

Minister for Education, Children and Youth
Minister for Environment and Climate Change
Minister for Aboriginal Affairs
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Dear Commissioner Hollonds

Thank you for the invitation to provide a submission to the Youth Justice and Child Wellbeing Reform across Australia Project.

Please find below our submission on behalf of the Tasmanian Government:

1. What factors contribute to children's and young people's involvement in youth justice systems in Australia?

There is no single factor that leads a child or young person towards involvement in the youth justice system in Australia. Often these factors cluster together in the lives of the most disadvantaged children and young people. The *Reforming Tasmania's Youth Justice System Discussion Paper*¹ notes that 'The majority of young people in Tasmania never come into formal contact with the criminal justice system.' Only 1.6% of young people aged 10 to 17 were proceeded against by Police in 2020-21.² It is also noted that there was an overall increase of 38% in charges against young people from 2021 to 2022.³

Recurring themes identified by police that contribute to children and young people's involvement in the youth justice system in Tasmania include poverty, family dysfunction, being victims of abuse/maltreatment/neglect/violence, lack of engagement in schools/truancy, homelessness, unemployment and mental illness. There were more than 3000 offences recorded in 2022 where a youth offender was identified with 75 percent of youths charged with offences in 2022 identifying as male.

The Tasmanian Government has developed the draft *Youth Justice Blueprint 2022-2032*⁴ (the draft Blueprint) that outlines the strategic direction for the youth justice system in Tasmania across the next ten years, with the aim of improving the wellbeing of children, young people and their families while addressing the underlying drivers of offending behaviours, reducing offending and improving community safety.

¹ [Reforming Tasmania's Youth Justice System Discussion Paper \(education.tas.gov.au\)](https://www.education.tas.gov.au)

² National State and Territory Population, ABS Estimated Resident Population by single year, Tasmania, 2021; ABS, Recorded Crime 2020-21, Table 20; Note: ABS results exclude traffic and breach of bail offences.

³ Statistics sourced from content prepared by the Department of Police, Fire and Emergency Management, Reporting Services, June 2023.

⁴ [Youth-Justice-Blueprint.pdf \(education.tas.gov.au\)](#)

The draft Blueprint establishes that there is strong correlation between youth offending and a range of factors including:

- involvement with the child safety system,
- homelessness,
- cognitive disability,
- mental health concerns,
- drug and alcohol use,
- intergenerational trauma,
- experience of family violence, and
- disengagement with education.

Often these factors cluster together in the lives of the most disadvantaged children and young people.⁵ The presence of protective factors in the life of a child or young person, helps explain why some children and young people exposed to clusters of risk factors predictive of potential escalation into criminal behaviour, do not grow up to behave antisocially or commit crimes.

Given there is a degree of overlap between factors associated with offending, other problem behaviours and circumstances, intervention for one factor can mean potential gains in multiple areas. This highlights the benefits of a collaborative approach between individuals, families, schools and government and non-government organisations.

2. What needs to be changed so that youth justice and related systems protect the rights and wellbeing of children and young people? What are the barriers to change, and how can these be overcome?

Tasmania acknowledges that youth justice systems around Australia are all diverse and each state and territory is at different stages in their youth justice journey of reform, with some further advanced than others. Tasmania's Youth Justice Act 1997 is the primary legislation relevant to the Tasmanian youth justice system, providing for the treatment and sanctioning of young persons who have committed offences and for related purposes. It lists objectives and contains the general principles of youth justice. Tasmania is taking a whole of government approach to child and youth safety and wellbeing through the Blueprint.

Tasmania is an active participant in the current national discussion on developing a proposal to increase the minimum age of criminal responsibility. At the most recent meeting of the Standing Council of Attorneys-General (SCAG) on 28 April 2023, participants noted that this work is ongoing and that a report focused on how jurisdictions may support children diverted from the criminal justice system, particularly First Nations children, is to be tabled ahead of the next SCAG meeting for Attorneys-General to consider.

While a nationally consistent position on any minimum age reform is preferred, Tasmania may progress action itself if the timing becomes necessary, such as to ensure integration with our broader youth justice reforms.

It is also noted that in June 2022 the Tasmanian Government announced that it will raise the minimum age of detention from 10 to 14 years, noting that early exposure to a detention environment can further

⁵ Andrews, D.A. & Bonta, J. (2010) Rehabilitating Criminal Justice Policy and Practice, *Psychology, Public Policy and the Law*, Vol 16 39-55

traumatise young people, expose them to problem behaviours of older detainees, and increase criminal networks.

Tasmania's current youth justice system and the future strategy for change to prevent young people coming into contact with the youth justice system is outlined in the draft Blueprint.

Principles that Underpin the Draft Blueprint

The draft Blueprint outlines the following eight principles that seek to protect the rights and wellbeing of children and young people and that will be used to guide the development and implementation of the policies, programs and initiatives that sit within the draft Blueprint:

1. Children and young people thrive within well-supported families and communities.
2. Children and young people have their rights upheld.
3. Aboriginal children and young people are connected to family and communities and are living healthy, safe and culturally rich lives.
4. Children and young people in the youth justice system are safe.
5. Children and young people are supported by an effective youth justice service continuum.
6. Children and young people are diverted from the justice system.
7. People working in the youth justice system are supported and safe.
8. The wellbeing of children and young people is considered in the context of families, communities and broader society.

Public Health Approach to Prevention and Early Intervention

The draft Blueprint adopts a broader definition of youth justice that expands the focus to include prevention, early intervention and diversion. This aligns with a public health approach to youth justice that shifts the focus from a statutory response to offending towards one that provides supports early to young people and families thereby preventing or reducing risk factors that can lead to offending.

The draft Blueprint seeks to prioritise prevention and early intervention to reduce engagement of children and young people with the youth justice system. This approach uses the timely identification of emerging wellbeing issues and the provision of appropriate services and supports to address them.

The draft Blueprint also seeks to ensure diversion from the justice system is early and lasting to reduce the involvement of children and young people in the youth justice system by providing pathways through which children and young people with limited or no criminal history and who have committed low-level offences can be directed away from the justice system.

A Commitment to involve children and young people

The Tasmanian Government commits to involving children and young people in the co-design and implementation of the draft Blueprint to ensure the services and policies are appropriate and meet the needs of those they are intended to support and will help shape a child and young person centred system that is therapeutic and rehabilitative. Consultation with children and young people has occurred during the development of the draft Blueprint and will continue to guide the reform process and support a child and young person centred approach to service provision.

Working with Aboriginal Communities

A key priority under the new draft Blueprint is to reduce offending by improving formal partnerships with the Tasmanian Aboriginal Community-controlled organisations and people, and focusing on shared decision making, service provision and governance.

The draft Blueprint has a focus on self-determination of Aboriginal communities, and a commitment to working with Aboriginal communities to reduce the over-representation of Aboriginal children and young people in the youth justice system. In 2020-2021, Aboriginal young people in Tasmania were almost five times as likely as non-Aboriginal young people to be under youth justice supervision.

Tasmania is a signatory to the National Agreement on Closing the Gap and is committed to working in partnership with Tasmanian Aboriginal people through the Coalition of Peaks Representative. A priority for the Coalition of Peaks Representative is to reduce the numbers of Aboriginal children in out of home care and Aboriginal youth in the justice system.

Under the National Agreement, Tasmania has signed off on the Sector Strengthening Plan for Early Childhood Care and Development, Target Outcomes 3 and 4.

The sector strengthening plans focus on:

- growing and refining programs and services available to Aboriginal and Torres Strait Islander people;
- building partnerships between governments and Aboriginal and Torres Strait Islander service providers; and
- transferring the delivery of programs and services from government providers to Aboriginal and Torres Strait Islander providers where appropriate.

The Department for Education, Children and Young People (DECYP) and the Departments of Justice (DoJ), Premier and Cabinet (DPaC), Health (DoH) and Police, Fire and Emergency Management (DPFEM) are current members of the Combined Coalition of Peaks and Tasmania Government Working Group. The aim is to build a true partnership, and engage with government as joint leaders in Closing the Gap for Aboriginal people in Tasmania.

Alignment with other Tasmanian Government Strategies

The draft Blueprint provides an opportunity to align the approach to youth justice with other Tasmanian Government initiatives such as the following:

Child and Youth Wellbeing Strategy – It Takes a Tasmanian Village

The whole of government Child and Youth Wellbeing Strategy – *It Takes a Tasmanian Village* was developed around the feedback provided by Tasmanian children, young people, their families and the services that support them. It includes longer term policy actions with a focus on system improvement. These include Strategic Policy Actions on 'Better cross agency and cross sector collaboration' and 'Supporting children and young people at risk' which will look at system and service design through a holistic and whole of government lens to improve the wellbeing of children and young people, including those in contact with the youth justice system. The strategy has been developed in line with the ecological model of human development, placing the child at the centre and recognising the impacts of external influences, relationships and environment on a child's wellbeing. It supports the need for early intervention and prevention, including a focus on the importance of wellbeing in the first 1000 days and it includes principles which guide how we work, develop and implement the actions in the Strategy. These principles were informed by feedback from children and young people; the *Convention on the Rights of the Child*; and current legislative settings related to children within Tasmania. The wellbeing domains and descriptors of the Tasmanian Child and Youth Wellbeing Framework were derived from the Australian Research Alliance for Children and Youth's (ARACY's) 'The Nest' which demonstrates how a national framework/common approach to discussion and understanding wellbeing has been modified and used for the Tasmanian context.

Review of the Child and Adolescent Mental Health Service (CAMHS)

Implementation of recommendations from the CAMHS review will change the service response for complex and challenging mental health presentations, including individuals with trauma related mental health diagnoses and those who lack parental or familial supports, as well as establishing a youth forensic mental health service.

Child and Youth Wellbeing Framework⁶

The Tasmanian Child and Youth Wellbeing Framework has been adopted across government and non-government agencies and provides a common approach to understanding the wellbeing of children and young people. While the Child and Youth Wellbeing Strategy – *It Takes a Tasmanian Village* sets out the government's policy to ensure that children and young people in Tasmania have what they need to grow and thrive, the Child and Youth Wellbeing Framework is a tool that can be used by government and non-government organisations to work with children and young people. This will form the foundation for the development and implementation of the policies, programs and initiatives that sit within the draft Blueprint.

Establishing a Therapeutically Based Criminal Justice Response for Children and Young People

A therapeutic criminal justice response for children and young people engaged in youth offending provides a range of interventions and support options that address criminogenic needs, target the driving factors behind offending behaviours and build upon strengths. Restriction of liberty through detention of a young person should be an action of last resort. A therapeutic approach, as outlined in the draft Blueprint, provides support and healing to children and young people as opposed to a punitive approach which promotes punishment or fear.

⁶ [Tasmanian-Child-and-Youth-Wellbeing-Framework-Web.pdf \(education.tas.gov.au\)](https://www.education.tas.gov.au/Tasmanian-Child-and-Youth-Wellbeing-Framework-Web.pdf)

Integration and Connection of Whole-of-government and Community Service Systems

Children and young people who are at risk of, or engage in, offending behaviours, are a vulnerable population and have a range of needs that cross disciplines and service systems.⁷ The draft Blueprint explains that this requires a collaborative and multidisciplinary approach delivered in a coordinated and wholistic manner through partnerships between service providers. This approach places the child at the centre of service provision and operates from a common model of care, utilising shared goal setting and planning between government and non-government services.

Provision of an Appropriately Trained and Supported Therapeutic Workforce

The people who work in the youth justice system and supporting services are critical to providing successful outcomes for children, young people and their families and enhancing community safety. The draft Blueprint outlines that an effective, therapeutic youth justice system requires a highly qualified and trained workforce, skilled in evidence based and trauma informed practice.

The youth justice workforce also needs to be culturally competent so it can support and respond to the needs of Aboriginal children and young people in the youth justice system and work with Aboriginal communities across the continuum to help them support their children and young people.

3. Can you identify reforms that show evidence of positive outcomes, including reductions in children's and young people's involvement in youth justice and child protection systems, either in Australia or internationally?

Under the Strong Families, Safe Kids Child Safety Reforms the Tasmanian Government continues efforts to address the overrepresentation of Aboriginal children in out-of-home care (Target Outcome 12). Our reforms have seen a steady decline in the overall numbers of all children and young people entering out-of-home care in Tasmania. The reforms also promote enhanced partnerships with Tasmanian Aboriginal community-controlled organisations to address the social determinants that lead to contact with the child safety system, to provide early supports for Aboriginal families at risk of entering the child safety system, and achieve better reunification outcomes.

In March this year through round one of the Closing the Gap Capacity Building Fund, the Tasmanian Aboriginal Centre was granted funds to develop their proposed palawa child 'Strong, Together and Connected' Safe and Supported Strategy and Action Plan. The Strategy and Action Plan will provide the impetus towards achieving Target Outcome 12. Aboriginal Liaison positions are now established in each region to support and work closely with Aboriginal organisations and people to facilitate increased participation in decision making.

Child and Family Services in DECYP also partner with the Tasmanian Aboriginal Centre to ensure that Aboriginal children and young people who are receiving a service, or potentially entering care, are identified as early as possible so that they can be connected to an appropriate support organisation.

An example of a program that aims to reduce children and young people's involvement in the youth justice system is the 8 week "Ascent" program that has been run in collaboration between DECYP and the Northern Early Intervention Police Unit. The objective of the program is to divert young people from the court system and assist them in making better life choices which do not involve further offending. The program aims to build resilience and self esteem, encourage healthy friendships, encourage a healthy active lifestyle, build positive relationships with Tasmania Police and to encourage better attendance at

⁷ Clancey, G, Wang, S & Lin, B. (2020) Youth Justice in Australia: *Themes from recent inquiries*, Trends and Issues in Crime and Criminal Justice.

school. The program focuses on a specific topic each week and a recreation component follows lunch, with different activities each week. A camp component was added to the program and feedback from young people, particularly around the camp component, has been positive.

4. From your perspective, are there benefits in taking a national approach to youth justice and child wellbeing reform in Australia? If so, what are the next steps?

Tasmania's initial preference is for multiple (ie jurisdictional-level) approaches rather than a single national approach, in recognition of the different circumstances, resource availability, and priorities in different jurisdictions. Each state and territory in Australia has its own youth justice legislation and policies which could make a national approach problematic. In Tasmania, some legislation that is relevant to youth justice is also used across the adult system such as the Bail Act and the Criminal Code.

There may be a risk in pursuing a one-size-fits-all approach as it would not cater to local or regional differences or enable agile law making to address specific issues being encountered in specific areas. A 'small' voice like Tasmania's is likely to be lost in a national approach. A state by state approach would allow for local nuance and differences between states and consideration of the factors affecting children/youth in that area.

However, a set of agreed national principles would help to guide this work. A national approach to youth justice could promote a therapeutic approach and temper punitive approaches to crime prevention and public safety for children and young people that can occur with high incidences of youth crime/youth crimes causing emotive responses in the community. I note that the states do collaborate in various forums such as the Australasian Youth Justice Administrators who have developed several national documents including the Principles of Youth Justice in Australia 2019 and the Australasian Juvenile Justice Administrators Juvenile Justice Standards 2009.

Thank you for the opportunity to provide you with this feedback. I note that you will be holding a series of stakeholder interviews and roundtables to gather further information to inform this project. The Department for Education, Children and Young People has key responsibility for Youth Justice and Child Wellbeing in Tasmania. I would encourage you to contact our Youth Justice Reform team YJReform@decyp.tas.gov.au in the first instance to arrange interviews with senior government officials within this portfolio.

I also support your efforts to hold targeted consultations with children and young people, including those in contact with the youth justice system. The development of Tasmania's draft Blueprint was informed by children and young people and families with involvement in the youth justice system, and this provided valuable insights into their lived experience of the system and supported the design of a child centred approach.

Once again, thank you for the invitation to contribute to your project.

Yours sincerely



Hon Roger Jaensch MP
Minister for Education, Children and Youth