

a flaw within the current system of Child Protection. Subsequently, the State Government has acted by establishing two committees to address child death:

One to be independently chaired, and comprised of a range of members drawn from government and non government agencies is to report on trends and systemic issues that may contribute to child death.

The second committee – the Child Death Review Committee- is to investigate all deaths of children known to the State Department of Community Development. The findings of this committee are reported to the Minister for Children and the Director-General of the Department of Community Development.

Furthermore, the Inquiry recommended that the State Government establish a Children’s Commissioner. This recommendation was rejected in November 2002 on the basis that existing structures and legislative provisions and proposed changes to the Child Welfare Act would provide adequate accountability. It is now December 2003, and as yet the proposed changes to the Child Welfare Act have not come to fruition.

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## **The Tasmanian Ombudsman’s Review of Claims of Abuse from Adults in State Care as Children**

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**In July 2003 the Tasmanian Ombudsman and the Department of Health and Human Services entered into an agreement to conduct a review of claims from adults who had been allegedly abused as children in State care.**

### **How did the Review come about?**

In July this year the media reported allegations of serious sexual abuse from a former State ward who had been in foster care. The Government responded by calling on adults who had suffered any form of abuse in State care to come forward with their claims.

The Government’s intent was to offer some form of redress and support to assist victims of past abuse.

The Ombudsman, who is independent of the Government and the bureaucracy, agreed to receive and assess the claims. A special Hotline was established to enable people to lodge their claims with the Ombudsman’s Office. The Hotline was officially discontinued in mid August but the Ombudsman’s Office has continued to accept claims.

In August 2003 the Premier announced the appointment of an Independent Assessor who will assess all claims and decide whether ex gratia payments should be paid to claimants. The Assessor has been given the power to determine payments up to a maximum of \$60,000 per person, or more in special circumstances.

### **What is the scope of the Review?**

The scope of the Review is set out in a Protocol Agreement between the Ombudsman and the Department. Adults over 18 who claim to have been abused as children in State care are invited to contact the Ombudsman’s Office. The Memorandum sets no time limits on when the abuse occurred and the concept of child abuse is not specifically defined. By definition, State care encompasses the full range of placements for children, including foster homes and Government and non-Government institutions run mainly by Church organizations.

The Ombudsman has two tasks. The first is to independently assess the strength of individual claims and to make recommendations to the Department as to what further action is required. Once all claims have been assessed, the Ombudsman will prepare a formal investigation report under section 23 of the *Ombudsman Act 1978* for the Minister for Health and Human Services and for tabling in Parliament. The report will identify any systemic issues which have emerged from the Review of past abuse. Recommendations will be made in respect of any changes to current practice, policy and procedures seen as necessary to prevent future abuse of children in State care.

### **What is the Ombudsman’s Review process?**

The Ombudsman has established a special team of six people to carry out the Review. All members of the team are experienced professionals who are sensitive to the needs of people who have been victims of abuse. The review process is as follows:

➤ Preliminary details of claims are recorded when the initial telephone contact with the Ombudsman Office is made.

➤ Persons who meet the Review criteria are interviewed by two investigators and a written summary of the interview is prepared. Interviews are being conducted in all parts of the State. Arrangements are being made to interview inter-state residents.

➤ A detailed analysis of departmental file information is undertaken to verify that the person was in State care and to record any reported incidents of abuse. The file analysis is frequently a complex process which may involve researching archival material and examining several files for the one person. The task is complicated by the fact that the Department responsible for the welfare of children in State care has undergone many changes in the past forty years and the relevant legislation has similarly undergone significant change.

➤ The Ombudsman forwards to the Department a dossier for each claimant which provides:

- details of the person's history while in State care
- a summary of their interview
- the Ombudsman's overall assessment of the strength of their claim
- recommendations to the Department for further action.

➤ All claimants are advised as soon as they contact the Ombudsman's Office that they may seek counseling through the Department. They are also advised when their dossier is to be sent to the Department and what the Ombudsman's recommendations are.

### **How is child abuse defined?**

For the purpose of the Review, abuse is as defined in section 3(1) of the *Children, Young Persons and Their Families Act 1997*:

'Abuse or neglect' means-

- (a) sexual abuse; or
- (b) physical or emotional injury or other abuse, to the extent that-

(i) the injured, abused or neglected person has suffered, or is likely to suffer, physical or psychological harm detrimental to the person's wellbeing; or

(ii) the injured, abused or neglected person's physical or psychological development is in jeopardy.

To assist with assessment of claims, allegations of abuse have been categorized as sexual; physical and mental or emotional. It is of course recognized that the categories are not mutually exclusive and rarely reflect the complexity of circumstances that surround the harm that has occurred to an individual.

### **What progress has the Ombudsman made in respect of the Review to date?**

#### **Number of claims received**

Since the Review commenced on 14 July 2003, a total of 306 telephone calls have been received, of which 233 need a review of claim (as of 5 December 2003). Those not being reviewed include people seeking general information or offering support as potential witnesses.

#### **Number of interviews conducted**

The Review team has interviewed 83 claimants and forwarded eleven completed dossiers to the Department for further action. The Review team has made two visits (each of two days) to the Launceston area to conduct interviews and spent six days in Burnie. Mainland interviews are tentatively arranged for the New Year.

### **What are the time lines for completion of the Review?**

Based on the number of interviews still to be undertaken, it is anticipated that all interviewing will be completed by Easter 2004. This is of course dependent upon the number of claims that continue to come in as no cut off date for claims has been announced.

At the completion of the interviews, a further period of time needs to be allowed for finalisation of all assessments. This should be completed by 30 June 2004.

The Ombudsman's investigation report is already underway, but will not be able to be completed until all claims have been assessed and finalized.

**Jan O'Grady, Ombudsman. 11/12/03**