



Your Ref:  
Our Ref

13 October 2024

Vicki Baylis  
Independent Reviewer  
C/- Review Secretariat  
Independent Review of Education in Tasmania

By email: [contact@ier.tas.gov.au](mailto:contact@ier.tas.gov.au)

Dear Ms Baylis,

**Re: Independent Education Review Public Consultation Paper**

Thank you for the opportunity to make a submission to the Tasmanian Government's Independent Education Review (the Review).

Pursuant to the Terms of Reference, the Review is focussed on five key themes: defining educational success; strengthening supports and engagement for all learners at all stages of their education; outcomes at the conclusion of the formal years of schooling; support for our teaching workforce and; accountability for improved outcomes.

I was pleased to note the focus in the Consultation Paper on strengthening supports and engagement for all learners, and the commitment to inclusive consultation with children and young people, families, and educators.

In this submission, which is not intended to be exhaustive, I focus at a high-level on the critical importance of understanding and upholding children's human rights within Tasmania's education system and more generally. I invite you read my comments in conjunction with several publications of this Office which have already been shared with the Review team, including:

- The thoughts of CCYP Ambassadors on Tasmania's education system.<sup>1</sup>
- Publications and other outputs of the Voices for Tasmanian Youth Consultative Council.<sup>2</sup>
- Publications of the Voices of Young People in the Youth Justice System Project.<sup>3</sup>
- The final report and other outputs of former Commissioner McLean's systemic investigation into a change to the case management of children and young people in

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<sup>1</sup> For further information, visit: <https://childcomm.tas.gov.au/young-people/young-peoples-thoughts-on-education/>

<sup>2</sup> For further information, visit: <https://childcomm.tas.gov.au/young-people/the-voices-for-tasmanian-youth/>

<sup>3</sup> For further information, visit: <https://childcomm.tas.gov.au/everyone/major-programs/youth-justice/the-voices-project/>



care in Tasmania.<sup>4</sup>

I also draw to your attention recent submissions of this Office to the Australian Parliament's Joint Standing Committee on Electoral Matters Inquiry into Civics Education, Engagement and Participation in Australia<sup>5</sup> and the Tasmanian Parliament's Inquiry into Discrimination and Bullying in Tasmanian Schools.<sup>6</sup>

## **Role of the Commissioner for Children and Young People**

As you are aware, the Commissioner for Children and Young people is an independent statutory office established by the *Commissioner for Children and Young People Act 2016* (Tas). The general functions of the Commissioner include:

- advocating for all children and young people in the State generally;
- researching, investigating, and influencing policy development into matters relating to children and young people generally;
- promoting, monitoring, and reviewing the wellbeing of children and young people generally;
- promoting and empowering the participation of children and young people in the making of decisions, or the expressing of opinions on matters, that may affect their lives; and
- assisting in ensuring the Government satisfies its national and international obligations in respect of children and young people generally.

In performing these and other functions, the Commissioner is required to:

- do so according to the principle that the wellbeing and best interests of children and young people are paramount; and
- observe any relevant provisions of the United Nations *Convention on the Rights of the Child* (UNCRC).

## **Comment**

In my view, adopting a child-rights-based approach to education reform is vital to maximise equitable outcomes for all school-aged students in Tasmania. This should include a focus on the fundamental wellbeing and development of the whole child, as an individual rights-holder, a family member and a community member.<sup>7</sup>

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<sup>4</sup> For further information, visit: <https://childcomm.tas.gov.au/everyone/ccyp-investigation-into-the-introduction-of-a-new-out-of-home-care-case-management-approach/> and <https://childcomm.tas.gov.au/young-people/a-place-at-the-table/>

<sup>5</sup> Available at:

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Electoral\\_Matters/Civicseducation/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/Civicseducation/Submissions)

<sup>6</sup> Available at: <https://www.parliament.tas.gov.au/committees/house-of-assembly/standing-committees/government-administration-committee-a/inquiries/discrimination-and-bullying-in-tasmanian-schools/submissions/submissions>

<sup>7</sup> See further, UN *Convention on the Rights of the Child*. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.



## *The right to education*

I wholeheartedly agree with the statement made in the consultation paper that, '(e)very student in Tasmania deserves access to a high-quality education, no matter which school they attend'.

It is also the *right* of every child to receive an education (Article 28) that is *available*, *accessible*, *acceptable*, and *adaptable* to their needs.<sup>8</sup> Further, Article 29 of the UNCRC assures to all children the right to an education which supports the holistic development of their full potential.<sup>9</sup> Any definition of educational success should take account of these rights and the corresponding duty of the state to respect, protect and fulfil them.

In saying this, it is important to acknowledge that children's human rights are interconnected and indivisible, and 'are not detached or isolated values devoid of context but exist in a broader ethical framework'.<sup>10</sup>

Other children's human rights with relevance to the Review include:

- All rights apply to all children without discrimination (Article 2)
- The best interests of the child shall be a primary consideration in all actions concerning them (Article 3)
- Parents, extended family (where applicable), and community have responsibility to provide appropriate direction and guidance on child rights (Article 5)
- Children have the right to life, survival and development (Article 6)
- Children have the right to freedom of expression, including to seek, receive and impart information (Article 13)
- Children with a disability have a right to special care and support (Article 23)
- Children have the right to be free from violence (Article 19)
- Education should develop the child's personality, talents, mental and physical abilities to their fullest potential. It should prepare the child for a responsible life in a free society (Article 29).

In the context of the Review's thematic area of 'strengthening supports and engagement for all learners at all stages of their education', I would urge you consider the structural factors that 'create, perpetuate and legitimise' particular forms of social exclusion, including at school.<sup>11</sup>

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<sup>8</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 13: The right to education (article 13)* (1999).

<sup>9</sup> <https://www.ohchr.org/en/resources/educators/human-rights-education-training/general-comment-no-1-aims-education-article-29-2001>

<sup>10</sup> Committee on the Rights of the Child, General Comment No 1 (2001), The Aims of Education, para 7.

<sup>11</sup> Redmond G, Main G, O'Donnell AW, et al. Who excludes? Young People's Experience of Social Exclusion. *Journal of Social Policy*. 2024;53(1):236-259. doi:10.1017/S0047279422000046



For example, a recent review of Australian children and young people's learning undertaken by ARACY in collaboration with UNICEF Australia identified several emerging challenges for children's learning and education.<sup>12</sup> One such challenge is the cost-of-living crisis which continues to compound barriers to education experienced by children growing up in families who are 'doing it tough' (and, I would add, children who experience homelessness alone).

Tasmania has among the highest levels of disadvantage compared to the rest of Australia with more than two-thirds of children and young people living in areas of relative disadvantage characterised by low income, low educational attainment, and high unemployment. There is clear evidence that the experience of "doing it tough" at home 'carries over into disadvantage at school'.<sup>13</sup>

The Children's Policy Centre has defined poverty based on the things Tasmanian children say matter most to them. From a child-centred perspective, poverty means that children do not have the material basics, their opportunities are limited, and crucial relationships are not in place or are under pressure.<sup>14</sup> In the context of the *More for Children* research, children spoke about life being good "when there are things to do that are fun and meaningful, when people are kind and caring, and school and communities are welcoming and safe". The importance of schools being welcoming and safe spaces for all is echoed by the Voices for Tasmanian Youth in their report, *Speaking out for a Safer Tomorrow: Our Messages for Change* report.<sup>15</sup>

It is a recurrent theme in our conversations with children and young people that having positive, safe and supportive relationships with adults helps them to feel welcome and safe at school and improves school attendance. Any education reform should prioritise and invest in supporting teachers and school staff to build and sustain meaningful positive relationships with their students.

### *Child rights education*

Article 42 of the UNCRC requires that, 'States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike'.<sup>16</sup>

UNICEF has said the following regarding child rights education:

*'A 'child rights approach' is one which furthers the realization of the rights of all children as set out in the Convention by developing the capacity of duty-bearers to meet their obligations to respect, protect and fulfil rights (Article 4) and the capacity of rights-holders to claim their rights'.<sup>17</sup>*

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<sup>12</sup> See generally, [Empowering Young Minds - Aracy](#) (pages 31-32)

<sup>13</sup> Redmond G, Main G, O'Donnell AW, et al. Who excludes? Young People's Experience of Social Exclusion. *Journal of Social Policy*. 2024;53(1):236-259. doi:10.1017/S0047279422000046

<sup>14</sup> Bessell, S, Lang, M & O'Sullivan, C (2024). *More for Children: What children says makes life good or tough*, The Children's Policy Centre, Australian National University.

<sup>15</sup> Available at: <https://childcomm.tas.gov.au/wp-content/uploads/2024/07/CC-Voices-for-Youth-Report-DIGITAL.pdf>

<sup>16</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>17</sup> UNICEF (2014). *Child Rights Education Toolkit: Rooting Child Rights in Early Childhood Education, Primary and Secondary Schools, First Ed.* [UNICEF-CRE-Toolkit-with-appendices.pdf](#).



It follows then that any education reform should not only consider the extent to which the child's right to education is realised, but also the extent which they enjoy their right to know and understand their rights. An important part of this is supporting the capacity of teachers, school administrators and leaders, and others with responsibility for the education of children and young people, to understand and adopt a child rights-based approach in their work. This also means educating our children and young people about everyone's human rights and empowering them realise their own rights in educational settings.

### *The child's right to participate*

Respect for the child's right to participate *within* education is essential to the child's right to education. Under the UNCRC, children and young people have the right to genuine participation in all matters that affect them (Article 12) and the right to receive information that is accessible to them (Article 13).

Article 12 of the UNCRC provides that:

State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

The Committee on the Rights of the Child has emphasised the importance of schools being child-friendly in the fullest sense of the term and has called for the promotion of children's participation in school life. It has said:

... efforts to promote the enjoyment of other rights must not be undermined, and should be reinforced, by the values imparted in the educational process. This includes not only the content of the curriculum but also the educational processes, the pedagogical methods and the environment within which education takes place, whether it be the home, school, or elsewhere. Children do not lose their human rights by virtue of passing through the school gates. Thus, for example, education must be provided in a way that respects the inherent dignity of the child and enables the child to express his or her views freely in accordance with Article 12 (1) and to participate in school life...The participation of children in school life...should be promoted as part of the process of learning and experiencing the realization of rights.<sup>18</sup>

I note that this Office provided advice and guidance to the Review Secretariat in the development of consultation opportunities for children and young people to inform the Review. I commend the focus of the Review on engaging with and hearing from children and young people across Tasmania and look forward to the outcomes of that engagement. To fully realise the right to participate it will be important to let children and young people know how their contributions have informed the findings of the Review in a way that is accessible to them.

Finally, I take this opportunity to draw to your attention work recently undertaken by the Department of Education in the Republic of Ireland to strengthen its approach to upholding the right of students to participate in education policy development. The report of the Expert Group on Student Participation was informed by extensive consultation with children and young people and written in a way that is accessible to them. The concurrent release of the Department's implementation plan responding to each of the four recommendations of the

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<sup>18</sup> Committee on the Rights of the Child, *General Comment No 1 (2001), The Aims of Education*, para 8.



Expert Group means that children and young people can immediately see how their views will be responded to during the lifetime of the plan.<sup>19</sup>

I would welcome the opportunity to expand on these and related matters, should you wish to discuss them further.

Yours sincerely,

Isabelle Crompton  
Interim Commissioner for Children and Young People

cc *Minister for Education*  
*Minister for Children and Youth*

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<sup>19</sup> The Report of the Expert Group on Student Participation, the Report on Consultations with Children and Young People, the Student Participation Implementation Plan, and the background report of the Expert Group on Student Participation and other related publications are available at: <https://www.gov.ie/en/publication/a77d9-student-participation-in-education/?referrer=https://www.gov.ie/itstartswithyou/>