

**Submission to Advocacy for Children and Youth in Tasmania -
Discussion Paper**

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ynot is the peak body representing the voice of Tasmanian youth

Our vision

A Tasmania where young people are actively engaged in community life and have access to the recourses needed to develop their potential.

About YNOT

YNOT is the peak body for the non government youth sector in Tasmania. YNOT represents the interests of its members and the interests of young people (aged 12-25) in Tasmania. YNOT aims to represent these interests by collaboration and involvement of both young people and service providers in identifying and responding to issues that are affecting the youth sector in Tasmania. The Tasmanian Youth Forum (TYF) is a YNOT initiative and is Tasmania's peak youth consultative and participatory body.

YNOT advocates for young people in multiple ways. One form of advocacy and consultation utilized by YNOT is the TYF. Benefits of the TYF include:

- It is independent.
- It is open to any young person who wants to have a say on what happens in their community.
- Discussing issues and concerns of young people and possible solutions.
- Active engagement with young people and
- Young people are involved in advocacy.

Some additional examples of advocacy at YNOT are:

- Promoting policy development that takes into account the assets and capabilities of young people and service providers.
- Advocating for social inclusion of young people, to give them the opportunity to participate within their communities.
- Ensuring there is a locally based connection and liaison with all young people and
- Building cohesion with key people in government, leading to strong partnerships with YNOT. This allows for effective consultation prior to making decisions to ensure the best possible outcomes for all young people are being strived for.

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Introduction

The Youth Network of Tasmania (YNOT) appreciates the opportunity to provide this submission relating to Advocacy for Children and Young People in Tasmania. As the peak body of the non-government youth sector in Tasmania, YNOT is interested in seeing advocacy services improve for children and young people. YNOT represents the interests of its members and the interests of young people (aged 12-25). YNOT aims to identify and respond to issues affecting young people in Tasmania by collaboration with young people and service providers. Advocacy for children and young people in Tasmania is an area YNOT is very interested in and puts forth the following submission.

Use of the Term “advocacy”

The discussion paper instructs respondents to use whichever definition of advocacy that is familiar to them; however it is unclear what type of advocacy the paper is referring to. While different agencies or organizations will have a specific definition of advocacy, generally there are two types of advocacy: individual advocacy or advocacy that is related to system wide issues. YNOT believes there are opportunities for both individual advocacy and advocacy through wider systems to be improved and therefore both types of advocacy have been referred to throughout this submission.

Advocacy for Tasmania’s Children and Youth

Do you consider the existing advocacy services for children and youth in Tasmania to be adequate? If not how can they be improved?

Australia is a signatory to the *United Nations Convention of the Rights of the Child* (Australian Human Rights Commission, 2007) meaning that Australia has a duty to ensure all children’s rights under the convention are upheld. Every Australian state and territory has an independent commissioner and/or guardian to ensure the rights of children under the *United Nations Convention of the Rights of the Child* are upheld (Australian Human Rights Commission 2011). It is the role of the Tasmanian Commissioner for Children to examine legislation, policy and practices that impact upon the health, welfare, care, protection and development of all children (Commonwealth of Australia, 2009, p.57). While it has been suggested that the statutory powers of the Tasmanian Commissioner for Children are appropriate for the role as it is currently outlined in the *Children, Young People and their Families Act (1997)*, YNOT is of the opinion that this alone is not adequate in advocating for the needs and rights of children in Tasmania. Existing advocacy services are not only limited but are also tailored towards certain cohorts of young people. For example, disability advocacy services such as Speak Out and young people in State care advocacy services such as CREATE, are restricted to young people with a disability or young people involved in the care system. Consequently, these advocacy services do not suit the needs of all children and young people. Independent advocacy for young people (particularly those aged 12-18) is important as they are at a very transitional time in their lives and there needs to be more independent advocacy options available to them. As there is not a Children’s Peak functioning in Tasmania at this time YNOT is of the opinion that advocacy services for children as a whole are not adequate and changes need to be made to rectify this.

While it could be argued by some that existing advocacy services for children and youth in Tasmania are adequate; YNOT argues that it is not enough to aim for adequate services and that Tasmania should be aiming to lead in advocacy services available by having best practice. Services need to work in collaboration to complement each other in order to ensure the best possible services rather than adequate services. Existing is not enough, advocacy

services need to be constantly working to collaborate with other services, the Government and young people to make improvements needed to get the best possible outcomes for young people in Tasmania.

YNOT strongly recommends that to improve advocacy services available to young people in Tasmania, the Commissioner for Children's role include people up to the age of 25. Australia's *National Strategy for Young Australians* (Australian Government, 2009) defines young people as those between 12 and 24 and other Australian states define a young person as 25 and under. It has been suggested that it is convenient to treat young people as if they are children (Rayner, 2004). For example, the Commonwealth Government assumes that parents continue to financially support young people up to the age of 25 which impacts upon government supports and payments young people can receive. However, these are the same young people who can legally drive cars, join military forces, vote, get married and be sentenced to an adult correctional facility (Rayner, 2004).

Currently, in Tasmania the Commissioner for Children only includes those up to the age of 18. Issues that arise for young people as a result include: a young person in Ashley Youth Detention Centre will have the difficult transition when moved to Risdon Prison at 18. Similarly those suffering from an eating disorder, for example, and are institutionalised at 17 will be cared for under the role of the Commissioner for Children, however, when they turn 18 they will be moved to an adult facility and receive limited support. YNOT acknowledges that neurological and emotional development of young people occurs well into their twenties (Ross & Fabiano, 1985). Therefore YNOT maintains that it is important to the improvement of advocacy services for children and young people in Tasmania that young people be defined as those under 25 years to reflect the fact that young people do not become functional adults as soon as they turn 18 and that they continue to require the support and services of the State.

Advocacy for Children and Youth likely to be/are/have been in contact with Child Protection Services

Are existing advocacy services for children and youth who are likely to be, are, or have had involvement with Child Protection Services adequate? If not how can they be improved?

Tasmania currently has a child protection system working to ensure the needs of the children in care are met. With limited amounts of workers for a large number of cases, YNOT argues that while the existing advocacy services for children and youth involved or likely to become involved with Child Protection Services are admirable, they are not adequate to meet the needs of children and young people. As of 30 June 2012 there were 1009 young people living in out of home care in Tasmania alone (Australian Institute of Family Studies, 2013). Numbers of children in care in Tasmania have risen gradually during the last five years; however, it is alarming that since 2003 the number of children in care has doubled (Australian Institute of Family Studies, 2013). This may be because young people's issues are not being addressed and resolved in which case more advocacy services or improvements to current services are needed. This increase may also be due to higher numbers of incidents being reported which has the same outcome; higher numbers of cases requires a higher number of advocacy services to ensure services are not just adequate but are the best they possibly can be.

YNOT believes that young people should be involved in their own lives and have an input into decisions and actions that will impact upon the. Case plans relating to children and

young people in care are mandatory in every state and territory (CREATE Foundation, 2013). These plans are developed to assist children and young people in achieving their full potential which is a core principle of YNOT. The National Standards for out of home care and policy within the Tasmanian Department of Health and Human Services make it clear that all young people aged 15 and above should have a case plan; however, as of June 2012 only 20% of 15-18 year olds leaving care had plans (Commissioner for Children Tasmania, 2012). Without such plans in place it is often difficult for young people to make a successful transition from care to independent living. In comparison, Queensland combines the role of the Commissioner and Guardian and in the 2010-2011 period, 81.5% of young people in out of home care in Queensland had case plans and over 50% of those young people contributed significantly to their own plan (Commission for Children and Young People and Child Guardian, 2011).

Currently in Tasmania there are no statutory bodies or mechanisms in place for independent monitoring of non compliance with the mandatory requirement for case plans (Commissioner for Children Tasmania, 2012). This suggests to YNOT that adequate services are not enough or there are not enough advocacy services for children and young people in Tasmania for this gross injustice to be overlooked. This also leads onto YNOT's second recommendation for improving advocacy services for children and young people in Tasmania.

YNOT suggests that this non compliance with providing case plans could be rectified by the appointment of a Guardian for Children. While currently there are no advocacy services able to advocate for or to provide independent monitoring of children in the Child Protection System, this would be a key role of a Guardian for Children. YNOT maintains that a Guardian for Children would serve as an advocate for children in the Child Protection System and would be vast improvement to the overall advocacy services provided for children and young people. Best practice suggests that early intervention strategies, such as parenting support be implemented to support children before they become involved in the child protection system. Unless families receive early intervention, outcomes for children's health, education and wellbeing will be impacted (Children and Family Services 2008). Early intervention strategies in conjunction with a Guardian for Children would lead to best possible practice and better outcomes for children and young people in Tasmania. YNOT considers children aged 0-12 to be more disadvantaged than young people aged 12 and above in terms of advocacy in Tasmania. Advocacy options need to be improved for this age group as currently in Tasmania independent advocacy for children aged 12 and under is non-existent. YNOT believes that increased advocacy by Commissioner for Children for this age group in the future would be a benefit to all children in Tasmania. Therefore, YNOT maintains that an appointment of a Guardian for Children would improve advocacy services for children and young people, particularly those who are currently the most disadvantaged.

An additional way of improving advocacy services for children and young people in Tasmania is employing more case workers. The relationship children and young people have with their caseworker is important while in the care system and also for their transition from care into independent living or transition from care into their own family. In a recent survey 40% of children and young people in care said they couldn't contact their caseworker as often as they wanted to and they thought caseworkers could be more helpful (CREATE Foundation, 2013). YNOT suggests that employing more caseworkers in Tasmania would result in establishing stronger working relationships between caseworkers and children and

young people in care as caseloads of current caseworkers would be reduced, which would result in better outcomes for children and young people in Tasmania.

Advocacy for Children in Care or Detention

Are the existing advocacy services for children and youth who are likely to be, are, or have had involvement with Youth Justice (including Ashley Youth Detention Centre) adequate? If not how can they be improved?

YNOT is of the opinion that any advocacy services that are deemed to be only adequate are insufficient. Instead Tasmania should be striving to be at the forefront of best practice services dedicated to young people involved or likely to be involved with the Youth Justice system. There are existing services in place advocating for children and youth in the youth justice system, however YNOT maintains that these services are not adequate in terms of meeting the needs of young people involved in the justice system.

YNOT notes the disparity between the funds allocated to detain a small number of young people compared to intervention programs which are targeted towards a larger number of young people. Evidence suggests young people who are diverted away from the youth justice system via early intervention are less likely to offend (Hazel, 2008) and that detention does not effectively deter offence or re-offence (Richards, 2009). Therefore YNOT advocates that implementing early intervention services is a high priority. YNOT maintains that intervention programs such as the UTurn program operating out of Moonah, which is focused on young people who have committed car theft, should receive significant funding as these intervention programs are shown to be effective. Another early intervention strategy YNOT supports is the use of mentoring programs. Research has shown that early intervention with young people using mentors has reduced reoffending, increased community involvement, improved self esteem and communication skills and increased motivation (Delaney & Milne, 2002). Internationally mentoring programs have been a success. The Mentoring-Plus Program in the United States resulted in 73% of the mentees enrolling in college; further training or work, another mentoring program in Manchester has a 60% success rate in reducing offending or reoffending (Dawes & Dawes, 2003).

The Commissioner for Children in Tasmania is required to act as an advocate for detainees under the *Youth Justices Act 1997*. The Commissioner for Children attends regular meetings with young people in Ashley Youth Detention Centre to discuss issues and concerns. If issues are identified it is the responsibility of the Commissioner to act on these and in the past the Commissioner for Children in Tasmania has advocated for changes to be made to the youth justice system. This is an important function of the Commissioner and it is providing an advocacy service for young people in Ashley Youth Detention Centre, however, YNOT argues that additional advocacy services are needed to support children and young people involved or likely to be involved in the youth justice system to ensure best possible practice.

As 66% of the young people in Ashley Youth Detention Centre are on remand (Commissioner for Children, 2011), YNOT also continues to advocate for changes to be made to the youth justice system. YNOT believes that it is not appropriate to use youth detention centres as an accommodation option because there are no other housing options and maintains that in-home detention and electronic monitoring systems are alternatives the State Government could implement. YNOT suggests that detention is not an appropriate place for young people and believes alternatives to detention are preferable. YNOT

proposes that to achieve the goal of reducing crime alternative styles of detention should be considered and implemented.

Responding to Complaints

Please comment on how you perceive the need or otherwise for the role of Commissioner for Children to include the capacity to respond to individual complaints relating to children and youth in care.

Under the *Children, Young Persons and their Families Act (1997)* the Commissioner for Children in Tasmania does not have the power to investigate an individual complaint other than when the Minister of Children requests it. With several children and young people being placed in out of home care or in the care of the youth justice system YNOT argues that there is a gap in the current services as individual complaints cannot be responded to by the Commissioner for Children. YNOT believes there is a need for individual complaints relating to children in care to be responded to and investigated. This need arises from YNOT's mission to advocate for children and young people to be included in their own lives, to be safe and well cared for and to be protected by the State, something the Commissioner for Children is also aiming to achieve. Having young people's individual complaints responded to will create a more effective care system and ensuring the needs and rights of the children in care are being met.

The roles of the Commissioner for Children and Young People and Child Guardian have been combined in Queensland and individual complaints are responded to. Furthermore, complaints relating to children and young people in any form of state care can be raised by anyone, including the young people themselves. These complaints are dealt with separately; an aspect of this model YNOT strongly supports as the child or young person themselves is given a voice separate from the care provider. Although YNOT advocates for the appointment of a Guardian for Children in Tasmania to fulfil this role, alternatively this combined model utilized in Queensland would be a sufficient alternative to a Guardian for Children to deal with individual complaints. The resolution rate for identified issues affecting young people in care in Queensland via individual advocacy is impressive (Commission for Children and Young People and Child Guardian, 2013) and therefore YNOT maintains there is a need for individual complaints to be addressed.

Guardian for Children

Do you think there needs to be a particular role of Guardian for the children and youth in Tasmania?

YNOT argues that there is most definitely a need to utilise the specific role of Guardian for Children and Young People in Tasmania in order to improve advocacy services for Tasmanian children and young people. A Guardian for Children role would compliment and contribute to current advocacy services for children and young people; having just a Commissioner for Children may be deemed adequate, however, in aiming for best possible practice a Guardian for Children role is needed.

The role of the Commissioner for Children is to ensure the rights of children and young people are upheld and that they are protected by the state. Based on the role of a Guardian for Children in other Australian states, it can be said that this role is vastly different from the role of the Commissioner as the role of a Guardian for Children is to monitor the activities of the child protection system on an operational level. Furthermore, the role of a Guardian for Children includes identifying issues impacting on systemic effectiveness and to draw up care

plans and to audit case files. The absence of a Guardian for Children in Tasmania results in missed opportunities to identify areas in need of improvement, meaning there are missed opportunities to improve the care systems for children and young people in Tasmania.

The New South Wales Guardian for Children commenced the Case File Audit Program in July of 2004 (Office of the Children's Guardian, 2013) in order to focus on the health and wellbeing of children and young people in state care and has subsequently released a number of statements indicating the effectiveness of this program in helping to advocate for children and young people. Case file audits provide a "big picture" of what is happening in out of home care; they monitor how congruent practice is with legislation, require agencies to demonstrate how they are meeting the statutory standards of care and enable the identification of areas that would benefit from research to enable service providers to give children and young people the best possible opportunities. YNOT argues that there is a need for this efficiency and dedication to be employed within Tasmania to ensure children and young people have the best possible opportunities and that service providers are held accountable for their actions and decisions. As previously outlined in reference to children specifically in out of home care, Queensland's combined Commissioner/Guardian role is effective in responding to individual complaints and effective in implementing leaving care plans. As leaving care plans and investigation of complaints relating to children in care are the responsibilities of a Guardian for Children it can be argued that Tasmania's care plan rate is significantly lower than that of Queensland due to absence of an independent Guardian (like New South Wales) or a combined Commissioner/Guardian role (like Queensland).

It is the recommendation of YNOT that the Tasmanian Government establish a Guardian for Children which will allow for a focus on improving advocacy services for children and young people in the care of the State. Tasmania is a small state; however, there are large numbers of children and young people in out of home care and the youth justice system. YNOT maintains that to provide best practice, a Guardian for Children needs to be appointed in Tasmania. However, YNOT acknowledges that this may not be viable given the challenging financial times and therefore submits that an alternative would be to utilize the available resources and to combine the roles of Commissioner and Guardian as they have done in many other Australian states. YNOT maintains that it would be in the best interests of children and young people in Tasmania to appoint a Guardian for Children working independently of the Commissioner for Children, however, an effective alternative is to use the existing available resources be utilised and following the lead of Queensland, the roles of Commission and Guardian be combined to benefit Tasmanian children and young people.

Investigation and Inquiry Functions

Is there a need for the Commissioner for Children to initiate their own investigations, independent reviews and inquiries about particular children and circumstances and/or systemic issues?

Currently, as in most States, the Commissioner for Children does not have the authority to initiate their own investigations, but can do so at the request of the Minister. In order to effectively advocate for the rights and needs of Tasmanian children and young people, the Commissioner needs the same authority as the Ombudsman and Auditor General in being able to initiate independent investigations. YNOT maintains that there needs to be an independent body focused on the care and wellbeing of children and young people in state care – a Guardian for Children would fulfil this role and this would include investigations and reviews, however, YNOT believes that the Commissioner for Children needs the power to initiate investigations also.

The Commissioner for Children in the UK is considered to be at the forefront in providing the best possible practice in advocating for the wellbeing and rights of children and young people. The UK Commissioner for Children has the power to initiate investigations into specific matters and even certain children if there are issues relevant to public policy that involve other children (Children's Commissioner 2013). YNOT maintains that Tasmanian children and young people would benefit from having a Commissioner who can initiate their own investigations and reviews.

YNOT believes a key principle needed in undergoing reviews and independent investigations is a collaborative partnership between different bodies as collaboration would ensure that needs are being met and the best possible outcomes are achieved. A collaborative and cooperative partnership between the Commissioner for Children and the agencies responsible for the health and wellbeing of children would be beneficial to all Tasmanian children and young people.

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