned that a presumption is created that the recorded interview with police is admissible, unless it is in the interests of justice for the interview to be excluded.

Failure to protect offence

496. The Royal Commission recommended that state and territory governments introduce legislation to create a criminal offence of failing to protect a child, within a relevant institution, from a substantial risk of sexual abuse by an adult associated with the institution (Recommendation 36).
497. In 2015, Victoria introduced a new criminal offence of failing to protect a child from a risk of sexual abuse. One of the key aims of this offence is to promote cultural change in how organisations deal with the risk of sexual abuse of children under their care, supervision or authority.
498. It is planned that a new crime of failing to protect, similar to the Victorian approach, be introduced to ensure that this conduct is appropriately captured by the criminal justice system.

Approach to sexual crimes perpetrated by people in a position of authority

499. The Royal Commission recommended in its *Criminal Justice Report* that state and territory governments should review any position of authority offences applying in circumstances where the victim is 16 or 17 years of age and the offender is in a position of authority in relation to the victim (Recommendations 27, 28 and 29).
500. Currently, Tasmania has no standalone 'position of authority' offence or crime. However, this category of offending is encapsulated within crimes such as rape and indecent assault but require the prosecution to prove that the alleged perpetrator was able to engage in sexual conduct with a child or young person on the basis of their position of authority. This will include, for example, circumstances where teachers, principals, scout leaders, tutors, sports coaches and the like engage in sexual conduct with children under their supervision.
501. Rather than introducing a standalone 'position of authority' offence to implement Recommendations 27, 28 and 29 of the *Criminal Justice Report*, it is planned that amendments are made to the *Criminal Code* to create a presumption that any person aged

under 17 years of age, or any person with a mental impairment, does not consent to sexual intercourse where the offender is in a position of authority in respect of the victim. This will mean that in circumstances where a victim is a child, it can be considered reasonable to presume that their will is overborne where the sexual conduct involves a person in authority.

Witness Intermediary Scheme Pilot

502. The Tasmanian Government's Witness Intermediary Scheme Pilot commenced in March 2021, to implement some of the recommendations in the *Criminal Justice Report*.
503. There are a number of minor amendments that have been identified by stakeholders that are required to be made to the program, which is enacted through the *Evidence (Children and Special Witnesses) Act 2001*. Namely, the planned amendments planned are to:
- (a) allow for a judge to exercise discretion, rather than an obligation, to have regard to the witness's wishes when making an order that an assessment report be prepared and provided by a witness intermediary;
 - (b) provide for flexibility in the use of the power under section 7J of the Act, to enable a judge to appoint a witness intermediary in circumstances where it impractical to seek an assessment report, which will allow for greater efficiencies and give vulnerable witnesses greater access to justice in unanticipated circumstances;
 - (c) clarify that witness intermediaries only need to take the oath or affirmation after the making of a 'use' order section 7J order;
 - (d) extend the power of a Judge to make orders considered necessary in regard to the distribution and security of any relevant materials to the witness intermediary for the purposes of conducting an assessment; and
 - (e) to provide that 'an assessment made by a witness intermediary' is a matter to be considered in determining what constitutes a 'reasonable time' for a person to be detained in custody for the purposes of section 4(1) of the *Criminal Law (Detention and Interrogation) Act 1995*.

TRAINING

Question 110. What training, professional development, or guidance is available to the Officials of the Solicitor-General, Office of the Director of Public Prosecutions, Criminal Injuries Compensation Commissioner, the judiciary, courts and tribunals in relation to:

- (a) *the effects of trauma or trauma informed practices*
- (b) *the impacts of trauma, including on memory*
- (c) *interviewing or questioning children*

- (d) *identifying and responding to child sexual abuse, including grooming behaviour and boundary breaches, and*
- (e) *reporting requirements?*

*Is this training mandatory or optional and is it undertaken on a regular basis (for example, annually)?
How often is the training, professional development or guidance reviewed?*

504. At a departmental level I will provide trauma-informed training to my Agency Executives and relevant members of the Senior Executive Service and their teams, including:

- Child Abuse Royal Commission Response Unit;
- Community Corrections
- Consumer Building and Occupational Services
- Tasmanian Prison Service;
- WorkSafe; and
- Victims Assistance Service

505. I will also support the statutory offices to provide trauma-informed training to their staff including:

- Custodial Inspector and Ombudsman
- Criminal Injuries and Compensation Commissioners;
- Equal Opportunity Tasmania;
- Integrity Commission;
- Office of the Director of Public Prosecutions;
- Office of the Public Guardian;
- Office of the Solicitor-General;
- Tasmania Legal Aid; and
- the Courts and Tribunals

506. I will discuss opportunities for training with the Office of the Director of Public Prosecutions in relation to interviewing children.

507. I will consider options for training in identifying and responding to child sexual abuse, including grooming behaviour and boundary breaches, and reporting requirements.

CULTURE AND REPRISALS

Question 111. Describe any guidance given to Department Officials to make clear that they are able to come forward to this Commission.

508. On 23 November 2020, I forwarded to all members of the Department of Justice a Message from the Head of the State Service in relation to the establishment of the Commission of Inquiry. My correspondence and the Message from the Head of the State Service is provided in the Annexures named TRFS.0007.0116.0001 and TRFS.0007.0116.0002.
509. On 4 December 2020, the Acting Secretary of the Department of Justice forwarded to all members of the Department of Justice a Message from the Head of the State Service in relation to the establishment of the Commission of Inquiry and other related matters. This correspondence and the Message from the Head of the State Service is provided in the Annexures named TRFS.0007.0116.0003 and TRFS.0007.0116.0004.
510. On 17 December 2020, I forwarded to all members of the Department of Justice a Message from the Acting Head of the State Service in relation to the release of the draft Terms of Reference of the Commission of Inquiry. My correspondence and the Message from the Head of the State Service is provided in the Annexures named TRFS.0007.0116.005 and TRFS.0007.0116.006.
511. On 8 April 2021, I emailed all members of the Department of Justice and provided information sheets for employees and managers about the Commission of Inquiry. My email and the Information Sheets are provided in the Annexures named TRFS.0007.0116.0007, TRFS.0007.0116.0008 and TRFS.0007.0116.0009.
512. On 26 April 2021, the Department of Justice published guidance for Employees and Managers about the impacts of the Commission of Inquiry and supports available. These information sheets were the same as referred to above.
513. On 28 April 2021, I email all members of the Department of Justice providing information about the Commission of Inquiry, supports available and process for obtaining legal assistance. The email is provided in the Annexure named TRFS.0007.0116.0010. I also had the advice contained in my email published on the Justice Intranet. The content of the intranet page is extracted and provided in the Annexure named TRFS.0007.0116.0011.
514. On 27 June 2021, a Message to Staff was published on the Justice Intranet about the Commission of Inquiry's stakeholder consultations and issuing an invitation for State Service Officials to participate. The content of the intranet page is extracted at and provided in the Annexure named TRFS.0007.0116.0012.
515. On 24 May 2022, the Premier, the Honourable Jeremy Rockliff MP, issued a Ministerial Statement making it clear that any State Service Official will be supported to give evidence before the Commission by announcing two days' special leave and committed to supporting any State Servant from reprisals. This information has been provided to Agency staff and is publicised on our relevant platforms.

Question 112. Describe any information provided to Department Officials in relation to the protections that are available to Officials if they choose to come forward to this Commission.

516. Specific messaging about protections available to people coming forward to the Commission of Inquiry has not been disseminated by the Department.

Question 113. Describe any information or guidance given to management within the Department to ensure that no Official suffers reprisals for providing information to this Commission.

517. Specific messaging about protections available to people coming forward to the Commission of Inquiry has not been disseminated by the Department of Justice.
518. There have been no reports of reprisals for providing information to the Commission of Inquiry within the Department.

Question 114. Allegations or reports you are aware of that individuals in the Department have discouraged Officials from engaging with the Commission. Outline the steps taken by the Department in response to such allegations or reports.

519. I am not aware of any allegations or reports that individuals in the Department have discouraged Officials engaging with the Commission in a personal capacity.

REQUEST FOR DOCUMENTS

Question 115. Produce a copy of any document referred to in response to any paragraph in this Notice.

520.

Question 116. Produce a copy of any materials (including training materials) created or distributed in connection with the matters in paragraphs 57, 63, 77 and 111.

521. These documents are provided in the Annexures named TRFS.0007.0116.0001, TRFS.0007.0116.0002, TRFS.0007.0116.0003, TRFS.0007.0116.0004, TRFS.0007.0116.0005, TRFS.0007.0116.0006, TRFS.0007.0116.0007, TRFS.0007.0116.0008, TRFS.0007.0116.0009, TRFS.0007.0116.0010, TRFS.0007.0116.0011, and TRFS.0007.0116.0012.

Question 117. Produce a copy of any role description since 1 January 2010 provided to any ED5 investigators appointed by the Department to investigate allegations of child sexual abuse made against Tasmanian State Service Officials.

522. The Department has not appointed any ED5 investigators to investigate allegations of child sexual abuse made against Tasmanian State Service Officials since 1 January 2010.

Q118 Produce a copy of any legal advice received by the Department in relation to:

(a) the scope of the ED5 investigation process

(b) the circumstances in which information concerning a perceived or potential risk to a child can be shared with other Government Institutions:

523. These advices are provided in the Annexures named TRFS.0007.0118.0001, TRFS.0007.0118.0002, TRFS.0007.0118.0003, TRFS.0007.0118.0004, TRFS.0007.0118.0005, TRFS.0007.0118.0006, TRFS.0007.0118.0007, TRFS.0007.0118.0008, TRFS.0007.0118.0009, TRFS.0007.0118.0010, and TRFS.0007.0118.0011.