



The Hon. Paul Hamer MP

Minister for Local Government  
Minister for Youth Justice  
Minister for Corrections

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Our ref: [REDACTED]

Marlo Baragwanath  
Ombudsman  
Victorian Ombudsman

By email: [REDACTED]

Dear Ombudsman

#### **RESPONSE TO DRAFT REPORT RECOMMENDATIONS**

Thank you for your recent letter to the former Minister for Youth Justice and the Attorney-General on your investigation into the human rights assessment supporting transfer of a child from youth justice to adult prison.

I acknowledge the seriousness of your concerns and note that you have drafted eight recommendations aimed at strengthening the protection of children's human rights and administrative decision making related to the *Charter of Human Rights and Responsibilities Act 2006* (Charter). This response relates to the recommendations 1-3, which are directed at legislative or regulatory amendments. A specific response to each draft recommendation is provided in Enclosure A. I note that the Secretary of the Department of Justice and Community Safety (department) will provide a response regarding recommendations 4-8.

The legislative transfers framework is an important mechanism that helps ensure our youth justice facilities remain secure, safe and conducive to rehabilitating vulnerable children and young people. I note that the Victorian Parliament recently considered these settings in detail as part of debating the *Youth Justice Act 2024* (Act).

As you are aware, the Act commences in full on 30 September 2026. The Act makes changes to the transfers framework to ensure that young people (particularly aged 18 and over) who are seriously disruptive while in custody are able to be transferred or prevented from returning to youth justice custodial centres. The Act maintains the Youth Parole Board (Board) as the decision maker for transfer decisions, in recognition of the Board's long history of commitment to rehabilitation and best outcomes for children and young people.

The Board's exemption from the Charter is critical to allow transfer decisions to be made quickly and in response to dynamic and changing custodial environments. The Act introduces a new safeguard for children and young people facing a transfer decision, requiring the Secretary to provide the child or young person with an opportunity to obtain

legal advice prior to a transfer application being heard and determined. It also allows a young person subject to a transfer decision a right of reply to the Board.

The Act also introduces additional safeguards for children aged under 18 years, including a requirement on the Secretary, as part of a transfer application, to advise the Board of steps taken to avoid the need to transfer the child. This advice will be balanced against whether the child has engaged in conduct that seriously impacts the health, wellbeing or safety of any person in a youth justice facility. As these changes are yet to commence, it is important that government takes the necessary time to monitor and assess the efficacy of the updated transfers framework before any further legislative or regulatory change is considered.

In addition to legislative changes, a clear oversight and coordination process has been established in relation to transfers to adult prison. The Board and Sentence Management Division of Corrections Victoria have jointly established the Young Offenders Transfer Review Group to monitor and consider young people who have been, or will potentially be, transferred between a youth justice facility and prison. This group reviews the status of each young person until they complete their sentence or turn 21 years of age and are no longer eligible for return to a Youth Justice Centre, ensuring both jurisdictions maintain contemporary knowledge about these young people and the service system response.

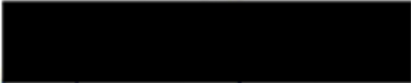
More broadly, Victoria has oversight mechanisms in place that are designed to ensure that people in custody are treated with dignity and respect. This includes both internal and independent oversight regimes that comprise the department's Justice Assurance Review Office, the Commission for Children and Young People and independent custodial facility visitor schemes. These are designed to ensure that people in detention are treated fairly, humanely and consistently with Charter.

I acknowledge that independent oversight is an important part of ensuring the safety and integrity of the youth justice system. I thank the Victorian Ombudsman and other agencies with oversight functions for the important work they do to ensure that children and young people in custody are treated fairly, humanely and consistently with the Charter.

The department will continue to work constructively with your office to respond to complaints raised about youth justice operations, and government will continue to monitor the impacts of the Act once it commences.

Thank you again for investigating this important matter.

Yours sincerely



**The Hon. Paul Hamer MP**

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4/6/2026

Cc: The Hon. Sonya Kilkenny  
Attorney-General