

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

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CREATE Foundation

A 32 Church Street
North Hobart, TAS 7000
T 03 6223 7749



Introduction

CREATE Foundation appreciates the opportunity to respond to the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings*. The organisation welcomes the Commission's efforts in investigating the adequacy and appropriateness of the Tasmanian Government's current responses to allegations and incidents of child sexual abuse, especially in light of recent allegations against government workers.

CREATE is the national peak body representing the voices of children and young people with an out-of-home care experience, and we seek to provide opportunities where children and young people in care feel seen and heard. CREATE is committed to promoting children's safety and well-being throughout the organisation, particularly as many of the young people engaged in CREATE's activities have experienced past abuse and neglect. CREATE strongly advocates for all organisations that engage with children and young people to be committed to ensuring their safety and wellbeing.

This submission has been informed by national and international research, as well as by the voices of children and young people who have shared their experiences within CREATE's research and consultations.

Making Institutions Safe for Children

CREATE commends the efforts the Tasmanian Government has undertaken so far by implementing the recommendations made by the *Royal Commission into Institutional Responses to Child Sexual Abuse* to make institutions safer for children. This includes updating complaints resources to assist children and young people to know where to give feedback; introducing the Child and Youth Wellbeing Framework; the progress towards the Premier's Wellbeing Strategy; improving safety in Out-of-home care (e.g., the Out-of-home care Foundations project); progress towards a Bill for Child Safe Organisations including the establishment of Child Safe Standards in legislation; and a Carers' Register (Tasmanian Department of Justice, 2019; 2020). CREATE, however, notes that while these initiatives have already been introduced, ongoing efforts to further evaluate and strengthen these initiatives is needed.

Child Safety Standards


In CREATE's recent submission regarding the Tasmanian *Child Safe Organisations Bill 2020* (CREATE, 2021b), the development of the Tasmanian Child Safe Principles and Safety Standards in legislation was welcomed. CREATE's submission which was informed by children and young people noted key concerns about the lack of alignment with the National Principles, and the need to use consistent language in the proposed Bill to avoid misinterpretation regarding child safe processes so that consistency and accountability in practice can be upheld.

The National Principles were created to protect Australia's children and ensure consistency across Australia due to the complicating factors which result when jurisdictions create differing principles and standards. One negative impact for having differing language in jurisdictions is the inability to measure how states are performing to uphold the safety of children at a national level. This in turn then limits the accountability of the state's actions and puts children more at risk.

The Tasmanian standards should be in the same order as the Principles and in the same or similar language so there isn't the chance it implies the wrong thing.

(CREATE, 2021b)

Whilst having a legislative framework recognises and strengthens the safety factors that are required in both funded organisations and government agencies that work with children and young people,



CREATE believes the language in which the legislation is written must be easy to read and understand, and should meet the need of those who must enact and comply with it (CREATE, 2021b).

Likewise, CREATE advocates that children and young people should be able to exercise their right to participate and have their say (see Article 12.1 enshrined in the United Nation's *Conventions on the Rights of the Child*, 1989) in annual reviews to provide their views on how well organisations and services are upholding the Child Safe standards and principles in practice. It is considered that independent oversight to monitor the implementation of National Principles and Standards through an independent body such as Tasmania's Child Advocate or Commissioner for Children and Young People is essential. Additionally, this body must have the capacity to review both organisations and government agencies delivering services to children and young people (CREATE, 2021b). An appropriate arrangement could be modelled on Victoria's *Commission for Children and Young People* (2021b).

Raising Feedback and Complaints

Child sexual abuse in institutional settings is both an historical and current problem. Past inquiries have found that even when cases of child sexual abuse in institutions were reported to the departments, police, and institutional providers, they were ignored, disbelieved or not followed up (Child Protection Systems Royal Commission, 2016; Royal Commission into Institutional Responses to Child Sexual Abuse, 2017).

As an organisation that works with children and young people, CREATE strongly believes that listening and responding to the views of children and young people when they provide feedback or raise a complaint, particularly those living in out-of-home care systems, is a cornerstone of best practice (CREATE, 2021a). This should be facilitated by cultivating a culture where children and young people feel safe and encouraged to raise their concerns, and that their concerns are responded to in a timely manner.

In CREATE's 2018 National Survey with 1275 children and young people with a care experience, only 52.5% of Tasmanian participants reported sharing positive feedback about the support their carers and caseworkers have provided them (McDowall, 2018). National results also showed that three quarters of the 1275 participants knew how to complain about inappropriate treatment, but knowledge was lower amongst the Tasmanian cohort. Of those who knew how to complain, less than half (45%) actually raised a complaint (McDowall, 2018). This was mainly because they did not know how to, were afraid of the repercussions it would bring, or that they did not think anything would change.

I didn't know how to make a complaint when I was in prep and my carer used to hit me. And I thought no one would believe me. (Female, 13 years)

Previous complaints not being dealt with properly makes me now not want to complain anymore. (Female, 12 years)

(McDowall, 2018)

CREATE advocates that children and young people must have the knowledge, confidence, and support to be able to speak out if they are dissatisfied or unhappy with any situation they experience whilst in care.

CREATE encourages the Tasmanian Child Safety Services to review and resource their complaints/feedback policy to ensure there is an approachable way for children and young people to make a complaint. At present, the procedure, "What to do if something's not OK?" outlined on the Department of Communities Tasmania's (2021) website involves four steps. Step one requires a child or young person to talk, write, or draw about their concern with their Child Safety Officer, their worker's boss (Team Leader), or their Team Leader's boss (Child Safety Manager). If they are dissatisfied with the outcome, Step Two is where a child or young person must contact the Child



Advocate. Step Three is to then write to the Deputy Secretary, and finally Step Four is to request that The Ombudsman reviews the decision of the complaint (Department of Communities Tasmania, 2021).

Although a resource using simple language was created by the Child Advocate for young people to understand the Complaints process, CREATE believes the procedure underpinning the “What to do if something’s not OK?” is in dire need of a review. The problem with this process is that children and young people often do not trust their Child Safety Officer, or in some cases, may not even know who their Child Safety Officer is. Likewise, young people have shared their experiences about making a complaint concerning a Child Safety Officer, and have found Child Safety Services have not followed through with investigating the complaint, again resulting in young people feeling as though they cannot trust the system. These experiences are not unique to children and young people in Tasmania, with national research and consultations highlighting the same barriers (CREATE, 2020a; 2021a; McDowall, 2018).

In CREATE’s Child-Centred Complaints Handling Best Practice Guide (2020a), which was developed based on the input from children and young people at the 2019 Voices in Action conference, eight key principles have been established as seen in Appendix A. The Tasmanian feedback and complaints process could be strengthened based on these principles. These ideals are encompassed within CREATE’s (2021a) position that an ideal feedback and complaints mechanism possesses the following characteristics:


- Is safe, open, and independent of the providers of out-of-home care;
- Is easy to access online or face-to-face;
- Allows for a support person to accompany a child or young person at face-to-face meetings;
- Includes individual advocacy services to have complaints resolved;
- Provides a timeline noting expected dates for reporting and/ or resolution of the matter; and
- Reports on systemic advocacy issues to improve the care experience for all children and young people.

It is imperative that the Tasmanian Government provides children and young people with an independent body that they can wholeheartedly trust to make non-biased decisions, listen with intent and belief when children and young people provide feedback, or raise a concern or a complaint, and that this service is well resourced. CREATE strongly encourages that independent bodies outside of the Tasmanian Government should provide oversight of institutional settings. CREATE advocates that this function can be provided through existing independent bodies such as the Tasmanian Commissioner for Children and Young People or the Tasmanian Ombudsman, to ensure children’s and young people’s individual and systemic concerns are heard and addressed (CREATE, 2020a; 2021a). An Aboriginal Commissioner’s role would also be ideal for handling concerns and complaints regarding Aboriginal and Torres Strait Islander children and young people (CREATE, 2021a).

Reporting Child Sexual Abuse

CREATE would like to draw attention to the need for improving the current reporting format. The current process appears to lack robustness and often leads to inconsistencies as each government and non-government agency, including the Department of Child Safety, are required to assess their own progress and perform reporting differently. Some agencies have ensured they have become child safe accredited through a reputable training organisation, whilst others simply report on the bare minimum. CREATE believes that consistency with agency reporting and standards will ensure any issues relating to the safety and wellbeing of children and young people will be detected early.

CREATE believes that the Tasmanian Government must introduce and implement a reportable conduct scheme as recommended by the Royal Commission (2017). Institutions need to be accountable for the way they protect children and investigate allegations of harm. Having a reportable conduct scheme in place which is monitored by an independent body allows for appropriate independent oversight of institutional responses for how allegations of child abuse and neglect are handled by Government



departments and organisations. It also provides consistency in this process, which again, CREATE stresses is important for accountability and for the protection and safety of children and young people. Reportable conduct schemes are currently in place in Victoria through the Commission for Children and Young People (2021a) and New South Wales' Office of the Children's Guardian (2020). We strongly urge that the Tasmanian Government introduce a reportable conduct scheme as soon as possible.

Information Sharing

In addition to reporting, CREATE believes that improved information sharing protocols both locally amongst government agencies, non-government organisations, and community services in Tasmania, as well as at a national level, is needed.

CREATE in Tasmania currently has an information sharing agreement with the Tasmanian government for the provision of contact information about children and young people with a care experience. This agreement has been extremely effective in enabling CREATE to connect with young people in care, and facilitate their access to CREATE's programs and activities; connect with others in the care community; share their voices about their experiences whilst in care. Specifically, information sharing with CREATE has increased children and young people's opportunities to connect and advocate through CREATE's *Speak Up* Program for those aged 13-25 years. This program provides young people with the skills to have a voice and enable them to advocate both individually for themselves and systemically. This in turn empowers the young people to give feedback to the department if they have any concerns.


CREATE also notes that through its programs and activities, children and young people have come to establish trust and rapport with the organisation and staff members. Because of this, there are times where disclosures related to the safety and wellbeing of young people are made by care-experienced children and young people who use CREATE's services, or participate in our research or consultations. In these instances, CREATE abides by relevant child protection legislation and the organisation's *Disclosure Policy* and notifies the appropriate authorities for all disclosures made. Where suspected disclosures are made anonymously during research projects (i.e., disclosed anonymously online) all efforts are made to share the available information with the relevant child protection authority so that they are appropriately actioned (CREATE, 2020b).

When discussing information sharing on a broader level, CREATE advocates that suitable measures are in place to facilitate cross-jurisdictional information sharing aligned with the National Information Sharing Scheme to ensure that children and families are protected from potential perpetrators who move across borders (CREATE, 2020b). This includes the sharing of *Working with Children's Checks* across the different jurisdictions, and other crucial information amongst service providers so that out-of-home care providers can work together to protect the safety of children and young people, particularly relating to carers who may move agencies. Another benefit of sharing this information is to ensure that children and families who move across borders are safe, and that potential perpetrators or offenders are not able to hide. Current barriers to sharing of information that CREATE has identified arise from the outsourcing of Child Protection services to agencies, having multiple IT systems, and varying policies making consistent communication with non-government agencies difficult (CREATE, 2020b).

Working with Vulnerable People

As the national peak body representing the voices of children and young people in out of home care, we advocate for the continuation of funding to CREATE for the delivery of our empowerment programs such as *Speak Up*, Youth Advisory Groups and Consultations for children and young people in out-of-home care. As mentioned earlier, CREATE's programs are vital for empowering young people to have a voice and build their skills that enable them to make a complaint or give feedback when needed.

CREATE also encourages out-of-home care agencies and other organisations that frequently work or interact with children and young people to implement resources and programs which educate and



empower other groups of vulnerable children and young people, such as those identifying as Aboriginal or Torres Strait Islander, coming from a Culturally and Linguistically Diverse background, with a youth justice experience, or living with a disability, to be able to have a voice and participate in decision making (CREATE, 2019).

Providing Support and Treatment

Addressing or Alleviating the Impact of Child Sexual Abuse in Institutional Contexts

The impact of child sexual abuse in institutional settings can have lifelong and detrimental impacts for children, young people, and their families. CREATE supports the need for therapeutic services to be readily available, which upholds a child-centred and trauma-informed approach, particularly services which can provide support for any social, emotional, or mental health challenges.

When looking at an out-of-home care context, CREATE realises that those who come into care can have experiences of past abuse and neglect and that they must be further supported once they transition to adulthood. The Transition to Independence Program which sits under the After-Care Support Program must be well-funded to provide advice and referral as well as individual advocacy and support so that they can access services that they need. Young care leavers are often left with no support (see McDowall, 2020), so ensuring that the Transition to Independence Program continues and grows in resources, will allow care leavers to build trust with the program and be supported to potentially seek justice and recover from the impact of any abuse. This also relates to victims-survivors obtaining support under the National Redress Scheme.


Implementation of the Royal Commission's recommendations

In addition to the implementation of the Royal Commission's recommendations, CREATE believes that government must ensure that there are avenues and resources provided to enable stakeholders, particularly young people who are best placed to provide feedback about what could work within the care system, to be consulted when developing new projects and initiatives. There must be ongoing and clear communication with stakeholders and agencies, about progress on projects, policy development, and legislation. This communication could come from a number of approaches such as a communiqué from the relevant Department Secretaries and Deputy Secretaries, as well as publishing updates on the relevant social media pages and websites. Doing so will ensure that all stakeholders feel respected and valued and enable them to have a form of ownership over the implementation.

Conclusion

CREATE supports the initial steps the Tasmanian Government has made towards progressing the recommendations of the Royal Commission. However, we recommend the following specific actions be taken:

- Incorporate the National Principles and Child Safe Standards so that they remain nationally consistent within the Child Safe Organisations Bill;
- Provide opportunities for children and young people to participate in annual reviews so they can provide their views on how well organisations and services are upholding the standards and principles in practice;
- Adopt the eight principles outlined in CREATE's Child-Centred Complaints Handling Best Practice Guide to improve the current Complaints process;
- Strengthen current reporting formats and processes to ensure consistency and accountability;
- Introduce a reportable conduct scheme;
- Ensure independent oversight of the National Principles and Standards and Complaints processes through an independent body such as Tasmania's Child Advocate or Commissioner for Children and Young People.




Thank you again for the opportunity to respond to this Inquiry. Please contact Danni Ashton, TAS State Coordinator on 03 6281 9243 if you have any questions or require any additional information.

Yours sincerely

Danni Ashton
TAS State Coordinator
CREATE Foundation

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Principles for a good complaints system: Key messages from children and young people with a care experience.

CREATE appreciates the people who work with and care for children and young people in out-of-home care, have a genuine interest in providing quality services and care. This poster and accompanying Best Practice Guide have been informed by the voices from our 2019 Voices in Action conference workshop combined with other research to help you and your organisation develop child friendly complaints and service improvement processes. The eight principles below are essential elements for a good complaints system:

1. Use language that is easy to understand and jargon free
2. Train staff receiving complaints to respond appropriately and empower children and young people to speak up
3. Provide support or access to an independent support person during complaints process
4. Prioritise complaints, follow up in a timely manner and inform young people when the complaint is finalised
5. Promote and display information on how the system works and who to speak with about any issues
6. Develop simple, user friendly and culturally inclusive complaints processes
7. Offer multiple options to make complaints and encourage feedback
8. Ensure safety and no ramifications for those who speak up

Key Messages from Young People at the 2019 VIA Conference:

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"Become creative in delivering information to young people. Use the young person's preferred method of communication."

"Always see every complaint as an individual one... Take it seriously."

"Have a culture around it being positive to actually complain. A complaint shouldn't be a mark against your name."

"Walk with us through the process... Having someone who isn't on anyone's side prevents bias and complications."



About CREATE

CREATE Foundation is the national peak consumer body for children and young people with an out-of-home care experience. We represent the voices of over 45,000 children and young people currently in care, and those who have transitioned from care up to the age of 25. Our vision is that all children and young people with a care experience reach their full potential. Our mission is to create a better life for children and young people in care.

To do this we:

- **CONNECT** children and young people to each other, CREATE and their community to
- **EMPOWER** children and young people to build self-confidence, self-esteem, and skills that enable them to have a voice and be heard to
- **CHANGE** the care system, in consultation with children and young people, through advocacy to improve policies, practices and services and increase community awareness.

We achieve our mission by providing a variety of activities and programs for children and young people in care, and conducting research and developing policy to help us advocate for a better care system.