



## Commission of Inquiry into Child Abuse in Tasmanian Institutions

Greens Opposition Justice Spokesperson Nick McKim MHA has pushed for a Commission of Inquiry into Child Abuse in institutions in Tasmania, and has released the proposed Terms of Reference for debate in Parliament on Wednesday 3rd December.

The Greens have taken action due to the recalcitrance of Premier Bacon and Prime Minister John Howard, and the overwhelming need of victims of child abuse for progress in relation to this issue. The Greens consulted closely with groups and individuals, including peak lobby Group CICSA, while drafting the Terms of Reference.

### Notice of Motion

25 November 2003

Mr McKim on tomorrow to move -  
That this House:

1. Directs that a Commission of Inquiry into child abuse in institutions in Tasmania be established under the *Commissions of Inquiry Act 1995* with the following terms of reference:

i) to investigate whether child abuse has occurred, or is occurring, in institutions in Tasmania, including, but not limited to:

- a. identifying the nature and extent of any abuse which occurred, or is occurring; and
- b. identifying any perpetrators of any abuse which occurred, or is occurring;

ii) to investigate the adequacy of any response to child abuse in institutions in Tasmania, including, but not limited to:

- a. whether there was a failure to act appropriately or according to law;
- b. whether any attempts were made to conceal child abuse in institutions in Tasmania, or whether there was any concealment of child abuse in institutions in Tasmania; and
- c. the adequacy of assistance and compensation offered or paid to victims of child abuse in institutions in Tasmania;

iii) to investigate the adequacy and application of legislative provisions and statutory penalties which pertain to child abuse in institutions in Tasmania;

iv) to recommend appropriate legal proceedings arising from child abuse in institutions in Tasmania;

v) to recommend appropriate action to assist the prevention of child abuse in institutions in Tasmania, including, but not limited to:

- a) changes to institutional frameworks, including but not limited to statutory authorities, Government programs funding;
- b) changes to legislative frameworks;
- c) changes to mandatory reporting procedures; and
- d) legal action;

vi) to recommend appropriate compensation or other redress for victims of child abuse in institutions in Tasmania;

vii) to recommend appropriate legislative amendments to assist the prevention of child abuse in institutions in Tasmania, including but not limited to an examination of the *Limitation Act 1974*, the *Evidence Act 2000*, the *Criminal Injuries Compensation Act 1976* and the *Children, Young Persons and Their Families Act 1997*;

viii) all other matters incidental thereto;

2. Directs that the Inquiry shall consider the findings of previous and current investigations into child abuse in institutions in Tasmania;

3. Directs that the Inquiry can investigate, and make recommendations, in relation to any other matter brought to light during its examination of the terms of reference;

4. Directs that investigatory officers employed by the Inquiry shall have access to all investigatory tools and powers available to Tasmania Police, and any extra powers as deemed necessary and appropriate by the Parliament;

5. Directs that the Inquiry should examine complaints only made directly to the Inquiry by an affected person, their legal guardian or legal representative, and issues arising from those complaints; and

6. Directs that for the purposes of this Inquiry, 'child' is to be defined in accordance with the definition contained in the *Children, Young Persons and Their Families Act 1997*; 'abuse' is to be defined in accordance with but not limited to the term 'abuse or neglect' contained in the *Children, Young Persons and Their Families Act 1997*; and 'institution' shall be defined as deemed appropriate by the Inquiry and shall include but not be limited to churches and religious institutions, Government programs, schools and education facilities, organisations, clubs, boarding houses and detention centres.

## What is a Commission of Inquiry?

The Tasmanian state 'Commission of Inquiry' is the same as a federal Royal Commission of Inquiry.

## Who makes the decision to hold a Commission of Inquiry?

A Commission of Inquiry into a matter can be instigated by a recommendation from the Tasmanian Government if it is deemed to be in the public interest. The Tasmanian Greens will table a motion calling for a Commission of Inquiry into Child Abuse in Institutions in Tasmania on Tuesday, 25th November 2003. That motion will be debated by the Parliament during the Greens Private Member Time on Wednesday, 3rd December 2003 at 4.45 p.m. At the conclusion of the debate at 5.30 p.m., the Parliament will vote on the motion. If the Parliament votes in support of the Greens' motion, that will direct the Government to inform the Governor that such an Inquiry is required.

## Why do we need a Commission of Inquiry into child abuse?

Child abuse, especially that which occurs in institutions which are regarded with trust by the community, strikes at the core of our society, and at those who are the most vulnerable in our society. Over time the public is growing increasingly aware of the extent to which this abuse has occurred, and could still be occurring, throughout our community.

The victims of such abuse deserve justice and closure. The community needs to know that the factors which enabled such abuse to occur have been identified and addressed, such as legislative anomalies, institutional frameworks, and inappropriate culture.

It is important to note that the Greens' proposed terms of reference of the Inquiry emphasise both justice for victims over past events and examination of preventative measures to benefit the future.

## Where do the other political parties stand on a Commission of Inquiry?

The Tasmanian Greens believe that the ideal situation would be for a Royal Commission of Inquiry to be held at the national level however the Prime Minister, John Howard, has refused to hold such an Inquiry.

The State Labor Premier, Jim Bacon, indicated he would 'look' at a State Inquiry if the Prime Minister refused to hold a national one. Since a federal inquiry is not forthcoming, it is now imperative that the Labor government puts action behind its rhetoric and instigate the necessary State Inquiry.

## What about the Ombudsman's Inquiry?

The Ombudsman's Inquiry does not have the same judicial powers as a Commission of Inquiry, and while it has demonstrated the scale of the problem, does not have the powers or resources to address crucial issues such as the investigation of concealment, legal action against perpetrators, or amendments to legislative and institutional frameworks. The Ombudsman, Ms Jan O'Grady, has also said that the holding of a Commission of Inquiry is a political decision.

The Commission of Inquiry proposed by the Greens has Terms of Reference that would ensure that the Inquiry can consider the findings of previous and current investigations into child abuse in Tasmanian institutions.



## Key Points of the Proposed Greens Terms of Reference

### The Terms of Reference cover:

- Investigating the nature and extent of abuse;
- Identification of the perpetrators of abuse;
- Investigating the adequacy of any response to abuse, including any concealment;
- Recommendation of appropriate action to address the issue, including legal action, compensation, and amendments to legislative and institutional frameworks

### The Terms of Reference also provide for:

- The Inquiry being able to investigate and make recommendations on matters brought to light during its examination;
- That all the Inquiry's investigators have access to all powers and investigatory tools available to Tasmania Police. If the nature of the investigation requires further powers, the Inquiry can apply to the Parliament and the Parliament will decide on whether the request is appropriate.



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