

# INTERIM REPORT VOLUME 1



**Royal Commission**  
into Institutional Responses  
to Child Sexual Abuse



ISBN 978-1-925118-26-1

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The artwork used for each chapter cover page was created for the Royal Commission by Josh Herd, who is descended from the Mbarbaram people of North Queensland. It represents different stories and experiences being told, heard and connected around the country.

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# INTERIM REPORT

## VOLUME 1

Royal Commission into Institutional  
Responses to Child Sexual Abuse





**Royal Commission**  
into Institutional Responses  
to Child Sexual Abuse

30 June 2014

His Excellency General the Honourable Sir Peter Cosgrove AK MC (Retd)  
Governor-General of the Commonwealth of Australia  
Government House  
CANBERRA ACT 2600

Your Excellency

In accordance with the Letters Patent issued on 11 January 2013, we have the honour to present to you the interim report of the Royal Commission into Institutional Responses to Child Sexual Abuse. It consists of two volumes:

- Volume 1: a description of the work we have done, the issues we are examining and the work we still need to do.
- Volume 2: a representative sample of 150 personal stories from people who shared their experience of abuse with us at a private session. Real names have not been used.

We are also submitting this report to their Excellencies the Governors of New South Wales, Victoria, Queensland, Western Australia, South Australia and Tasmania.

Yours sincerely

Justice Peter McClellan  
AM Chair

Mr Robert William Fitzgerald AM

Mr Robert Atkinson

Dr Helen Mary Milroy

Justice Jennifer Ann Coate

Mr Andrew James Marshall Murray



# TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
LETTERS PATENT	12
COMMISSIONERS	19
1 WHY WE ARE HERE	24
1.1 The need for an inquiry	26
1.2 Our task	29
1.3 Our operations	32
2. WHAT WE HAVE DONE	40
2.1 Private sessions and written accounts	43
2.2 Public hearings	52
2.3 Research and policy	68
2.4 Community	79
2.5 Information	85
3. WHAT WE ARE LEARNING ABOUT CHILD SEXUAL ABUSE	92
3.1 Nature and prevalence	95
3.2 Institutions	101
3.3 Legal framework	107
3.4 Victims	112
3.5 Perpetrators	120
4. WHAT WE ARE LEARNING ABOUT PREVENTING CHILD SEXUAL ABUSE	128
4.1 Recruitment and pre-employment screening	131
4.2 Child safe practices	138
4.3 Child-focused programs to reduce vulnerability	146
5. WHAT WE ARE LEARNING ABOUT RESPONDING TO CHILD SEXUAL ABUSE	152
5.1 Identification, disclosure and reporting	155
5.2 Institutional responses to reports	165
5.3 Justice for victims	176
6. WHAT WE NEED TO DO NEXT	192
6.1 The task	194
6.2 The work required	197
Appendix A: State Letters Patent	206
Appendix B: Glossary	278
Appendix C: Private session information	284
Appendix D: Mandatory reporting	300

# EXECUTIVE SUMMARY

## 1. WHY WE ARE HERE

### 1.1 The need for an inquiry

When a child is sexually abused while in the care of an institution, the impact can be devastating and last for a lifetime. It can leave a traumatic legacy for a victim's family and for future generations.

Child sexual abuse affects the entire community and diminishes the trust we place in our institutions. That trust is further eroded when an institution fails to appropriately respond to the victim's needs.

Although there have previously been some inquiries with limited terms of reference, in recent years it became clear to the Australian community that there needed to be a broad-ranging national response. On 11 January 2013, Her Excellency Quentin Bryce, (then) Governor-General, appointed the Royal Commission to inquire into institutional responses to child sexual abuse.

### 1.2 Our task

The *Letters Patent* provide comprehensive terms of reference to the Royal Commission. They require us, through private sessions and public hearings, to bear witness to the abuse and trauma inflicted on children who suffered sexual abuse in an institutional context. We must also identify and focus our inquiry and recommendations on systemic issues.

Drawing upon the experience of individuals and the investigation of systemic issues, we are required to make recommendations that will

provide a just response for people who have been sexually abused and ensure institutions achieve best practice in protecting children in the future.

Our inquiry does not extend to abuse in a family context. We do not have any power to provide compensation or initiate prosecutions. However, we do refer individual cases to police with a view to their further investigation and prosecution.

At the end of our inquiry, our final report must identify best practices and recommend the laws, policies, practices and systems that will effectively prevent or, where it occurs, respond to the sexual abuse of children in institutions.

We are approaching our task in three ways:

#### PRIVATE SESSIONS

Enabling survivors to speak directly with a Commissioner about their experiences in a private and supportive setting.

#### PUBLIC HEARINGS

A formal process during which the Royal Commission receives evidence following investigation, research and preparation.

#### RESEARCH AND POLICY

An extensive research program that includes roundtables and issues papers. It focuses on four broad areas: prevention, identification, response and justice for victims.

This interim report discusses the work we have already completed and what we have learned so far. We do not yet have enough information to make recommendations. The report outlines what we must do to fulfil our terms of reference and the time and resources we will need to complete the task. Bearing witness to past wrongs, seeking just responses for those affected now and in the future, and creating a safer place for our children guide the work of the Royal Commission.

### 1.3 Our operations

The members of the Royal Commission are:

**Chair**

The Hon. Justice Peter McClellan AM

**Commissioner**

Mr Bob Atkinson AO APM

**Commissioner**

The Hon. Justice Jennifer Coate

**Commissioner**

Mr Robert Fitzgerald AM

**Commissioner**

Professor Helen Milroy

**Commissioner**

Mr Andrew Murray

By 30 April 2014, the Commissioners were supported by 250 full-time-equivalent staff and contractors. Our people come from a variety of professional backgrounds, including public servants, lawyers, counsellors and the police. We work from headquarters in Sydney, but we also have office capacity in Perth and Melbourne.

The total budget for the Royal Commission is \$281.13 million for the financial years 2012-13 to 2015-16. Given the size of the task set out in the *Letters Patent* we faced challenges in developing our operational capacity.



Public hearing into *Towards Healing*, March 2014

## 2. WHAT WE HAVE DONE

### 2.1 PRIVATE SESSIONS AND WRITTEN ACCOUNTS

Our first priority has been to hear from people who have experienced sexual abuse as a child.

Through private sessions and written accounts, we are learning of the impact of abuse upon individuals and how the response of an institution affects survivors over their lifetimes. By 31 May 2014 we had held 1,677 private sessions and received 1,632 written accounts.

Private sessions are unique to this Royal Commission and allow survivors and others affected by abuse to speak confidentially with one of our Commissioners.

We recognise it is often very difficult for people to talk about abuse they have suffered. To identify the appropriate procedure for private sessions, we spoke at length to advocacy and support groups, mental health professionals and providers of sexual assault support services. We have trained professionals on our staff to help people through every stage of the process. Where appropriate, people who come to a private session are advised where they may seek ongoing counselling and care.

Several themes have emerged from the personal stories people have shared. For example:

- sexual abuse often occurs with physical and psychological abuse
- abuse can have lifelong impacts on health
- some children are particularly vulnerable

- repeated abuse and multiple perpetrators are common
- there are major barriers to disclosure and reporting
- institutions and adults have systematically failed to protect children.

For many, the opportunity to tell their story can be an important part of the recovery process. They provide information that helps us to identify systemic issues and institutions we should consider in public hearings, research and consultation processes. They also enable allegations that should be further investigated to be referred to the police. By 31 May 2014 over 160 allegations had been referred to police. Some participants in the Royal Commission processes have indicated that they will make an independent report to the police.

## 2.2 PUBLIC HEARINGS

Public hearings are used to examine abuse within a particular institution or a number of institutions. Considering some cases in detail and in public allows us to examine abuse that has occurred and the failures of individuals and the institution where it occurred. Looking at some cases in detail will enable us to develop authoritative findings and effective recommendations for our reports, including our final report. Importantly, they also raise community awareness and understanding of child sexual abuse and the institutions in which it has occurred.

Like private sessions, public hearings provide an opportunity for survivors to tell their stories. We have been told

of allegations of child abuse in more than 1,000 institutions. Because our resources are necessarily finite, we must carefully select the cases we decide to examine in a public hearing.

We have developed criteria by which we decide which allegations and institutions should be the subject of a public hearing. We must conduct sufficient public hearings to ensure that a range of institution types in different geographical locations throughout Australia are examined. We must also ensure that all important systemic issues are effectively considered in a public hearing.

By 30 June 2014, we had held 13 public hearings in Adelaide, Brisbane, Canberra, Perth and Sydney. Each public hearing results in a report to government that makes findings about that particular case and identifies and discusses relevant systemic issues. We submitted the first two case study reports to the Governor-General and state governors in the first half of 2014.

Public hearings are already bringing positive and significant change. Various institutions are reviewing their management practices. Some are reviewing their previous responses to victims. Government and many institutions have initiated processes to enable their effective participation in our consideration of policy outcomes.

## 2.3 RESEARCH AND POLICY

To ensure we provide authoritative recommendations of contemporary relevance to government, institutions and regulators, we have developed,

in consultation with professionals in relevant fields, a detailed research program. It focuses on the four areas of:

- prevention
- identification
- response
- justice for victims.

The research program will ensure we:

- obtain relevant background information
- fill key evidence gaps
- explore what is known and what works
- develop recommendations that are soundly based, capable of implementation and respond to contemporary issues.

We have engaged national and international experts from many disciplines to help us. These include criminologists, historians, lawyers, psychologists and social workers. A Professorial Fellow provides strategic advice and leadership, and several advisory groups guide us in specific areas or projects.

By the end of June 2014, we had completed 21 research projects, and there were more than 30 additional projects either underway or in the scoping phase.

The community has an opportunity to contribute to our consideration of systemic issues. We have released seven issues papers on topics including Working with Children Checks, child safe organisations, out-of-home care and civil litigation. More issues papers will be released inviting responses from

members of the community.

We have already received submissions on five of these papers. Our first roundtable in April 2014 enabled government and non-government representatives, regulators, policy experts, academics and advocacy groups to discuss key policy issues on out-of-home care.

## 2.4 COMMUNITY

We are aware of the need to involve the general community in our work.

We are doing this in a number of ways. We have conducted many public forums and have implemented a national public awareness campaign. We are also working with vulnerable groups, culturally diverse groups and those with special needs in the community so their members can share their experiences. We have sought to engage with many groups representing Aboriginal and Torres Strait Islander people in many different parts of Australia. We have also worked with many organisations involved with the care of and advocacy for people with disability.

## 2.5 INFORMATION

Much of our work involves collecting personal information. We are receiving thousands of phone calls, letters and emails. Private sessions will give thousands of people the opportunity to tell their story.

Our first priority is to ensure that people can communicate with us safely and securely. We have detailed policies

and information technology designed to protect all the information we hold. Other technology has been developed including purpose-built electronic hearing rooms for our public hearings together with a capacity to stream the hearing through our website.

Different laws affect sharing information with third parties, but where necessary we will share information relevant to law enforcement and children presently at risk.

### 3. WHAT WE ARE LEARNING ABOUT CHILD SEXUAL ABUSE

#### 3.1 NATURE AND PREVALENCE

There has never been a nationwide study of child sexual abuse in Australian institutions. Significant delays in reporting, high levels of under-reporting and a lack of consistent data are some of the significant challenges researchers face.

However, we have analysed the information obtained in private sessions, which may provide some useful indicators. It reveals:

- ninety per cent of perpetrators were male
- on average, female victims were nine years old and male victims 10 years old when the abuse started
- on average it took victims 22 years to disclose the abuse, men longer than women.

We do not yet know how prevalent abuse has been or continues to be within institutions. In an attempt to understand the prevalence of abuse our research program is compiling data from the police, child protection agencies, education departments and other bodies. Although many instances of abuse reported to us occurred some years ago, the information we have gathered and the public hearings we have conducted confirm that abuse remains a contemporary issue.

We understand that although many people have come forward to the Royal Commission, it is likely that they represent only a minority of those abused. Many others are yet to disclose their abuse or, for various reasons, feel unable to come forward at this time.

#### 3.2 INSTITUTIONS

To understand why abuse occurs in an institutional context we need to know more about the structure and management of institutions where it has occurred.

To assist our understanding of these issues we have commenced by identifying the broad range of institutions that have contact with children. These include government agencies, private companies, churches, faith-based and community organisations delivering out-of-home care, childcare, education, sporting, recreational and cultural activities for children.

We have researched the history of children in care to understand how institutions operated when the child safe

practices or child protection laws of today did not exist. This will enable us to identify whether changes that have occurred have been effective in minimising abuse. It may also help us to understand why perpetrators have abused children in institutional care.

The research is also helping us develop recommendations for best practice in the future structure and management of institutions.

### 3.3 LEGAL FRAMEWORK

There is an existing legal framework for the protection of children in Australia. The states and territories are responsible for relevant laws in the three areas of:

- pre-employment screening
- child protection, including regulations controlling various institutions
- criminal justice.

The child protection system involves all levels of government and many organisations in the private and community sectors. The *National Framework for Protecting Australia's Children 2009–2020* outlines the roles all organisations must play to reduce child abuse in Australia. It seeks to improve coordination and reduce duplication across multiple systems.

### 3.4 VICTIMS

All children in an institution, who have an association with an institution or in out-of-home care may be at risk of

sexual abuse. We are learning which children are most vulnerable, and what factors increase that vulnerability.

Some children are more vulnerable because of their age, ethnicity, gender, disability or immigration status. Others are vulnerable because of where they are living or being cared for. The risks of abuse can increase with geographical isolation, where there are no trusted adults to approach, or where there is inadequate training and staff supervision.

Although there is no single set of symptoms that victims and survivors experience, we have discovered some common themes. For example:

- there are both short-term and long-term effects, and many may be lifelong
- children and adolescents face emotional, physical and social impacts
- these impacts often extend into adulthood, affect life choices and mental health, and may lead to victims committing suicide
- the nature and severity of the impacts vary between survivors
- the impacts extend beyond the immediate victim, affecting parents, colleagues, friends, families and the community.

### 3.5 PERPETRATORS

What creates a perpetrator is not yet fully understood. The Royal Commission is exploring this issue further. Existing theories focus on a combination of factors that lead to offending. There is little research specific to perpetrators within institutions.

It is apparent that perpetrators are more likely to offend when an institution lacks the appropriate culture and is not managed with the protection of children as a high priority. They will manipulate people, processes and situations to create opportunities for abuse. Everyone in a responsible role in an institution must be able to recognise when perpetrators are manipulating or 'grooming children'. This requires education and training, and the development of an appropriate institutional culture.

Grooming behaviours can be difficult to recognise or distinguish from seemingly innocent actions. However, observable signs include increasingly more intimate and intrusive behaviours, creating 'special' relationships with particular children, or seeking to spend time with children alone or outside the work role.

Parents and those caring for children need to understand the characteristics of grooming behaviours.

## 4. WHAT WE ARE LEARNING ABOUT PREVENTION

### 4.1 RECRUITMENT AND PRE-EMPLOYMENT SCREENING

Pre-employment screening is an important first step in preventing abuse. It prevents known child abusers from working with children. Of course,

it only identifies people who already have some record of abuse.

Screening is not consistent across Australia; two types of checks currently exist. Police checks provide a baseline for pre-employment screening. Working with Children Checks are more comprehensive, but not all states and territories use them. Laws also vary in how they govern screening for out-of-home care placements and out-of-school-hours care staff and volunteers.

The Council of Australian Governments has attempted to develop consistency through a national approach with common screening standards. However there is disagreement between governments as to whether a national system is appropriate or can be developed.

The Royal Commission is carefully considering whether a national screening agency would offer any advantages. We raised this issue in our first two public hearings and have commissioned research on pre-employment screening and sex offender registration schemes. We will develop our response to the issue through a comprehensive consultation program.

### 4.2 CHILD SAFE PRACTICES

Developing child safe practices in institutions requires competent leadership and governance, and the right culture. Safe institutions have physical environments that enable continual supervision of staff and children.

Many view the national standards for building child safe organisations as current best practice. However, we have also received submissions that support the development of accreditation schemes, and strengthening laws to make institutions more child safe. Another suggestion is a national body overseeing child safety and sexual abuse.

Similarly, the 2011 national standards for out-of-home care offer uniform guidance for service providers. However, we have received submissions that support the establishment of an independent body to oversee and regulate the industry.

All of these issues will be considered, through research and consultation, and in recommendations discussed in further reports.

#### 4.3 REDUCING THE VULNERABILITY OF CHILDREN

Effective protection of children from sexual abuse may involve educating them in how to recognise and avoid situations that may put them at risk. This could include programs that teach children how to recognise and report sexual abuse.

Some evidence suggests that when institutions engage with children by discussing sexual abuse, children may feel safer in disclosing it. However how this should be done in different institutions and with children of different ages requires detailed consideration.

To assist our understanding of these issues we are commissioning research that will help us to understand how children look at these issues and what they believe could be done to ensure their safety in an institutional context. It is important to know what children can tell us about how to best protect them.

Our research will inform comprehensive recommendations intended to reduce the vulnerability of children.

## 5. WHAT WE ARE LEARNING ABOUT RESPONSE

### 5.1 IDENTIFICATION, DISCLOSURE AND REPORTING

Despite legal obligations to report, it is believed that child sexual abuse is significantly under-reported in Australia. Reasons for this include:

- failure to identify children who have been abused
- delayed disclosure by victims
- reluctance of institutions to respond to allegations and report them to appropriate authorities.

We are seeking to identify changes that should be made to facilitate disclosure by children and ensure institutions report allegations.

## 5.2 INSTITUTIONAL RESPONSES TO REPORTS

Many institutions take their responsibility to appropriately respond to reports of child sexual abuse seriously. Yet many others have failed to respond to reports, or if they have responded, have done so ineffectively. We are examining:

- the key elements of an effective institutional response
- the obstacles to an effective response
- how these obstacles can be eliminated or reduced.

## 5.3 JUSTICE FOR VICTIMS

The *Letters Patent* require us to consider justice for victims.

There are three avenues that may provide justice for victims, namely:

- the criminal justice system
- civil litigation
- redress schemes.

An effective criminal justice system is important in providing justice for many victims. We are reviewing the manner in which allegations are investigated and offenders are tried and sentenced. This requires considering the approach in each of the Australian states and territories. It is a complex but essential review.

We are seeking to understand whether

civil litigation is effective in providing justice for victims. Important issues – including limitation periods, the proper defendant, vicarious liability and the level of damages – will be considered.

We are also reviewing redress schemes. A number of institutions have advocated a national scheme; How it would work, and who would fund and administer it are complex issues. The level of any financial compensation must also be considered.

Redress schemes and civil litigation are being considered as a matter of priority and will be the subject of a separate report in mid-2015. Our review of and recommendations about the criminal justice system will also be contained in a later report.

## 6. WHAT WE NEED TO DO NEXT

### 6.1 THE TASK SET BY THE TERMS OF REFERENCE

When the Royal Commission began, no one knew how long may be required to carry out the tasks in the *Letters Patent*. We did not know how many people might come forward to tell their personal story. No one was aware of the number of institutions about which there may be allegations of abuse. Furthermore, the need for research into measures that make institutions safe for children was unknown. The work required to

adequately address the issue of justice for victims had not been assessed. The number and complexity of essential public hearings had not been identified.

The Royal Commission is presently required to complete its work by the end of 2015. Having regard to the private sessions, public hearings, research and consultation that must be undertaken to complete the tasks required by the *Letters Patent*, the Commissioners are satisfied that more time is essential. The Royal Commission has asked the Government to extend the final reporting date to 15 December 2017 and fund the Royal Commission so that it has the resources necessary to complete its work by that time.

## 6.2 PRIVATE SESSIONS, PUBLIC HEARINGS AND RESEARCH

By the end of 2015 the Royal Commission will have conducted up to 4,000 private sessions. If the Royal Commission is not extended we will not be able to hold a private session for any person who contacts us after September this year. This will deny many survivors of the opportunity to share their experiences with us, in particular those from vulnerable or hard-to-reach groups.

By the end of 2015 we will be able to complete no more than 40 public hearings. We need another two years to complete the additional 30 hearings we have identified as essential to fulfil the terms of reference.

One of the most important outcomes of the Royal Commission is to bring about cultural change within institutions, to prevent and better respond to the sexual abuse of children in their care. To do this the Royal Commission is in a unique position to require key institutions to report publicly on what they have done to achieve those goals since the commencement of the Royal Commission. If an extension of time is provided, key institutions will be requested to report on such matters by way of public hearings prior to the conclusion of the Royal Commission.

By the end of 2015 we will have completed up to 52 research projects. We need another two years to complete the process of consulting with experts, stakeholders and the community, which is essential to ensure our recommendations are practical and respond to contemporary issues in the protection of children.

## 6.3 FUTURE RESOURCES

The estimated cost of a two-year extension is \$104 million.

Although the Commissioners believe that the requested extension is essential, we do not believe that any further extension beyond December 2017 would be appropriate.

# LETTERS PATENT



ENTERED ON RECORD by me in Register of Patents No. 48

Page 2 on 11 January 2013

Secretary to the Federal Executive Council

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,

Mr Robert Atkinson,

The Honourable Justice Jennifer Ann Coate,

Mr Robert William Fitzgerald AM,

Dr Helen Mary Milroy, and

Mr Andrew James Marshall Murray

GREETING

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- (a) what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- (b) what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (c) what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;

- (d) what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (e) the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- (f) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- (g) the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (h) changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (i) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- (j) the need to establish investigation units to support your inquiry;
- (k) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (l) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- (m) the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We appoint you, the Honourable Justice Peter David McClellan AM, to be the Chair of the Commission.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the *Royal Commissions Act 1902*.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

*child* means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

*government* means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

*institution* means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- (i) includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- (ii) does not include the family.

*institutional context*: child sexual abuse happens in an *institutional context* if, for example:

- (i) it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- (ii) it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- (iii) it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

*law* means a law of the Commonwealth or of a State or Territory.

*official*, of an institution, includes:

- (i) any representative (however described) of the institution or a related entity; and
- (ii) any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- (iii) any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- (iv) any other person who you consider is, or should be treated as if the person were, an official of the institution.

*related matters* means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

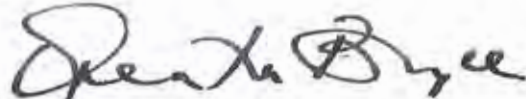
AND We:

- (n) require you to begin your inquiry as soon as practicable, and
- (o) require you to make your inquiry as expeditiously as possible; and
- (p) require you to submit to Our Governor-General:
  - (i) first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and
  - (ii) then and as soon as possible, and in any event not later than the date Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and
- (q) authorise you to submit to Our Governor-General any additional interim reports that you consider appropriate.

IN WITNESS, We have caused these Our Letters to be made Patent.

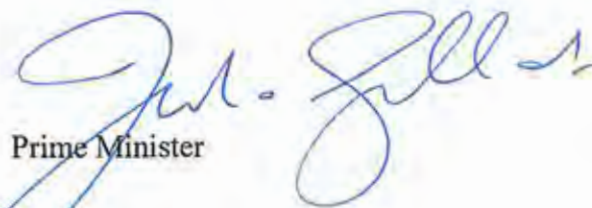
WITNESS Quentin Bryce, Governor-General of the  
Commonwealth of Australia.

Dated 11<sup>th</sup> Jan. 2013

A handwritten signature in black ink, appearing to read "Quentin Bryce".

Governor-General

By Her Excellency's Command

A handwritten signature in blue ink, appearing to read "Julia Gillard".

Prime Minister

# LIST OF COMMISSIONERS



The Hon. Justice Peter  
McClellan AM

The Hon. Justice Peter McClellan AM is a Judge of Appeal in New South Wales. Before this, he was the Chief Judge at Common Law of the Supreme Court of New South Wales, having been appointed to that position in 2005.

He has held several other appointments, including Judge of the Supreme Court of New South Wales, Chief Judge of the Land and Environment Court of New South Wales, Chairman of the Sydney Water Inquiry, and Assistant Commissioner at the Independent Commission Against Corruption.

Justice McClellan was admitted to practise law in 1974 and appointed Queen's Counsel in 1985. He became a Member of the Order of Australia (AM) in 2011 for services to the judiciary through the Supreme Court of New South Wales, to environmental law and to legal education.



Commissioner Bob Atkinson  
AO APM

Commissioner Bob Atkinson AO APM was the Commissioner of the Queensland Police Service for 12 years until his retirement in October 2012.

In a 44-year career with the Queensland Police Service, he served throughout Queensland from Goondiwindi to Cairns. He was a detective for around 20 years and, during this time, acted as the police prosecutor in various magistrates' courts.

Commissioner Atkinson oversaw reforms after the 1990 Fitzgerald Inquiry and the Queensland Police Service's 1993 Public Sector Management Commission Review and Report Recommendations.



### The Hon. Justice Jennifer Coate

The Hon. Justice Jennifer Coate is a Judge of the Family Court of Australia. Before this, she held several appointments, including Judge of the County Court of Victoria, State Coroner of Victoria, inaugural President of the Children's Court of Victoria, and Senior Magistrate of the Magistrate's Court of Victoria.

As President of the Children's Court of Victoria, Justice Coate oversaw the establishment of the Children's Koori Court. She has also worked as a part-time law reform commissioner, a solicitor in private practice, a solicitor for the Legal Aid Commission of Victoria, and in policy and research for the Victorian Government.



### Commissioner Robert Fitzgerald AM

Commissioner Robert Fitzgerald AM was appointed as a full-time commissioner with the Australian Government Productivity Commission in January 2004. He is currently on leave from the Productivity Commission while he takes part in the Royal Commission.

Commissioner Fitzgerald was previously the Community and Disability Services Commissioner and Deputy Ombudsman in New South Wales. He has a diverse background and extensive experience in commerce, law, public policy and community services, including involvement in numerous not-for-profit agencies.



Commissioner Helen Milroy

Commissioner Helen Milroy is a Consultant Child and Adolescent Psychiatrist and Winthrop Professor at the University of Western Australia. She has been on state and national mental health advisory committees and boards, focusing on the wellbeing of children.

Commissioner Milroy has extensive experience as a clinician, with a special interest in child trauma and Indigenous mental health. She has presented and published on these issues, and been involved in education and training in child psychiatry, Indigenous mental health and healing from trauma. She has also contributed to national and state policy on mental health and Aboriginal and Torres Strait Islander wellbeing, and the development of clinical and ethical guidelines.



Commissioner Andrew Murray

Commissioner Andrew Murray is a Rhodes Scholar and former businessman who was a Senator for Western Australia from 1996 to 2008. His Senate career focused on various finance, economics and business issues; accountability, governance and electoral reform; and institutionalised children.

Commissioner Murray's earlier business background includes roles as an executive and director in public and private corporations, as well as managing his own businesses. He has chaired and been a member of several community, business and political boards, committees and associations. Commissioner Murray was also Chair of the Western Australian Regional Development Trust from June 2010 to March 2014.





WHY WE  
ARE HERE

# 1. WHY WE ARE HERE

Chapter 1 explains why the Commonwealth and state governments established the Royal Commission. It outlines our early days, as we took up the challenge of our terms of reference, determined our approach and set up our operations.

## KEY POINTS

When a child is sexually abused, the impacts may be devastating and last a lifetime. The Royal Commission has been set up to better understand the problem of child sexual abuse in Australia's institutions, and to make practical recommendations that inspire lasting change. We have built a strong team to help us do this.

### The need for an inquiry

- Child sexual abuse affects victims, their families and the wider community. Its trauma may last for generations.
- While several inquiries have investigated specific aspects of abuse, none so far has looked at the problem across all institutions nationally.

### Our task

- Our terms of reference allow us to look at child sexual abuse that occurred at any time and in any institution.
- To do so, we are using three key approaches: private sessions, public hearings and research.

### Our operations

- We now have around 250 full-time staff and contractors, with our headquarters in Sydney and premises around Australia.
- With work well underway, we have spent \$79.2 million of our funding allocation from the Commonwealth Government.

## 1.1 THE NEED FOR AN INQUIRY

### RECOGNISING THE IMPACT OF CHILD SEXUAL ABUSE

#### Abuse causes profound damage

When a child is sexually abused, the impacts of that abuse can be devastating and may last for a lifetime. Survivors have told us:

- › 'I have thought about this every single day of my life since it happened.'
- › 'I didn't plan to be 35, destitute, and living in jail by that age, divorced, businesses sort of broken down, mental illness, bipolar.'
- › 'Relationships didn't last. Sexual experiences, I had to be fully drunk before I could even contemplate having a sexual experience.'
- › 'I don't know whether I know what love is. That's the biggest thing that I don't like – I can't give love, and I don't know what it is.'
- › 'The pain doesn't go away and now that I'm older, it's worse because I have more time to think about it.'
- › 'I shoved it away, and the alcohol was the thing that kept it away.'
- › 'Some may see it as a one-off event, but what [the Priest] did to me had a profound impact on my life and I'm still outraged.'
- › 'I would have loved to know who I would have been, but it changes who you are.'

#### Trauma can last for generations

The trauma can spread to touch the victim's family and can even be passed on to future generations.

- › 'I wouldn't change my daughters, I wouldn't bath them, and I couldn't tell my wife why, I just couldn't tell my wife why, I just couldn't, you know, and that was one of the reasons the marriage broke up.'
- › 'I suffered confusion over my sexuality that took years to resolve and perhaps worst of all, my father and I became quite alienated. The secret came between us.'
- › 'I've avoided forming close relationships with males, and that's had a far-reaching effect on my ability to connect with my son and my two little grandboys.'
- › 'My kids have suffered terribly, I was always waiting for someone to take them away from me and if they wanted a cuddle, I couldn't do it.'

#### Institutional abuse affects the whole community

When abuse happens in institutions that are supposed to care for children, it can have broader impacts on the community and the trust it places in those institutions.

- › 'I cringe to think how many lives this man has affected while the town condoned his behaviour. I've lived there for 34 years and seen the far-reaching affect abuse has on families.'

### Ineffective responses may compound the harm

An institution's failure to respond appropriately may exacerbate the trauma of the abuse itself. Trusted with the care of our children, too many institutions have betrayed our children and our community's trust, and then failed to respond with compassion or care.

- › 'There was a lot of self-harm and suicidal ideations in the past couple of years and I think a lot of that was more around not being believed or validated through that initial disclosure period.'

The Royal Commission is a response to the profound and enduring harm caused by child sexual abuse in institutional contexts.

## RESPONDING TO THIS PROBLEM

### Previous public inquiries looked at specific situations

Accounts of abuse have emerged in numerous public inquiries in Australia.<sup>1</sup> These inquiries considered child sexual abuse in various situations, including institutional care, foster care, child migration, Indigenous communities and the child protection system more broadly. Despite this, we do not know the full range of institutions in which child sexual abuse has occurred, nor has the effectiveness of institutional responses to allegations been examined.

A number of state inquiries have examined the sexual abuse of children in institutions operating within

the state, but nationally systemic institutional failures also need to be examined. Institutions may have inconsistent responses in different states and some institutions have reportedly moved known perpetrators between states or territories. It is clear that many systemic issues will require a coordinated national response.

There have been many recommendations about how to manage institutions to minimise abuse and respond effectively when it occurs. Recommendations from past inquiries have not been independently scrutinised to assess whether they have been implemented and, if so, whether this was effective.

Further, while the community is now more aware of the prevalence of child sexual abuse, the long-term impacts on the lives of those abused are not well understood, nor do we know the toll that many have suffered in speaking out against large and powerful organisations.

### Pressure mounted for a national response

Those who represent and support survivors of child sexual abuse have consistently advocated for government action to respond to past abuse and prevent future abuse.<sup>2</sup>

Over the past two decades, politicians, academics, journalists and lawyers have joined this call for action. The government and the opposition of the day both acknowledged that, the issue of institutional child sexual abuse affected many people and it required a national response.

It was agreed that an inquiry would not be limited to any one institution but must look at all organisations where there is evidence of sexual abuse. This would help to identify causes and develop effective responses.

The decision to establish this Royal Commission reflected the significant and growing community support for a national inquiry into the failure of Australia's institutions to protect children. The community deserves to know what has happened and what is still happening to children, and needs to know how to best protect children in the future.

### Many victims did not have a voice

Victims of child sexual abuse in an institutional context may feel betrayed by those in positions of authority. Disclosing the abuse can be difficult and many may feel that they do not have any place to go where they can feel safe telling their story to someone in a position of authority. As a result, most Australians would be unaware of the nature and extent of the abuse suffered by children in institutions, and the impact it has had on their adult lives and those around them.

This Royal Commission recognises the importance of giving victims a voice. We can bear witness, on behalf of Australia, to the wrongs done to them as children. By acknowledging their suffering, we can help to create safer institutions for children in the future.

### The Governor-General sets up the inquiry

On 11 January 2013, Her Excellency

Quentin Bryce, (then) Governor-General of the Commonwealth of Australia, issued *Letters Patent* appointing a six-member royal commission to inquire into institutional responses to child sexual abuse:

#### Chair

The Hon. Justice Peter McClellan AM

#### Commissioner

Mr Bob Atkinson AO APM

#### Commissioner

The Hon. Justice Jennifer Coate

#### Commissioner

Mr Robert Fitzgerald AM

#### Commissioner

Professor Helen Milroy

#### Commissioner

Mr Andrew Murray

The Commonwealth *Letters Patent* are reproduced at the beginning of this report. They apply to the Commonwealth and the territories. All states have also issued corresponding *Letters Patent* to appoint the six Commissioners under their laws (please see Appendix A).<sup>3</sup>

Ms Gail Furness SC was appointed Counsel Assisting the Royal Commission. Other counsel have been and will be appointed to assist us.

## 1.2 OUR TASK

In undertaking our task, we are guided by:

- our terms of reference
- the three pillars of our work: private sessions, public hearings, and research and policy.

### UNDERSTANDING OUR TERMS OF REFERENCE

**We can investigate abuse that occurred at any time and in any institution**

The *Letters Patent* set out the terms of reference for our inquiry. These terms of reference are broad. We can consider allegations of child sexual abuse from any period up to the present day, and can inquire into any institution that is or was involved with children. An institution is defined broadly as any public or private body, agency, association, club, institution, organisation or other entity. This includes government agencies, schools, sporting clubs, orphanages, and foster care and religious organisations.

Central to our work are the experiences of people directly or indirectly affected by child sexual abuse. We must give these people the chance to share their experiences with a Commissioner. This is recognised in our terms of reference. The Commissioners bear witness, on behalf of the nation, to the experiences and resulting trauma of those who were sexually abused as children in institutions, and others who were affected by that abuse. This can include

parents, siblings, partners, friends and whistleblowers.

The Royal Commission must also explore claims of systemic failures by institutions, and identify best practice in:

- protecting against child sexual abuse
- responding appropriately
- providing justice to those who were abused
- alleviating the impact.

We must recommend policy, legislative, administrative and structural reforms. We are also required to refer individual cases to relevant authorities where appropriate.

### **Our findings should improve responses to abuse in all settings**

We must also inquire into ‘related matters’. We will consider other forms of abuse or maltreatment, such as physical assault, exploitation, deprivation or neglect when they are associated with incidents of sexual abuse.

We are not asked to investigate child sexual abuse unless it has occurred in an institutional context. Accordingly, our inquiry will not consider the significant number of children who have experienced sexual abuse in a family or domestic context. However, any recommendations that we make are likely to improve the response to all forms of child sexual abuse in all contexts.

The Royal Commission may refer individual cases to other authorities but we do not have the power to initiate prosecutions, nor do we have the

power to compensate people affected by institutional child sexual abuse, or to make orders to that effect. We will, however, inquire into what should be done to ensure justice for victims through compensation and other remedial action by institutions.

## APPROACHING THIS CHALLENGE

### Three pillars underpin our work

We carry out the task set by our terms of reference through private sessions, public hearings, and research and policy. These are the three pillars that underpin the work of the Royal Commission.

<b>Private sessions</b>	The <i>Royal Commissions Act 1902</i> (Cth) was amended to enable this Royal Commission to conduct private sessions. Private sessions allow survivors to speak directly with a Commissioner about their experiences of sexual abuse, in a private and supportive setting. They enable Commissioners to hear from survivors about abuse in institutions and the impact it has had on individuals. Survivors can tell their stories free from the constraints of a traditional public hearing setting. <sup>4</sup>
<b>Public hearings</b>	A public hearing is a formal process during which the Royal Commission receives evidence that explains how institutions have responded to the sexual abuse of children. A hearing follows intensive investigation, research and preparation. Matters chosen for public hearing include those that involve systemic issues, key institutions or many victims. Because our resources are limited, we can only hold a limited number of public hearings into institutions.
<b>Research and policy</b>	Our extensive research program focuses on four broad areas: prevention, identification, response and justice for victims. It includes research by external consultants and our own staff. We also seek input from experts and community representatives by holding roundtables and inviting submissions on issues papers.

Together, these three pillars will provide the foundation for our final recommendations for change. For more information about the work we have done so far, please see Chapter 2 of this volume.

## This report highlights our work so far but makes no recommendations

This interim report highlights the issues we are considering as we explore our terms of reference. It would be premature for us to make any recommendations now, although we have made significant progress. The size and complexity of our task means that we do not yet have enough information to reach conclusions on reforms. Many of the systemic issues we have identified are interconnected, so we may not be able to finalise our position in one area until we have completed work and carefully considered issues in another area.

We have already made findings and recommendations in reports for Case Studies No 1 and No 2. We will continue to do this in a report of each public hearing.

## We use certain terms in our work

Appendix B of this volume gives a glossary of terms used in this report. The following is a discussion of how we use the key terms:

- child sexual abuse
- survivor and victim
- perpetrator and offender.

We have adopted this definition of ‘child sexual abuse’:

- › Any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards. Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex,

vaginal or anal penetration by a penis, finger or any other object, fondling of breasts, voyeurism, exhibitionism, and exposing the child to or involving the child in pornography. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child’s inhibitions in preparation for sexual activity with the child.<sup>5</sup>

For further discussion about the definition of ‘child sexual abuse’, please see section 3.1 of this volume.

The terms ‘survivor’ and ‘victim’ both describe a person who has been sexually abused as a child. We acknowledge that these terms have different meanings for different people. They both have their limitations. We respect that each person will use the term that best reflects their own experience.

In this report, we use the term ‘victim’ when referring to the person at the time when the abuse occurred. We generally use the term ‘survivor’ when discussing a person’s experiences after the abuse. This includes when they share their story, access support services or seek redress. Where the context is unclear, or the discussion is general, we will usually use the term ‘victim’.

Guided by the terms of reference, the report mainly uses the term ‘perpetrator’ to describe a person who has sexually abused a child. The term ‘offender’ is also used because it appears in the literature and appropriately describes a person who has been charged and convicted of an offence.

## 1.3 OUR OPERATIONS

### ESTABLISHING THE ROYAL COMMISSION

#### Establishing the Royal Commission presented some challenges

The Commonwealth Government announced its intention to establish a royal commission on 12 November 2012, but the *Letters Patent* by which we were appointed were not issued until 11 January 2013.

During those two months, the government consulted with the community about the terms of reference and potential commissioners. It also discussed with the states and territories how best to constitute the Royal Commission to give it the broadest possible powers of inquiry.

The Commissioners met and held a media conference on 16 January 2013, but because they needed to finalise their previous professional commitments, it was not until late February 2013 that they could fully start their work.

Date in 2013	Key event
11 January	Governor-General issued <i>Letters Patent</i>
16 January	First Commissioner meeting and public media conference
22 February	Consultation with advocacy groups and other key stakeholders began
March	Practice Guidelines published
28 March	<i>Royal Commissions Act 1902</i> (Cth) amended to allow for private sessions
3 April	First public sitting of the Royal Commission (Melbourne)
7 May	First private session (Sydney)
15 July	Royal Commission began operations at permanent premises (Sydney)
16 September	First public hearing (Sydney)

People may expect that a royal commission can start gathering evidence as soon as it has been appointed. The nature of this Royal Commission brought its own unique challenges:

- The breadth of the task meant that we had to carefully plan how to gather evidence and undertake research.
- The sensitive subject matter meant that before we could proceed, we took the time to put in place appropriate supports for people coming before us.

- The complex legal setting meant that we had to work with state, territory and Commonwealth laws, and ongoing civil litigation and criminal proceedings.

Setting up an organisation to support the Commissioners was another major challenge. There is no permanent central body charged with providing administrative support to a royal commission, although overall responsibility for administration rests with the Commonwealth Attorney-General's Department. There are precedents for a government department to provide administrative assistance for a royal commission, but this was not feasible for one of our size, scope and duration.

We needed to become fully operational, independent of government, as quickly as possible. However, a royal commission is required to comply with all public service policies around recruitment, security, property and procurement. These requirements had a direct impact on how quickly we could become fully operational.

## RECRUITING AND SUPPORTING OUR STAFF

### Recruitment presented more early challenges

Building a workforce to support the Royal Commission's operations was our first priority.

The Chief Executive Officer was the first of our staff to be appointed.

Ms Dines was a senior executive in the Attorney-General's Department, with previous experience coordinating the Commonwealth's representation before royal commissions.

It was difficult to bring other staff on board quickly. Initially, our staff members were seconded from Commonwealth and state government departments, in short-term roles. Several retired Commonwealth public servants were also engaged temporarily to help with the start-up phase.

### We now employ 250 full-time staff

At first, we anticipated a workforce of 150 people, including Commissioners and Counsel Assisting. By the end of June 2013 it was clear we would need many more resources, and by 30 April 2014, the Royal Commission employed 250 full-time-equivalent staff and contractors.

Our staff members come from a variety of professional backgrounds. We employ lawyers, writers, researchers and counsellors. Police officers are responsible for investigation work. We also have specialists in information and records management, procurement, community engagement, human resources, financial management, project management and security.

### Commissioners and staff have access to support and counselling

Our staff work in a challenging environment. There is a great deal of public scrutiny and community expectations are high. We are all keenly

aware that many see us as having 'one chance to get things right'.

Many Royal Commission staff members have high exposure to disturbing information and personal accounts of trauma. The same is true for our Commissioners.

Vicarious trauma as a result of exposure to traumatic material is a significant risk. If we do not treat these risks seriously and manage them well, we jeopardise our ability to complete our task.

We have developed a comprehensive staff support framework that focuses on building resilience and incorporates clinical and non-clinical aspects. 'Well at Work' includes access to counselling, peer support and wellbeing initiatives, with a commitment to building capability for individuals, leaders and the organisation as a whole.

## OPERATING ACROSS AUSTRALIA

### Our headquarters are in Sydney

Another priority was finding accommodation that could support our workforce and meet our needs.

The premises needed to offer value for public money, while being:

- available immediately for a minimum three-year lease
- amenable to fit-out, especially the construction of hearing rooms
- accessible by multiple forms of public transport for visitors.

We spent six months in serviced office accommodation before moving into our permanent home at Governor Macquarie Tower, 1 Farrer Place, in the Sydney CBD. We were fortunate that we were able to lease another floor in the adjacent Governor Phillip Tower, on similar terms, when our workforce grew.

### We have purpose-built hearing rooms

Once we had found premises, we completed the office re-fit and built hearing rooms as quickly as we could.

We took great care in designing our hearing rooms and public space on Level 17 of Governor Macquarie Tower. While the area needed to be formal, it also had to be as welcoming as possible. We recognised that some people coming to us may be fearful of institutional settings.

Hearing Room 1 accommodates around 90 people and Hearing Room 2 can hold around 30. There is a large waiting area outside the hearing rooms where people can watch proceedings on television screens. The rest of the floor space on Level 17 consists of smaller private session and meeting rooms and a media room.

The meeting spaces are used for conferences, as family rooms and by counsellors. Hearing rooms were also designed for multiple uses, including to hold forums and roundtables.

We have placed children's art from the Sydney Children's Hospital Foundation Art Program throughout our public spaces.



Royal Commission premises, Sydney

### Other cities accommodate offices and hearings

We also have modest office accommodation in Perth and Melbourne.

In Perth, we originally used serviced office accommodation but now sub-lease space from the Western Australian Industrial Relations Commission. This provides an office for Commissioner Milroy and Commissioner Murray, who are based in Perth. In Melbourne, we reimburse the Family Court for the use of chambers provided for The Hon. Justice Jennifer Coate, in line with her appointment to that Court.

We have held hearings in three interstate locations so far: Brisbane, Adelaide and Perth. We are grateful for the opportunity to use state and federal courts or hearing rooms for these hearings. We have been able to continue to web stream our hearings from these locations.

### Commonwealth funding has made all this work possible

The Commonwealth Government allocated \$285.13 million to the Royal Commission for the 2012-13 to 2015-16 financial years including \$7.2 million for witness expense costs. This money

was to establish the Office and carry out our inquiry. It comprised \$241.8 million in operating expenditure (including staff, rent and travel) and \$43.33 million for capital expenditure (including property fit-outs and IT infrastructure).

Our allocation has since been reduced by \$4 million from the Royal Commission's capital budget.

Our current administered funding allocation (in millions) is:

	2012-13	2013-14	2014-15	2015-16	Total
<b>Operational funding</b>	\$31.0	\$69.9	\$72.0	\$68.9	\$241.8
<b>Capital funding</b>	\$18.7	\$12.9	\$2.9	\$4.9	\$39.3
<b>Total</b>	<b>\$49.7*</b>	<b>\$82.8</b>	<b>\$74.9</b>	<b>\$73.8</b>	<b>\$281.1</b>

\* This includes \$28 million that was underspent in that year and could not be carried forward.

At 30 April 2014, we had spent \$79.2 million, which includes \$62.2 million in operating expenses and \$17 million in capital expenses.







WHAT WE  
HAVE DONE

## 2. WHAT WE HAVE DONE



L-R: Royal Commission officer Margaret Rasmussen and Commissioner Helen Milroy with Mark Bin Bakar and James McKenzie of the Kimberley Stolen Generation Aboriginal Corporation

While the Royal Commission still has a large task ahead, we have taken significant steps towards fulfilling our terms of reference. Chapter 2 details what we have done so far, explaining how we have:

- listened to the personal experiences of many people affected by institutional child sexual abuse
- selected case studies and run public hearings
- already seen positive changes in the management of some institutions, including a commitment to re-examine their previous responses to survivors' child sexual abuse claims
- researched key issues, by working with experts and community representatives
- raised public awareness
- gathered and managed information.

## KEY POINTS

One of the most important parts of the Royal Commission's work is bearing witness to the experiences of those affected by child sexual abuse. We have already heard from thousands of people, from survivors and their families to the staff and management of institutions. We have also consulted with communities, experts and stakeholders across Australia, to make sure everyone can contribute to our inquiry.

### Private sessions and written accounts

By 31 May 2014:

- we had held 1,677 private sessions and received 1,632 written accounts
- there were more than 1,000 people waiting to attend a private session.

### Public hearings

By June 2014:

- we had held 13 public hearings in Adelaide, Brisbane, Perth and Sydney
- we had 96 days of hearings, during which we heard from 219 witnesses.

### Research

By June 2014, we had:

- completed 21 research projects
- started work on another 12 research projects
- released seven issues papers and received over 300 submissions on the first five
- held two community roundtables: the first, in April 2014, focused on out-of-home care, the second was in June 2014 and focused on Working with Children Checks.

### Community

- Our media and public information activities target vulnerable or hard-to-reach groups in the community.
- We work closely with survivor support organisations.
- Our website, [www.childabuseroyalcommission.gov.au](http://www.childabuseroyalcommission.gov.au), has been viewed by over 233,000 visitors.

### Information

We have:

- issued 643 notices or summonses to produce, and received almost 424,000 documents in response. We also issued 246 summonses to witnesses to appear before the Royal Commission
- received more than 13,000 calls at our call centre, and 5,463 pieces of correspondence
- referred over 160 matters to the police for investigation.

## 2.1 PRIVATE SESSIONS AND WRITTEN ACCOUNTS

Bearing witness to the personal experiences of those affected by child sexual abuse in institutions is central to our work.

When (then) Prime Minister Julia Gillard announced the Royal Commission, she said:

- › '[W]e are able to say we want your voices to be heard. Even if you felt for all of your life that no one's listened to you, that no one has taken you seriously, that no one has really cared, the Royal Commission is an opportunity for your voice to be heard.'<sup>1</sup>

Our terms of reference require:

- › 'that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.'<sup>2</sup>

We are:

- hearing directly from those affected through private sessions and written accounts
- taking great care to support survivors who share their story
- learning invaluable lessons from people's experiences.

## HEARING PEOPLE'S STORIES

### Private sessions give survivors a confidential setting to speak in

Private sessions allow survivors, or people who are aware of the abuse of another, to speak privately with one of our Commissioners.<sup>3</sup> This means people can tell their stories to someone in a position of authority without the trauma of giving evidence in public.

Private sessions are unique to our Royal Commission and required a specific amendment to the *Royal Commissions Act 1902* (Cth) in March 2013.<sup>4</sup> When the (then) Attorney-General introduced the amendment Bill, he noted that:

- › '[a] traditional royal commission hearing setting will not generally serve as the best way to facilitate participation in the royal commission by those people affected by child sexual abuse.'<sup>5</sup>

Private sessions are not a formal hearing. Individuals can share their stories with one of our Commissioners. Some people who have attended a private session may go on to give evidence at a public hearing.

### Private sessions have been held around the country

Private sessions help us to better understand the impacts of the abuse and of any institutional response on participants over their lifetimes. The sessions also give participants the chance to suggest systemic changes to better protect children in

institutions. Finally, they help us to identify accounts that we might consider further in public hearings.

On average, we conduct at least 30 and up to 50 private sessions a week. Each Commissioner aims to schedule sessions when they are not sitting in a public hearing. By 31 May 2014, we had held 1,677 private sessions and there were more than 1,000 people waiting to attend one. Each week, we receive requests for a private session from about 40 new people.

We have conducted private sessions in each capital city, and in regional centres including the Kimberley, Cairns, Coffs Harbour and Ballarat. They are usually held in hotel or motel rooms (arranged as informal meeting rooms) so that participants can speak in an informal environment. To protect their privacy, the venue and date is kept confidential and sent only to participants. We have also held several private sessions in jails for prison inmates, as part of a pilot scheme.

We will continue to hold private sessions around the country throughout the life of the Royal Commission.

### Written accounts capture survivors' experiences in their own words

Written accounts are another way for people affected by child sexual abuse to share their stories in their own words. By 31 May 2014, we had received 1,632 written accounts.

Many accounts are prepared specifically for our inquiry. Others have already been used elsewhere, such as statements for

court proceedings, redress schemes or other inquiries. This is important as we do not want survivors to have to retell their stories unnecessarily.

There is no set format for written accounts, and people are welcome to take whatever approach suits them best. For help, they can read our practice guideline for providing information to us.<sup>6</sup> We keep the accounts confidential, unless the people telling their stories give permission to make them public.

All written accounts are important to assist our understanding of institutional child sexual abuse, along with what we learn from public hearings and private sessions.

## CONDUCTING PRIVATE SESSIONS

### We planned the process carefully to limit participant trauma

We recognise that it is often very difficult for people to talk about the abuse they have experienced. It is well documented that child sexual abuse can have far-reaching traumatic impacts on the way children develop and later function in adulthood.<sup>7</sup> It also has a 'ripple effect' on families, later generations and the community as a whole.

Being unique to this Royal Commission, there was no model for running private sessions. To develop our approach, we spoke at length to advocacy and support groups, mental health professionals and providers of sexual assault support services. We allow for about an hour for

people to tell their stories and this has proved suitable in most cases.

We thought carefully about how to create the safest and most secure environment. We decided to use hotel rooms so it would not be obvious that a person was attending a private session at the Royal Commission. We paid close attention to the room's layout, to make it comfortable and non-threatening.

Most people who have come to the Royal Commission have experienced substantial trauma, and live with the impacts years and decades later. Many have needed counselling at some time in their lives. Many have thoughts of suicide and some have attempted it. They often find recounting their stories traumatic. Many people break down while speaking to us and require support to go on.

We have trained professionals to help people through every stage of the process, from their very first contact with the Royal Commission.

We also took advice on how best to protect the health and wellbeing of our Commissioners and staff. We knew that private sessions would pose risks, so we set limits on the number of sessions we hold per day, and days per week.

### Counselling and support is offered before and after each session

A Royal Commission counsellor is available to participants before and after their session. A 'debrief' gives them time to settle themselves before leaving the venue and tells them

what they can expect to feel after the session. The counsellor might also provide information about ongoing counselling and support services.

All participants receive a follow-up phone call about a week after their session to check on their welfare. They can also contribute to *Message to Australia*, a book that will send a message to the Australian community about their experience of institutional child sexual abuse and their hopes for creating a safer environment for children in the future. After the Royal Commission ends, the book will be kept at the National Library of Australia, where it will be available to the public and preserved for future generations.

To acknowledge the contribution made by everyone who attends a private session and to show our appreciation, we give each person a 'thank you' card.

### Our model is supportive and flexible

Attending a private session is voluntary. When people contact us, we first make sure their experience falls within the scope of our terms of reference. We then arrange for them to come to a private session if they wish to. Private sessions can also be held for groups of people who wish to speak collectively.

Each participant can bring a support person with them, such as a friend, family member or counsellor, to help them before, during and after the session. If someone needs help to communicate, perhaps because of a disability, a support person can speak on their behalf.

If a participant is worried about attending a session with people of a particular gender, we do our best to make sure that the Commissioner and Commission officer who run the session are the appropriate gender.

While we now have a model for private sessions, we can be flexible. For example, to hear from survivors abused at a school for children with disabilities, we worked closely with disability advocates, service providers and parents to plan a group private session. Many survivors could not articulate their experience in person, so their parents and long-term support staff, as advocates, told us about their experiences.

We also worked with Aboriginal service providers and survivors from a home for Aboriginal children in western Queensland to include a group private session as part of a two-day healing program. Separate sessions were conducted for men and women. This allowed survivors to speak in a way that was culturally safe and promoted healing.

If a person is unable to attend a private session because of ill health, our staff will conduct a private session at their home. The interview is then transcribed and reviewed by a Commissioner.

### During sessions, participants can speak freely and confidentially

The *Royal Commissions Act 1902* (Cth) specifies that a private session must be held in private and only people who are authorised by the Commissioner can be present.<sup>8</sup> Participants are not

witnesses<sup>9</sup> and do not take an oath or affirmation, although they must still tell the truth.

There is no set format for a session; however, the Commissioner will first introduce him or herself and explain the purpose of the session. It is then up to each person to decide how to tell their story.

Participants usually share their story of abuse, the immediate response and the impact that the abuse has had on their lives. They do not need to give a detailed account of the abuse, but they can if they wish. Many people feel unable to talk about the abuse itself and this is respected. Commissioners or Commission officers may ask questions to help us understand the circumstances or to give participants a structure to follow, but they will not cross-examine anyone.

Some people prepare a written account to read aloud or hand to the Commissioner. Some show or give the Commissioner documents, but this is not essential.

Sessions are recorded by electronic recording equipment. We also keep copies of any documents that are given to us. Information gained at a private session is not evidence,<sup>10</sup> but it will help our inquiries and some may be considered in a later public hearing.

Information will be kept confidential unless a participant agrees to it being made public.<sup>11</sup> However, if it relates to a breach of the law and remains a current issue,<sup>12</sup> or is information that a child is currently at risk of harm,

we may inform law enforcement agencies. We may also publish information in our reports as long as we de-identify it first.<sup>13</sup>

## LEARNING FROM PERSONAL STORIES

### Information from private sessions gives us insight into abuse

We acknowledge the courage of the people who have taken part in a private session or sent in a written account to share their experiences. Each of these people have made an important contribution to the work of the Royal Commission and given us a better understanding of the nature and profound impact of child sexual abuse in institutional settings.

We have analysed information collected from private sessions held between 7 May 2013 and 30 April 2014. This gives us insight into the experiences of survivors and institutional responses. However, being voluntarily reported, the information is not necessarily representative of all those affected by child sexual abuse in institutions. For more about this information, please see Appendix C.

The majority of private sessions were held with survivors. Other private sessions were with family members, friends or whistleblowers who were aware of abuse that happened to someone else. We also heard from a number of people who reported abuse suffered by a person who had since died, including as a result of suicide. Where the participant was reporting abuse suffered by someone else, we collected information about the victim and not the participant.

Area	Data
<b>Survivors</b>	Two in three survivors were male and one in three were female. The current age of survivors averaged 55 years. Most were over 50 years old. Almost 70 per cent reported being eight years old or over, although some were unsure of their exact age, when the abuse started. On average, females were 9.5 years old and males were 10.3 years old when the abuse began.
<b>Institutions</b>	Many survivors reported abuse in industrial schools, training schools, reformatories, orphanages and children's homes. Educational institutions were also commonly reported sites of abuse.  Most of these were faith-based institutions, followed by government institutions. Of the faith-based institutions, 68 per cent were Catholic and 12 per cent were Anglican.

Area	Data
<b>Perpetrators</b>	<p>Almost nine in 10 perpetrators were reportedly male. They were most likely to be members of the clergy or religious orders, followed by teachers and residential care workers.</p> <p>Foster carers and children older than the victim were also reported as perpetrators.</p>
<b>Abuse</b>	<p>Contact not involving penetration, such as touching genitals and prolonged kissing, was the most common type of abuse.</p> <p>Behaviours involving penetration, including vaginal, anal, oral and digital penetration were the next most commonly reported type of abuse.</p>
<b>Impact</b>	<p>Almost nine in 10 participants reported impacts on their health, including depression, anxiety, low self-esteem and a lack of trust in authority.</p> <p>Participants also commonly reported:</p> <ul style="list-style-type: none"> <li>• impacts on relationships, such as difficulties with trust and intimacy, and a lack of confidence with parenting</li> <li>• educational and economic impacts</li> <li>• feeling alienated from their peers and the community.</li> </ul>
<b>Disclosure</b>	<p>Most survivors had previously disclosed their abuse. On average, it took them 22 years after the onset of abuse to do so.</p> <p>The most common barriers to disclosure were shame and embarrassment. Other common barriers were a fear of not being believed and having nobody to disclose to.</p> <p>Survivors most often disclosed to someone with authority within the institution, followed by parents and the police. Five per cent disclosed abuse for the first time at the private session.</p>
<b>Compensation</b>	<p>Most of those who sought compensation from the relevant institution (or in some cases from the relevant government) were successful. However, almost nine in 10 were dissatisfied with the outcome.</p>

## Some common themes are emerging

We have observed many common themes in the stories we have heard. They are outlined in the table below and are examined in more detail in later chapters. Many of these themes are also identified in research and reflected in our public hearings.

Theme	Information from private sessions
<b>Abuse is often multi-dimensional</b>	Abuse is often reported to be multi-dimensional, involving physical, sexual and emotional abuse. For instance, many survivors reported a culture of fear in institutions created by severe physical abuse. This created an environment in which sexual abuse was both possible and unlikely to be disclosed.
<b>Abuse has long-term impacts</b>	Many survivors reported long-term effects of child sexual abuse, including on their physical and mental health, their education and career prospects, their ability to form relationships, and their faith.
<b>Abuse has indirect victims</b>	There is often a reported 'ripple effect' of abuse that affects people who are indirect victims. Survivors have reported the impact on their children, partners and parents. Parents or siblings have also reported the impact on the survivor, themselves and other family members. We have also heard from whistleblowers. Many participants attended a private session to speak on behalf of a victim who had committed suicide.
<b>Survivors display strength and courage</b>	Many survivors have shown resilience in many aspects of their life, in spite of dealing with the adverse effects of child sexual abuse. For example, they have: <ul style="list-style-type: none"><li>• displayed incredible strength, kindness and compassion</li><li>• formed stable relationships</li><li>• triumphed over multiple challenges.</li></ul>
<b>Some children are more vulnerable to abuse</b>	Some children in institutional settings appear to be more vulnerable to sexual abuse, including those who: <ul style="list-style-type: none"><li>• are in out-of-home care</li><li>• have a disability</li><li>• have already been the victims of abuse</li><li>• are in tightly controlled settings where there is little public scrutiny, such as some closed religions.</li></ul>
<b>Repeated abuse and multiple perpetrators are common</b>	Most survivors reported being abused multiple times, and some spoke of multiple offenders in the same institutional setting.  Children were also sometimes moved from one place to another and abused in both places. Or they were abused at home, removed from that home and then abused elsewhere, such as in foster care.

Theme	Information from private sessions
<b>Grooming of victims and family members is common</b>	It was reported that perpetrators commonly prepared a child with the intention of sexually abusing them. They did this by building a relationship of trust with the child and their family or carer and by isolating the child.
<b>There are major barriers to disclosure</b>	<p>Survivors reported that when the abuse occurred, they feared that they would not be believed or would be seen as weak for letting the abuse happen. They worried that disclosure would hurt and distress others. As children, often they:</p> <ul style="list-style-type: none"> <li>• did not understand that what was happening was sexual abuse</li> <li>• were not spoken to in private or asked by a trusted, known and sensitive person</li> <li>• were threatened</li> <li>• may have had a complex relationship with the perpetrator.</li> </ul> <p>Adult survivors also told us that current barriers include them:</p> <ul style="list-style-type: none"> <li>• feeling shame, embarrassment, self-blame and self-doubt</li> <li>• deciding that the abuse was not as serious as other forms of abuse happening to other children.</li> </ul>
<b>Several factors encourage disclosure</b>	<p>Factors that encouraged children to disclose abuse included:</p> <ul style="list-style-type: none"> <li>• taking part in school-based prevention programs</li> <li>• being asked about their experiences in a sensitive and appropriate way by a trusted adult</li> <li>• trusting a peer</li> <li>• feeling concern for other children or younger siblings.</li> </ul>
<b>There are barriers to identification and reporting</b>	<p>Many factors undermine the identification and reporting of child sexual abuse, including:</p> <ul style="list-style-type: none"> <li>• lack of training on child sexual abuse</li> <li>• failure to recognise indirect disclosures of abuse</li> <li>• delayed disclosure by victims</li> <li>• adults failing to recognise concerning or abusive behaviour, sometimes rationalising that behaviour because it does not fit their stereotypical view of perpetrators.</li> </ul> <p>Some survivors reported that health care and other professionals they saw did not ask if they had been abused as children so they did not disclose the abuse when seeking assistance.</p>

Theme	Information from private sessions
<b>Experiences with the criminal justice system have varied</b>	<p>Many survivors, as well as some of their parents, reported negative experiences of the criminal justice system, including:</p> <ul style="list-style-type: none"> <li>• not being believed</li> <li>• the system showing limited understanding of child sexual abuse and the needs of victims and survivors</li> <li>• being afraid or overwhelmed by prosecution and court processes</li> <li>• feeling sidelined and irrelevant to the prosecution process.</li> </ul> <p>Many others reported positive experiences of the criminal justice system, with significant changes in the attitudes and responses to abuse over time. Positive experiences included:</p> <ul style="list-style-type: none"> <li>• feeling supported by the police and at court</li> <li>• having police officers who were patient, calm, professional and caring when receiving reports of abuse</li> <li>• being kept well informed about the progress of their case</li> <li>• getting referrals to support services.</li> </ul>
<b>Responses by adults in authority were ill-informed, inadequate and at times harmful</b>	<p>Survivors reported that they told adults in positions of authority what was happening but those adults did nothing. Many also reported that perpetrators were moved from one region, diocese or state to another in the wake of complaints.</p>

## 2.2 PUBLIC HEARINGS

Public hearings examine in detail the response of one or more institutions to child sexual abuse. A public hearing:

- allows survivors to tell their stories
- explores the response of institutions at the time and since
- improves community awareness of child sexual abuse
- can examine broader issues.

We must carefully choose the matters that are examined in a public hearing. This is due to the large number of institutions in which abuse is reported to have occurred, and the necessary limits of our resources.

### CHOOSING A STORY FOR PUBLIC HEARING

#### Hearings cover diverse and nationally relevant matters

To ensure our resources are used effectively, Counsel Assisting applies criteria that we have defined to identify appropriate matters and bring them forward as individual ‘case studies’.

We try to ensure that the hearings reflect a national approach and cover diverse institutions, from sport and recreation organisations to detention and out-of-home care providers.

We also look at factors such as whether:

- we have received a large number of accounts about a particular institution or group of institutions

- witnesses (both survivors and institutional staff) and documents are available
- the case study highlights systemic issues.

Above all, public hearings should advance an understanding of systemic issues. We seek to learn from past approaches, good and bad, so that our findings and recommendations for the future have a secure foundation. In some cases, the lessons we learn will relate to one institution only. In others, they will be relevant to many similar institutions across Australia.

In case studies to date, we have examined how institutions:

- recruit, screen, induct, train and supervise staff who work with children
- respond to and investigate allegations of child sexual abuse
- deal with staff who have been accused of abuse, including moving them elsewhere
- handle complaints, claims or civil actions, including redress schemes like the Catholic Church’s *Towards Healing*
- review and respond after abuse has been established.

We have also looked at how:

- government regulators oversee institutions
- the police respond to reports of child sexual abuse in institutional contexts
- the criminal justice system treats cases of abuse.

## MAPPING OUR PUBLIC HEARINGS TO DATE

We held our first public hearing in Sydney in September 2013. Our schedule has been intensive since then, sometimes with two hearings taking place at the same time in different locations.

<b>Number</b>	13 public hearings up to June 2014
<b>Days</b>	96 days, with individual hearings lasting between four and 12 days (excluding Case Study No 13)
<b>Locations</b>	Adelaide, Brisbane, Canberra, Perth, and Sydney
<b>Witnesses</b>	219 (excluding Case Study No 13)

All these hearings have been open to the public. They have also been broadcast live on our website at [www.childabuseroyalcommission.gov.au](http://www.childabuseroyalcommission.gov.au). So members of the public can attend in person or watch online.

Details of the scope and purpose of the first 12 hearings are set out below.

### Case Study No 1

<b>At a glance</b>	Response of Scouts Australia, Hunter Aboriginal Children's Services (HACS) and the (then) NSW Department of Community Services (DoCS), to information and allegations about Steven Larkins, the former scout leader and CEO of HACS.
<b>Scope and purpose</b>	<p>This hearing examined the:</p> <ul style="list-style-type: none"><li>• response of Scouts Hunter and Coastal Region and Scouts Australia to allegations against Larkins in relation to children between 1997 and 2001</li><li>• checks carried out by DoCS in 1999–2001 on Larkins's suitability to be granted parental responsibility</li><li>• assessment of a Working with Children Check for Larkins by DoCS in 2003, and the subsequent review by the NSW Commission for Children and Young People in 2004</li><li>• response of HACS to information about Larkins's conduct in 2003 and 2010–2011.</li></ul>
<b>When</b>	September 2013
<b>Where</b>	Sydney, New South Wales

## Case Study No 2

<b>At a glance</b>	Response of YMCA NSW and NSW Police to the conduct of Jonathan Lord.
<b>Scope and purpose</b>	<p>This hearing examined the:</p> <ul style="list-style-type: none"><li>• circumstances in which Lord was employed by YMCA NSW</li><li>• policies and procedures in place at YMCA NSW including for training and supervision of staff</li><li>• response of YMCA NSW to allegations made in 2011 that Lord sexually abused children in the care of YMCA</li><li>• response of the NSW Police to allegations made in 2011 that Jonathan Lord sexually abused children in the care of YMCA and in other circumstances.</li></ul>
<b>When</b>	October 2013
<b>Where</b>	Sydney, New South Wales

## Case Study No 3

<b>At a glance</b>	Response of the Diocese of Grafton of the Anglican Church to claims of child sexual abuse at the North Coast Children's Home.
<b>Scope and purpose</b>	<p>This hearing examined the:</p> <ul style="list-style-type: none"><li>• response of the Diocese of Grafton to claims of child sexual abuse of previous residents at the North Coast Children's Home in Lismore, New South Wales</li><li>• policies and procedures adopted and applied by the Diocese of Grafton for handling such claims</li><li>• response of the Dioceses of Grafton and Newcastle to allegations of child sexual abuse by Allan Kitchingman and related acts and offences.</li></ul>
<b>When</b>	November 2013
<b>Where</b>	Sydney, New South Wales

#### Case Study No 4

<b>At a glance</b>	Establishment, operation and review of the <i>Towards Healing</i> process by the Catholic Church in Australia.
<b>Scope and purpose</b>	<p>This hearing examined the principles and procedures of <i>Towards Healing</i> adopted by the Catholic Church and their application in responding to:</p> <ul style="list-style-type: none"><li>• victims of child sexual abuse</li><li>• allegations of child sexual abuse against Catholic Church personnel</li><li>• the experience of four people who have engaged in the <i>Towards Healing</i> process.</li></ul>
<b>When</b>	December 2013
<b>Where</b>	Sydney, New South Wales

#### Case Study No 5

<b>At a glance</b>	Response of The Salvation Army (Eastern Territory) to child sexual abuse in its boys' homes operated in New South Wales and Queensland.
<b>Scope and purpose</b>	<p>This hearing examined the response of The Salvation Army (Eastern Territory) to child sexual abuse within the following homes:</p> <ul style="list-style-type: none"><li>• Alkira Salvation Army Home for Boys, Indooroopilly, Queensland</li><li>• Riverview Training Farm (also known as Endeavour Training Farm), Riverview, Queensland</li><li>• Bexley Boys' Home, Bexley, New South Wales</li><li>• Gill Memorial Home, Goulburn, New South Wales</li></ul> <p>The hearing looked at the:</p> <ul style="list-style-type: none"><li>• movement of officers and staff accused of, or found to have engaged in, child sexual abuse between these homes</li><li>• Salvation Army's processes to identify, investigate, discipline, remove and/or transfer these officers and staff.</li></ul>
<b>When</b>	January 2014
<b>Where</b>	Sydney, New South Wales

## Case Study No 6

<b>At a glance</b>	Response of a primary school and the Diocese of Toowoomba Catholic Education Office to the conduct of Gerard Vincent Byrnes.
<b>Scope and purpose</b>	This hearing examined the: <ul style="list-style-type: none"><li>• responses of both institutions to allegations of abuse against Byrnes</li><li>• adequacy and implementation of the institutions' systems, policies and procedures since 2007.</li></ul>
<b>When</b>	February 2014
<b>Where</b>	Brisbane, Queensland

## Case Study No 7

<b>At a glance</b>	Experiences of survivors who were sexually abused as children at the Parramatta Girls' Training School and the Institution for Girls in Hay, New South Wales.
<b>Scope and purpose</b>	This hearing learned about the sexual abuse of girls at these two government institutions between 1950 and 1974.
<b>When</b>	February 2014
<b>Where</b>	Sydney, New South Wales

## Case Study No 8

<b>At a glance</b>	Principles and procedures in responding to complaints of sexual abuse against personnel of the Catholic Church in Australia.
<b>Scope and purpose</b>	This hearing looked at the experience of John Ellis and the response of the Catholic Church in relation to the: <ul style="list-style-type: none"><li>• complaint of child sexual abuse made by Ellis under <i>Towards Healing</i></li><li>• review of the <i>Towards Healing</i> process following Ellis's complaint</li><li>• civil action commenced by Ellis.</li></ul>
<b>When</b>	March 2014
<b>Where</b>	Sydney, New South Wales

## Case Study No 9

<b>At a glance</b>	Responses by the Catholic Archdiocese of Adelaide and the South Australia Police (SAPOL) to allegations of child sexual abuse at St Ann's Special School.
<b>Scope and purpose</b>	<p>This hearing examined the:</p> <ul style="list-style-type: none"><li>• circumstances in which Brian Perkins gained his job at St Ann's Special School</li><li>• monitoring, supervision and oversight of Perkins's activities as an employee and volunteer at the school</li><li>• response of the school principal and board to allegations of Perkins's abuse, including their communication with the parents of the children said to have been sexually abused</li><li>• response, including internal reviews, by the Catholic Archdiocese of Adelaide (including the Catholic Education Office) to the allegations</li><li>• experiences of parents of those alleged to have been sexually abused by Perkins</li><li>• circumstances around, and the basis for the payments by the Archdiocese of Adelaide Catholic Education Office, to those parents</li><li>• investigation by SAPOL into the allegations against Perkins, including how Perkins was able to leave South Australia in or about 1993 and the steps taken by SAPOL to have him returned</li><li>• communication by SAPOL with the parents of the alleged victims.</li></ul>
<b>When</b>	March 2014
<b>Where</b>	Adelaide, South Australia

## Case Study No 10

<b>At a glance</b>	Handling by The Salvation Army (Eastern Territory) of claims of child sexual abuse between 1993 and 2014, in New South Wales and Queensland.
<b>Scope and purpose</b>	<p>This hearing examined the:</p> <ul style="list-style-type: none"><li>• policies, practices and procedures of The Salvation Army (Eastern Territory), between 1993 and 2014, for responding to claims of child sexual abuse at its children's homes or elsewhere</li><li>• application and adequacy of these policies, practices and procedures between 1993 and 2014</li><li>• experience of people who made complaints during this time</li><li>• policies, practices and procedures between 1989 and 2014 for disciplining officers of The Salvation Army (Eastern Territory) who were the subject of allegations of child sexual abuse.</li></ul>
<b>When</b>	March 2014
<b>Where</b>	Sydney, New South Wales

## Case Study No 11

<b>At a glance</b>	Experiences of men who were residents at one or more of the Congregation of Christian Brothers' (the Christian Brothers') residences in Western Australia.
<b>Scope and purpose</b>	<p>This hearing examined the experiences of a number of men who had lived at the following Christian Brothers' institutions:</p> <ul style="list-style-type: none"><li>• Castledare Junior Orphanage</li><li>• St Vincent's Orphanage Clontarf</li><li>• St Mary's Agricultural School, Tardun</li><li>• Bindoon Farm School.</li></ul> <p>It also looked at the:</p> <ul style="list-style-type: none"><li>• response of the former Christian Brothers' Province of Western Australia and South Australia and the current Province of Oceania, and of relevant Western Australian state authorities, to complaints about Christian Brothers' members who taught or did other activities at each of the Christian Brothers' institutions</li><li>• claims made by residents through <i>Towards Healing</i>, Redress WA, civil action and/or directly to the Christian Brothers for compensation or assistance, and the experience of each in the relevant process.</li></ul>
<b>When</b>	May 2014
<b>Where</b>	Perth, Western Australia

## Case Study No 12

<b>At a glance</b>	Response of an independent school in Perth, Western Australia, to concerns raised between 1999 and 2009 by teachers and others about another teacher.
<b>Scope and purpose</b>	<p>This hearing examined the:</p> <ul style="list-style-type: none"><li>• response of the headmasters, relevant department heads and school council of an independent school in Perth, to concerns raised between 1999 and 2009 by teachers and others about the level and type of contact between a teacher and several of his students</li><li>• response of the school following the arrest of the teacher in 2009 on multiple charges of indecent dealing with a child, in relation to the victims, their families and the wider school community</li><li>• school's response to and management of the victims' claims for compensation</li><li>• systems, policies and procedures in place at the school between 1999 and 2014 for raising and responding to concerns about child sexual abuse</li><li>• registration of the school under the <i>School Education Act 1999</i> (WA) between 1999 and 2014.</li></ul>
<b>When</b>	May and June 2014
<b>Where</b>	Perth, Western Australia and Canberra, Australian Capital Territory

## PREPARING FOR AND HOLDING PUBLIC HEARINGS

### We need to gather and prepare evidence for public hearings

Each of these hearings has followed intensive investigation by Royal Commission staff and Counsel Assisting.

To prepare for public hearings, we will usually:

- issue notices or summonses to produce specified documents and data<sup>14</sup>
- review these documents and seek further information
- identify and interview potential witnesses
- prepare witness statements
- seek statements from institutional representatives
- prepare a bundle of documents to be tendered for the hearing
- engage experts to advise us and give evidence, if necessary
- identify the scope and purpose of the hearing.

## Leave to appear is needed to participate in a public hearing

We advertise upcoming public hearings and outline their scope and purpose. If individuals or institutions want to take part, they must apply to the Royal Commission for 'leave to appear'. We usually write to people beforehand if adverse evidence is likely to be given against them. They can then apply for leave to appear.

The Chair or presiding Commissioner of the Royal Commission can grant or decline leave to appear, based on whether the applicant has a direct or substantial interest in the hearing. Leave is usually only granted to those with an interest in the factual account that will be given. People with an interest in the subject matter more generally can contribute to our work through other public forums and by responding to issues papers.

<b>Leave to appear applications</b>	121 applications in our first 12 hearings
<b>Leave to appear granted</b>	Of these applications, 90 applicants were granted leave to appear

Parties granted leave can sit at the bar table, ask witnesses questions and make submissions at the end of the hearing. The presiding Commissioner may impose conditions on their participation. This might include a direction that limits:

- their participation to matters in which they have a direct and relevant interest
- the time they spend examining or cross-examining a witness, or the topics they cover.

## Witnesses provide vital information during hearings

Witnesses have included survivors, institutional representatives and staff, lawyers and subject-matter experts. Counsel Assisting decides who will be called and when; some witnesses give evidence more than once.

Parties with leave to appear may apply to Counsel Assisting for other witnesses to be called. They must generally supply a signed statement that explains what evidence the witness will give. If Counsel Assisting refuses the request, they may apply to the Chair or presiding Commissioner for permission to have the witness give evidence.

After swearing an oath or making an affirmation, witnesses must answer questions from Counsel Assisting and then other parties who have leave to appear. If the witness is represented, their solicitor or counsel may then ask questions. Counsel Assisting may re-examine witnesses after everyone else has asked their questions. Witnesses face penalties for providing false or misleading information.

## Parties affected by public hearings are treated fairly.

The Royal Commission ensures that all parties affected by public hearings are dealt with fairly. This includes giving people the chance to respond to allegations that they sexually abused a child or were responsible for abuse, or to possible adverse findings about them.

As our hearings are open to the public, we also take steps, where appropriate, to protect the identity of witnesses. The Chair or presiding Commissioner may issue directions not to publish certain information, such as a person's name and other information that might identify them.<sup>15</sup> They might also require pseudonyms (like 'AA') to be used for some witnesses.

Several factors must be considered when making decisions about non-publication orders, including any prejudice that might flow from publication and the public interest in exposing matters related to our terms of reference.

## Witnesses are supported

We may make special arrangements for witnesses giving evidence to:

- protect their wellbeing
- respond to any reasonable need arising, for instance, from a disability.

Our witness support staff helps witnesses understand the role they play in proceedings so they know what to expect. This includes giving a tour of the hearing room and an explanation of the legal processes and protocols. Our staff members are present throughout the hearing to support witnesses, accompany them to and from the room, and arrange counselling and support services as required.

We also refer some witnesses to knowmore, an independent legal service established by the Commonwealth Government to provide free legal advice and assistance to people engaging with the Royal Commission. Witnesses who are summoned to attend a hearing can access two types of Commonwealth financial assistance, that is:

- legal financial assistance to cover reasonable costs of legal representation and disbursements (provided by the Commonwealth Attorney-General's Department)
- a daily appearance fee to assist with the costs of attending a hearing (provided by the Royal Commission). Witnesses may also be entitled to payments for travel, accommodation and lost income.

### Survivor Joan Isaacs reflected on how she felt about giving evidence in a hearing

Joan Isaacs was sexually abused by Father Francis Derriman from 1967 to 1968, when she was 14 and 15 years old. Father Derriman was a priest of the Catholic Archdiocese of Brisbane and chaplain of the Sacred Heart Convent at Sandgate.

Ms Isaacs shared her story of abuse and her experiences of Towards Healing during the public hearing for Case Study No 4. Afterwards, she told the Royal Commission:

‘FEAR ... was my biggest enemy in the weeks leading up to my appearance at the public hearing for the Royal Commission. It woke me through the night so many times and I would ask myself “Why am I doing this?” But the answer was always clear ... “I need to do this. Not just for myself but for all victims of Catholic Clergy abuse including my friend, who never saw justice in her tormented life.” The day of my hearing had arrived ... I have waited for this day since I was 15 years old ... I have waited to tell this story of evil. I am ready!

...

This is my story. I now know I will do well because I alone own this story and I alone can tell it. I begin. As I talk my voice falters but I feel wholesome. I am finally free to tell the truth and the whole story. The tide of support is with me. The Commissioners’ eyes tell me they believe me and understand my hurt and pain

...

Before I knew it, it was over. I was lost in this moment. Lost in the amazing circumstance I had found myself. I was in a place that I feared I would never be, before I died. I was free!

As I walked from the room, the psychologist said to me, “You seem taller”. Yes I was! I was no longer weighed down by the chains that had bound me. I had taken back the power that had been stolen from me. The abuse is still part of my life and always will be but I am now the one who is in control. Others will no longer control me. Others will no longer threaten me.

I HAVE THE POWER AND I AM NO LONGER ALONE!’

## LEARNING FROM PUBLIC HEARINGS

### The Royal Commission makes findings and recommendations

After a public hearing, Counsel Assisting makes written submissions, which set out the evidence and findings available to the Royal Commission based on that evidence.

The submissions are given to those with leave to appear and those who face adverse comments. Parties with leave can then reply with written submissions of their own. If needed, time is set aside for the parties to make oral submissions. A non-publication order is usually made over the submissions until all parties have replied, based on a timetable that is set at the end of the hearing. They then appear on our website.

Next, the Commissioners who presided over the hearing meet to consider the evidence and submissions. They set out their findings and recommendations in a report. The systemic issues raised in a hearing are not necessarily the subject of findings in the report, but they might be explored further through issues papers and submissions, roundtables and other public forums.

So far, we have submitted two case study reports to the Governor-General and state governors:

- *Report of Case Study No 1: The response of institutions to the conduct of Steven Larkins*

- *Report of Case Study No 2: The response of YMCA NSW to the conduct of Jonathan Lord.*

These reports are on our website ([www.childabuseroyalcommission.gov.au/public-hearings/findings](http://www.childabuseroyalcommission.gov.au/public-hearings/findings)). Reports on other public hearings are at various stages of completion.

### Institutions strengthen their responses to abuse

We anticipate that institutions will give our findings and recommendations serious consideration and hope that they make the necessary changes to improve their responses to abuse.

We see that public hearings are already bringing positive change. For example:

- multiple institutions have undertaken to review victims' claims
- some child protection agencies and faith-based institutions are reviewing their recruitment and management practices
- institutions such as the Catholic and Anglican churches are sharing information on governance and finances for the first time
- institutions are reviewing their attitude to accepting responsibility for the criminal acts of their staff.

The national conversation has changed and Australians are discussing this issue as never before. For example, Case Studies No 2, No 10 and No 11 have brought positive changes as outlined below.

### YMCA NSW and the NSW Government take action following public hearing

Since the public hearing for Case Study No 2, the YMCA NSW has taken steps to improve its response to child sexual abuse. These include:

- obtaining software to centralise its recruitment, pre-employment screening, testing of policy knowledge and employee performance management
- engaging an independent party to review its organisational culture
- reviewing its policies to simplify and clarify them for staff
- reviewing its parent handbook so that its child protection policies are explained better.<sup>16</sup>

In January 2014, the Department of Education and Communities issued a compliance notice to YMCA NSW. On the basis of evidence before the Royal Commission, it expressed doubt about whether the organisation is child safe and imposed new conditions on its childcare licence, to be met by 30 April 2014.<sup>17</sup> The department is reassessing whether YMCA NSW 'continues to be a fit and proper person to be involved in the provision of an education and care service'.<sup>18</sup>

### The Salvation Army clarifies position on vicarious liability for child sexual abuse

Case Study No 10 examined the response of The Salvation Army (Eastern Territory) to claims of child sexual abuse between 1993 and 2014. During the public hearing, Salvation Army Commissioner Raymond James Condon confirmed that the Army accepts that, in certain circumstances, it is 'vicariously liable' for abuse in its boys' and girls' homes. That is, the institution accepts responsibility for the wrongful conduct of its staff. Commissioner Condon said:

'We have given careful consideration to the question of whether The Salvation Army would always accept that it is or should be vicariously liable for the past or possible future criminal conduct of officers, employees or agents.'

Speaking of abuse that has already occurred, he said:

'I cannot speak about every possible scenario and every form of possible criminal conduct but I can say that with respect to claims of child sexual or physical abuse arising out of our boys' homes or girls homes' (sic), The Salvation Army accepts that it is liable for the conduct of those individuals who abused the children. This is because we accept that our policies and practices at that time were not sufficient to protect children in those homes from perpetrators of child sexual abuse. The Army will accept that it is vicariously liable for the conduct of such perpetrators in the event any claim brought against it by a survivor from the Army's boys and girls homes.'

With respect to the future, he said:

'However, I cannot bind The Salvation Army as to the approach it might take in the future. We take our child protection obligations very seriously. We do not and will not tolerate abuse of a child in our care or for whom we are responsible. All our officers, employees and agents are expected to adhere to our standards. If at some point in the future, an officer, employee or agent engages in criminal conduct in blatant contradiction to our policies and expectations, the Army may not be prepared to accept that it should be vicariously liable for such conduct. This is a matter which would need to be carefully considered on a case by case basis, having regard to the nature of the claim brought against the Army.'<sup>19</sup>

## Christian Brothers to revisit abuse compensation and offer survivors ongoing counselling

The public hearing for Case Study No 11 examined the responses of the Christian Brothers and relevant Western Australian state authorities to allegations of child sexual abuse at Christian Brothers' residences. During the hearing, Brother Julian McDonald – Deputy Province Leader of Christian Brothers Province of Oceania – told the Royal Commission 'that any settlement that is regarded by the person settled with as unjust will be revisited'.<sup>20</sup> He invited those persons | to contact the Christian Brothers Professional Standards Office in Victoria.<sup>21</sup> The hearing continued:

- Q     'So you invite those who are dissatisfied on the grounds of justice with the amounts they have received, through whatever means from the Christian Brothers – is that right, through whatever means?
- A     I do, and not just those, anybody who has a complaint.
- Q     Not just those who have gone through *Towards Healing*?
- A     Anyone.
- Q     Including those who have been through the Slater & Gordon class action?
- A     Indeed.
- Q     To contact the Professional Standards Office in Victoria?
- A     Yes'.<sup>22</sup>

### Christian Brothers recognises responsibility to those damaged by the Brotherhood's actions

During the hearing, Brother McDonald recognised that the Christian Brothers have a responsibility to individuals damaged by the actions of members of the brotherhood.

Q 'Did you have any doubt in your mind that, given the nature of the Brothers and the way these institutions were run and the persons who were brought to them and damaged, that the Brothers as an institution, as a group, however you like to call it, carried that responsibility even though it was the actions of perhaps people who were now dead that caused the damage?

A I've never doubted that, your Honour.

Q That would mean that the argument about vicarious liability would not be one that you would respond to.

A No.

Q Would your view on that question be generally held amongst the Brothers, do you think?

A At a guess, I'd say so. Look, compassion – that's probably not the right word – a pastoral response is my inclination and desire, and that's how I was educated. The world of litigation is, quite frankly, totally foreign territory to me, and I find it repulsive in a lot of ways.

Q To go back to the discussion that we are having, I assume that that is born of the fact that you understand that the Brothers had, and continued to have, a responsibility to those who may have been damaged by the actions of members of the Brotherhood?

A I do'.<sup>23</sup>

### Christian Brothers to offer survivors ongoing counselling

After the hearing, Christian Brothers' Province of Oceania announced that all survivors of its Western Australian institutions would be offered ongoing professional psychological counselling, for life, if needed.<sup>24</sup>

## 2.3 RESEARCH AND POLICY

Research and policy is the third pillar of the Royal Commission's work and we have developed a comprehensive program. It focuses on four broad areas: prevention, identification, response and justice for victims.

Already we have:

- set the research and policy agenda
- engaged national and international experts
- completed a number of key research projects
- progressed many other projects
- issued seven issues papers and received submissions
- held two roundtables.

The research and policy program will provide evidence to support our work. It will help us make recommendations for strengthening the protection of children and institutional responses to child sexual abuse. The program builds on, rather than duplicates, the existing body of research on child sexual abuse.

### SETTING OUR RESEARCH AGENDA

#### Quality, responsive and balanced research is essential

The aim of the Royal Commission's research program is to carry out quality research to address our terms of reference. We are aware that our research is likely to make a major and lasting contribution to the national and international research community on these issues.

Our first task was to develop a research agenda that:

- fully addresses our terms of reference
- has a balanced focus on historical, current and future issues.

We have applied a governance framework to ensure we produce relevant, high-quality and ethical research in line with national standards. The framework also seeks to promote confidence in our research and, given the sensitive and potentially distressing subject matter, protect the health and wellbeing of those involved.

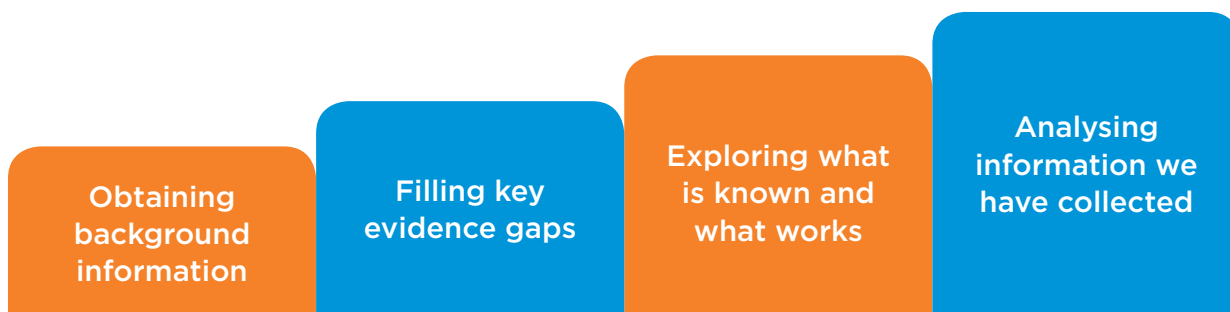
We manage each of our research projects under our governance framework.

#### We are conducting descriptive, primary, future-focused and internal research

We have based our research agenda on four broad categories:

- **Descriptive research** provides background information. Much of our early research falls into this category, which includes historical overviews, legislative comparisons and institutional profiles. For example, we have compiled a list of sexual offences in each state and territory, which is the starting point for research on the criminal justice system.
- **Primary research** addresses key evidence gaps related to our terms of reference. For example, we are researching the prevalence and incidence of child sexual abuse in institutions and the prosecution of abuse cases.

- **Future-focused research** analyses what is known about child sexual abuse and what works in addressing it. We can then identify what should be done in the future.
- **Internal analysis** looks at information collected through our own inquiries. Examples include studying data from private sessions and synthesising information from public submissions.



Together, this research seeks to identify best practice in preventing, identifying and responding to child sexual abuse in institutional contexts and in supporting victims and their families.

### We have prioritised research to benefit fully from available resources

The size of our task is enormous and, predictably, there are more issues than we have the time or resources to research. When we developed our research agenda, we were careful to ensure that we use our time and resources to maximum benefit.

We are committed only to research that we believe must be done to fulfil our terms of reference.

## WORKING WITH EXPERTS

### A Professorial Fellow provides strategic advice and leadership

In October 2013, the Royal Commission appointed Associate Professor Dr Leah Bromfield as Professorial Fellow to provide strategic advice and leadership on our research program. A respected academic in the field, Dr Bromfield is Deputy Director of the Australian Centre for Child Protection at the University of South Australia.

One of her earliest tasks in the role was to:

- review our research agenda and research governance
- assess the proposed research methods
- help us determine the issues our research could usefully explore.

## Other experts inform our research program

We have established several advisory groups to guide us on specific research areas or projects. Each research project is critically reviewed by a recognised expert in the field before its completion.

One advisory group is the Criminal Justice Advisory Group. The group advises on research in areas like trial and sentencing processes and offence structures. Its work will enable us to make recommendations on how to improve the prosecution process to ensure child sexual abuse is dealt with fairly and appropriately.

Member (appointed to 31 December 2014)	Institution
<b>Dr Judith Cashmore AO</b>	University of Sydney
<b>Associate Professor Hugh Donnelly</b>	Judicial Commission of New South Wales
<b>Professor Arie Frieberg</b>	Monash University
<b>Professor Jane Goodman-Delahunty</b>	Charles Sturt University
<b>Mr Mark Ierace SC</b>	New South Wales Department of Police and Justice
<b>Mr Tim Marsh</b>	Victoria Legal Aid
<b>Mr Ivan Potas</b>	Individual member
<b>Dr Adam Tomison</b>	Australian Institute of Criminology

## Our experts come from many disciplines and leading research institutes

Many other experts are working with our own researchers to fulfil our research goals.

As our research is multi-disciplinary, we have engaged individuals with diverse expertise. They include criminologists, historians, lawyers, psychologists and social workers. Our researchers use an equally diverse range of research methods, including data collection, literature reviews, legislation reviews and historical analyses.

Our experts come from some of Australia's leading universities and research institutes:

Research institutes	
University of Tasmania	La Trobe University
University of South Australia	Griffith University
University of Sydney	Australian Institute of Family Studies
University of New South Wales	Australian Institute of Criminology
Queensland University of Technology	Australian Catholic University
Parenting Research Centre	

## OUTLINING OUR COMPLETED PROJECTS

### We have already finished 21 projects

By the end of June 2014, the Royal Commission will have completed 21 research projects. We have also started or are scoping work on more than 30 additional projects.

We have prioritised research that helps us to understand the context of our work, including the:

- existing systems and structures for responding to abuse
- findings and recommendations of previous inquiries
- history of relevant institutions and practices.

Our completed projects are outlined immediately below.

Completed research project	Description
<b>Child sexual abuse offences in Australia</b>	Identified and reviewed sexual offence laws, particularly relating to children and institutional settings.
<b>Fact sheet on oversight agencies and statutory definitions of child sexual abuse in institutional settings</b>	Summarised information about government agencies with oversight of sexual abuse allegations and statutory definitions of child sexual abuse in institutional settings, to help improve awareness of key aspects of Australia's child protection system.
<b>History of institutional care in Australia</b>	<div>Identified factors that influenced child sexual abuse in Australian institutions and how institutional responses were shaped. The studies also provided a history of:</div> <ul style="list-style-type: none"><li>• legal responses to child-related issues and the role they played in the establishment of institutions</li><li>• the types of institutions that have existed in Australia since colonisation</li><li>• Australian inquiries that have reviewed any institution providing care or protection to children, from colonisation to the 1990s.</li></ul>
<b>The role of government policy in the establishment of institutions for children</b>	
<b>Australian Government and Senate inquiries into institutions caring for children</b>	
<b>History of the Code of Canon Law</b>	
	Reviewed the history of Canon Law, and explored whether it can be used to discipline clergy who have sexually abused a child, as well as its impact on reporting such abuse to civil authorities.

Completed research project	Description
History of the Christian Brothers	Reviewed the history, operation, structure, purpose and activities of certain religious orders in Australia.
History of the De La Salle Brothers	
History of the Marist Brothers	
History of the Salesians of Don Bosco	
History of the Sisters of Mercy	
History of mandatory reporting in Australia	Reviewed Australia's history of mandatory reporting of sexual abuse, and explained the legal principles behind these reporting obligations and changes over time.
Implementation of past recommendations: primary research methodology development and trial	Developed and tested a methodology to assess the implementation of recommendations from the past inquiries identified above.
Learnings from private sessions: qualitative coding framework	Analysed private session transcripts to develop a coding framework for future qualitative analyses of data relating to private sessions.
Mandatory reporting fact sheet	Summarised information about child maltreatment and mandatory reporting laws to help improve awareness of key aspects of Australia's child protection system.
Pre-employment screening fact sheet	Summarised information about employment screening laws and prohibited employment schemes to help improve awareness of key aspects of Australia's child protection system.
Review of literature critiquing procedures and protocols of faith-based institutions	Identified literature to inform an analysis and critique of the procedures and protocols of faith-based responses to child sexual abuse.
Review of literature critiquing procedures and protocols of <i>Towards Healing</i>	Reviewed literature critiquing the procedures, protocols and other documents related to <i>Towards Healing</i> , and other faith-based responses to child sexual abuse.
Review of non-personal submissions received in response to Issues Paper No 2 on <i>Towards Healing</i>	Analysed submissions received from institutions and non-government organisations in response to our <i>Issues Paper No 2 on Towards Healing</i> .
Review of personal submissions received in response to Issues Paper No 2 on <i>Towards Healing</i>	Analysed personal submissions received in response to our <i>Issues Paper No 2 on Towards Healing</i> .
Summary of recommendations of previous inquiries in the scope of our work	Reviewed more than 300 reports from the past 24 years that identified inquiries and recommendations directly relevant to our work.

## EXPLORING OUR CURRENT PROJECTS

### Projects are investigating key themes

We are committed to research projects on various themes including:

- the causes of child sexual abuse in institutions
- identification and prevention, including primary prevention and preventing recidivism
- institutional and government responses, including within the court system
- the treatment and support needs of victims and their families
- the history and characteristics of relevant institutions
- lessons from past inquiries and research.

Lists of our current projects and projects in the scoping phase are outlined immediately below. The scoping process will determine whether this research is required.

Current research project	Description
<b>Audit of child-focused sexual abuse prevention programs policy and curricula</b>	An audit of school-based child sexual abuse prevention policies and curricula relative to the current international evidence base. In addition to its findings, the project will provide an audit tool to assess the provision of state and territory child sexual abuse prevention content in government and Catholic school policies and curricula.
<b>Deconstruction of findings of previous inquiries</b>	Deconstructions of the findings of inquiries assessed as being in the scope of our terms of reference, to provide readily available syntheses of those findings.
<b>Efficacy of pre-employment screening</b>	A scoping review to map evaluations of pre-employment screening practices for child-related work that aim to prevent child sexual abuse.
<b>History of child sexual abuse offences in Australia</b>	A review of the socio-political factors and events that have been linked to the development of Australia's awareness and understanding of child sexual abuse, statutory child protection systems and child sexual abuse legislation from 1788 until the end of 2013. The review also provides an in-depth overview of the different offences for which a person who sexually abused a child between 1950 and 2013 may have been charged within the nine Australian jurisdictions.
<b>Implementation of past recommendations: primary research study</b>	An evaluation to assess the: <ul style="list-style-type: none"><li>• implementation of 288 recommendations identified as being within the scope of our work</li><li>• factors that might determine or contribute to their successful implementation.</li></ul>

Current research project	Description
<b>Key aspects of out-of-home care practice that prevent child sexual abuse in out-of-home care</b>	A scoping review to map evaluations of out-of-home care practice elements that aim to prevent child sexual abuse in out-of-home care.
<b>Learnings from private sessions: quantitative analysis</b>	<p>An analysis of quantitative data from our private sessions, to describe:</p> <ul style="list-style-type: none"> <li>• characteristics of victims, offenders and institutions involved with institutional child sexual abuse</li> <li>• disclosure patterns following abuse</li> <li>• the impacts of child sexual abuse on victims.</li> </ul>
<b>Patterns and purpose of sentencing applicable to child sexual abuse</b>	An analysis to identify areas of possible reform in sentencing persons who sexually assault children in institutional contexts.
<b>Prevalence and incidence of child sexual abuse in institutions in Australia</b>	<p>A primary research project that:</p> <ul style="list-style-type: none"> <li>• establishes data holdings on present-day incidents of child sexual abuse in institutional contexts</li> <li>• determines the accessibility of any such data for research purposes</li> <li>• identifies what, if anything, the data reveal about the extent of such abuse.</li> </ul>
<b>Prosecution process for cases of child sexual abuse</b>	An examination of the prosecution process for cases of child sexual abuse that are disclosed or reported in adulthood compared with those that are disclosed or reported in childhood. The study is examining the trends in delayed disclosure and reporting of such assault cases, and mapping the prosecution process and outcomes with varying degrees of delay in reporting.
<b>Relationship between viewing child exploitation material and face-to-face sexual offending against children</b>	A review of evidence to explain the relevance of child pornography and child exploitation material to child sexual abuse in institutional contexts and our terms of reference.
<b>Views of children about their safety from sexual abuse in institutional contexts</b>	<p>Exploratory research on the views of children about their safety from sexual abuse in institutional contexts, including:</p> <ul style="list-style-type: none"> <li>• their perceived safety from sexual abuse in institutions and what gives rise to these perceptions</li> <li>• what they consider is already being done to respond to such abuse, and what should be done.</li> </ul>

Research project in the scoping phase	Description
<b>Case file review: context, characteristics and outcomes of institutional child sexual abuse</b>	This study will build on the findings of the study on the prevalence and incidence of child sexual abuse in institutions.
<b>Child-focused sexual abuse prevention programs in pre-schools</b>	This project will review evidence on child sexual abuse prevention programs delivered to children in pre-schools.
<b>Child safe organisations: evidence review and promising practice</b>	This project will review best practice in developing and implementing policies and procedures to ensure child services organisations are child safe.
<b>Community-level primary prevention of child sexual abuse: evidence review and promising practice</b>	This project will review current best practice in community-level primary strategies for preventing child sexual abuse.
<b>Criminal justice trial processes applicable to child sexual abuse</b>	This project will review key criminal justice trial processes that may influence outcomes in child sexual abuse trials, including survivor wellbeing outcomes and judicial outcomes for the broader community.
<b>Framework for understanding historical influences on institutional child sexual abuse</b>	A consultation process with a multi-disciplinary group of experts to map changes in institutional responses to child sexual abuse in the post-war period.
<b>Hearing of complainants' evidence at trial</b>	<p>This research will identify:</p> <ul style="list-style-type: none"> <li>• how evidence can be given by child sexual abuse complainants for use in court</li> <li>• how evidence is in fact being given</li> <li>• what impact different ways of taking evidence have on trial outcomes (including convictions) and jury decision making.</li> </ul>
<b>Impacts on victims of child sexual abuse in institutional contexts</b>	This project will review the specific impacts of institutional child sexual abuse, including ways to best respond to these impacts.
<b>Learnings from private sessions: mixed-method analysis</b>	<p>This project will analyse themes from private sessions data, in particular:</p> <ul style="list-style-type: none"> <li>• if and how the nature of abuse within institutions has changed over time</li> <li>• disclosure processes, including factors facilitating early disclosure</li> <li>• factors influencing victims' wellbeing in the short, medium and long term</li> <li>• the nature, context and timing of redress, and the effect of redress on victims' capacity to recover from abuse.</li> </ul>

Research project in the scoping phase	Description
<b>Mandatory reporting</b>	This project will review the strengths and challenges of mandatory reporting requirements in Australia.
<b>Monetary compensation and benefits schemes</b>	This project will review compensation and benefits schemes in Australia (for example, through civil litigation, statutory victims of crime compensation schemes, state redress schemes, faith-based schemes and other relevant schemes).
<b>Perpetrator treatment and rehabilitation: evidence review</b>	This project will review best practice in treatment and rehabilitation models for identified perpetrators of child sexual abuse in institutional contexts.
<b>Prevalence and incidence of child sexual abuse in institutions: additional analyses</b>	This study will build on the findings of the study on the prevalence and incidence of child sexual abuse in institutions.
<b>Services to victims</b>	This project will review services for survivors, and ways to improve service delivery and satisfaction.
<b>Sex offender registration: evidence review</b>	This project will review the strengths and challenges of sex offender registration schemes in Australia.
<b>The impacts of child sexual abuse on the families of adult and child survivors</b>	This project will explore the family dynamics around disclosure of institutional child sexual abuse by child and adult survivors, including how family dynamics may facilitate the recovery of survivors.
<b>Understanding the failure to identify and report child sexual abuse</b>	This project will review the factors around failures to identify and report child sexual abuse in institutional contexts, including ways to improve identification and reporting rates.
<b>Understanding perpetrator motivations and offending trajectories</b>	This project will review current typologies and the motivations of perpetrators, and how they influence offending trajectories.
<b>Why does child sexual abuse occur in institutions? Risk and protective factors for offenders, victims and institutions</b>	This project will review the determinants of, and risk and protective factors for, child sexual abuse in institutions.

## CONSULTING WIDELY ON KEY ISSUES

### We have received hundreds of responses to our issues papers

So far, we have released seven issues papers on various topics, seeking submissions from organisations and individuals. Submissions have been received for the first five and we are pleased with the number of responses. Responses have ranged from individual experiences to detailed submissions from experts and key advocacy groups. Submissions on *Issues Paper No 6 – Redress schemes* closed on 2 June 2014 and submissions on *Issues Paper No 7 – Statutory victims of crime compensation schemes* closed on 30 June 2014.

The following tables set out these issues papers and the submissions we have received. Each submission is made public unless the author expressly requests that it is not. We might also decide not to publish a submission, particularly if it makes references to an institution or allegations about a person of such a nature that it would not be fair to publish without giving the subject an opportunity to respond.

Issues paper	Total submissions	Published submissions
<b>Working with Children Check</b>	80	79
<i>Towards Healing</i>	55	23
<b>Child safe institutions</b>	56	53
<b>Out-of-home care</b> <sup>25</sup>	63	62
<b>Civil litigation</b>	40	37

Issues paper	Submissions					
	Government (%)	Faith-based organisation (%)	Community organisation (%)	Academic (%)	Individual (%)	Other (%)
<b>Working with Children Check</b>	19	10	42	2	18	9
<i>Towards Healing</i>	4	7	11	4	61	13
<b>Child safe institutions</b>	25	9	51	4	9	2
<b>Out-of-home care</b>	27	6	37	10	12	8
<b>Civil litigation</b>	2	2	4	4	12	16

## Roundtables will debate policy issues

The Royal Commission is using a series of roundtables across Australia to discuss key policy issues publicly. We will invite people with specific expertise to join us for these discussions, with a Commissioner as convener, but the public can also attend.

Our website will give the venue and date of each roundtable, and we will post a podcast of the event shortly after it finishes.

The first roundtable, held in April 2014, was on out-of-home care. Participants

included government representatives, regulators, policy experts, care practitioners, Aboriginal and Torres Strait Islander representatives, academics and advocacy groups. The second roundtable, in June 2014, discussed Working with Children Checks.

We plan to hold roundtables on different policy issues, generally following the release of an issues paper. Future topics are likely to include redress schemes and the criminal justice system.



Roundtable discussion on out-of-home care, April 2014

## 2.4 COMMUNITY

We want everyone who has been affected by child sexual abuse in institutions to be able to share their story with us. We also rely on broader community participation to help inform our findings and recommendations.

Our media and public information activities:

- target vulnerable or hard-to-reach groups in the community
- raise public awareness of our work.

We want the whole community to be aware of our work and have trust in us as we complete our inquiry. We work closely with survivor support organisations to build confidence in the Royal Commission so these organisations can in turn support people who come forward. We are committed to continually improving access to the Royal Commission for survivors and reducing any barriers that may exist.

### WORKING WITH THE COMMUNITY

#### A dedicated team liaises with Aboriginal and Torres Strait Islander people

We have three Aboriginal and Torres Strait Islander staff members who are dedicated to working with Aboriginal and Torres Strait Islander people and organisations in cities and regional areas.

We have travelled extensively and have built relationships with Aboriginal and

Torres Strait Islander communities across Australia, including in:

- Geraldton and the Kimberley region in Western Australia
- northern New South Wales
- Port Augusta in South Australia
- western Queensland and the State's mid-north coast
- the Tiwi Islands
- Darwin and Alice Springs in the Northern Territory.

Many Aboriginal and Torres Strait Islander people, community leaders and organisations have made submissions to our inquiry.

They include the:

- Aboriginal Child, Family and Community Care Secretariat
- National Aboriginal and Torres Strait Islander Legal Service
- Queensland Aboriginal and Torres Strait Islander Child Protection Peak
- Secretariat of National Aboriginal and Islander Child Care
- Victorian Aboriginal Child Care Agency Co-Operative.

As part of our broader communication strategy, we have developed specific materials and content to support ongoing engagement with Aboriginal and Torres Strait Islander organisations.

#### People with disability are supported

We have taken steps to engage with people with disability and their advocates, and to assist those who want to come forward to tell their story.<sup>26</sup>



A range of specific communication materials, including easy-to-understand English and audio-based resources, have been developed. We have also met and worked closely with disability organisations across Australia. Several have already made submissions, including National Disability Services, the Australian Federation of Disability Organisations, and People with Disability Australia.

We take account of special needs and adapt our processes where necessary. For example, we will arrange for communication support workers and interpreters to help people with disability to take part in our work, including private sessions.

We also engage with parents and carers of people with disability. A public hearing in March 2014 was held because of stories we heard from of our first group private session with nine parents of children who had intellectual disabilities and had attended St Ann's Special School.

### [We help people with mental health difficulties](#)

We aim to provide a safe environment for survivors with mental health difficulties. We have a range of flexible and responsive support measures in place. Counsellors are available for everyone who comes forward to tell us their story.

Many survivors will be affected by hearing about our work, whether or not they share their story with us. They might need increased contact with support services and systems.

We are working with organisations in the mental health sector in partnership with the Mental Health Council of Australia. This has helped to raise awareness of our work and ensure front-line workers have opportunities to improve their skills, so they can support anyone who is affected by our work.

### [Inmates can tell us their stories](#)

One study shows that victims of child sexual abuse are five times more likely to be convicted of a crime than the general population.<sup>27</sup> We want to give inmates of prisons and correctional institutions in Australia who have experienced child sexual abuse in institutions the opportunity to tell us their story. We are working with the Correctional Services Commissioner in each jurisdiction to manage this process. We have also engaged with inmate support groups.

As processes vary between jurisdictions and centres, we are running a pilot scheme in three correctional centres in New South Wales and the Australian Capital Territory. We ran information sessions and training for staff in the pilot centres before delivering private sessions for their inmates. Once this scheme ends in July 2014, we will start engaging with inmates in other states and territories.

We have arranged for channels of communication in our pilot centres to be completely confidential. Corrections intelligence staff will not monitor phone calls or letters in relation to our work.

We are working with Inmate Development Committees to provide information on our work so that inmates are well informed about the scope of our inquiry and how they can tell us their stories. We have also developed a suite of specific communication materials, which have been translated into five languages and include infographic posters. A three-minute film is being shown in correctional centres nationwide.

### Rural and regional communities can have a say

We have travelled around Australia and listened to people in all capital cities, and in many rural and regional areas including Alice Springs, Ballarat, Bendigo, Coffs Harbour, Geraldton and the Kimberley.

We hold meetings in each area to increase awareness of our work and encourage local organisations and victims to engage with us.

### We are hearing from older people

We have learned that many older people have experienced child sexual abuse. Many were children in care in large institutions during the middle of the 20th century.

We are working with advocates and other stakeholder groups to engage with older Australians and inform them about our work.

We can travel to people's homes to take written accounts, particularly if they are housebound or in palliative care. We also worked with government

departments to deliver information materials to each aged-care facility in Australia as part of our national awareness campaign.

### Culturally and linguistically diverse communities can have a say

Many Australian communities are culturally and linguistically diverse. We work closely with community advocates and leaders to engage with people from diverse backgrounds.

As language can be a real barrier to access, we have translated our fact sheets into more than 10 languages and made them available on our website. We also allow interpreters and advocates to attend private sessions.

### Children are key

It is essential that we hear directly from children who have faced sexual abuse in institutions. Children have a right and are entitled to participate in decisions that affect them. Involving them will also help us make practical and useful recommendations.

We engage with children, parents and guardians, and youth organisations to build awareness of our work and identify ways we can support those who want to speak with us.

We have developed procedures for when a child contacts us. These procedures deal with:

- reporting any relevant risks of harm to proper authorities, to ensure the child's immediate safety
- referring the child to counselling

- or support services
- appointing a Royal Commission contact person
- providing a support person where appropriate
- calling and questioning child witnesses
- respecting the child's privacy
- seeking informed consent from children, and their parents where appropriate.

### People experiencing homelessness can share their stories

We have learned that sexual abuse can be a cause of homelessness. We provide information about the Royal Commission to people experiencing homelessness, through advocates and service providers. We are also working with front-line providers to ensure people experiencing homelessness are aware of ways they can tell us their stories.

We have engaged with peak bodies to develop a targeted strategy to allow people to tell us their stories in a way that takes into account their special circumstances and needs.

## RAISING PUBLIC AWARENESS

### Community forums and meetings connect us with different sectors

Community forums help us connect with groups in different regions and sectors.

These face-to-face events are useful as people can:

- learn more about the Royal Commission, our aims and our processes
- speak directly with the Commissioners and ask them questions
- discuss ways to reduce barriers for people coming forward
- have their say on important policy issues.

To date, we have held forums in all capital cities and some regional locations.

We have also had hundreds of meetings with organisations that are directly affected by or interested in our work. We continue to meet with a wide range of organisations covered by our terms of reference. In addition, over 2,000 individuals or organisations have subscribed to our email information alert.

### The media broadcasts our message more widely

There is very considerable public interest in the Royal Commission. The media plays a critical role in helping us to keep the community informed about our activities.

We have developed guidelines to help the media report on our work, and these are on our website.<sup>28</sup> They help balance the need for open and informed coverage with the need for individual privacy.

We have issued media releases to promote key events and milestones, including each public hearing, our thousandth private session and the

release of issues papers. We have regularly briefed the media, and responded to thousands of media enquiries and requests for information.

Our CEO has participated in numerous interviews around the country, many of which are available on our website.

### A targeted information campaign reached out to the community

In April 2014, we launched a national public awareness campaign. It explained our role and encouraged people to come forward.

We ran the campaign because a national phone survey conducted on behalf of the Royal Commission in March 2014 found that, despite widespread awareness of the Royal Commission, many people are still unsure about what we can examine. Awareness was highest in the Australian Capital Territory and New South Wales (74 per cent) and lowest in Queensland (57 per cent).

The campaign targeted mainstream audiences as well as hard-to-reach groups through radio, print and digital media. It complemented existing communication channels, such as our website and social media presence, community forums, direct mail and call centre.

As part of the campaign, we distributed information brochures and posters nationally through local councils, libraries, Centrelink and Medicare offices, medical services, local Aboriginal community and health organisations, business and industry networks, support and counselling service providers, and advocacy groups.

<b>Direct mail</b>	To over 1,000 services
<b>Digital advertising</b>	On Facebook, Google and other relevant websites
<b>Radio advertisements</b>	16 metropolitan stations, 110 regional stations and 30 Indigenous stations
<b>Newspaper advertisements</b>	12 metropolitan newspapers, 28 regional newspapers and 7 Indigenous newspapers

The campaign directed audiences to the Royal Commission's website and call centre for more information.

## We provide real-time, up-to-date information through digital media

Our website, at [www.childabuseroyalcommission.gov.au](http://www.childabuseroyalcommission.gov.au), shares information about the inquiry and the scope of our activities. In response to feedback, we relaunched the website in April 2014. It now features:

- a schedule of public hearings and private sessions
- live streaming of public hearings, plus transcripts, exhibits and Counsel submissions
- issues papers and submissions in response
- a range of fact sheets
- details of our research program.

We use social media and email alerts to share information quickly and interact with the public, media and key stakeholders. We post regularly on Twitter and Facebook to keep people up to date about community events and public hearings.

Royal Commission online presence		Total at 31 May 2014
Audience reach of Facebook posts		100,751
Twitter followers		1,280
Website visits by page views		1,571,944
Website visits by unique visitors		233,719

## 2.5 INFORMATION

The Royal Commission is collecting information about institutional child sexual abuse through personal accounts, public hearings and research.

Various laws, policies and procedures govern the way we:

- collect information
- manage and record information
- share information with third parties.

### COLLECTING INFORMATION

#### Many people have contacted us

In line with our terms of reference, we provide opportunities for people affected by child sexual abuse in institutional contexts to share their experiences. Establishing safe and secure ways for people to communicate with us is a priority. People can contact us by phoning our call centre, emailing or writing to us, or being referred by a community group.

So far, our call centre has been the most popular option. It uses a toll-free number and is open between 8 am and 8 pm (AEDT) from Monday to Friday, except for national public holidays.

We have also received a large amount of correspondence. Most is from victims or survivors but we have also heard from:

- advocacy and support groups
- institutions that fall within the terms of reference

- members of the public offering information or help
- support services wishing to be engaged by the Royal Commission
- members of parliament representing their constituents
- government ministers.

By 31 May 2014, our call centre had taken more than 13,000 calls. We had also received almost 5,500 pieces of correspondence.

#### Coercive powers allow us to gather more information

As a royal commission, we can require people and organisations to give us information, even if it would otherwise not be publicly available. Under our coercive powers, we can:

- summon witnesses to appear and answer questions under oath or affirmation<sup>29</sup>
- hold witnesses in contempt of the Royal Commission or issue warrants for their arrest if they disobey or do not respond to a summons<sup>30</sup>
- require people to produce documents, in some cases even if the documents are subject to a claim of legal professional privilege<sup>31</sup>
- inspect, retain and copy relevant documents<sup>32</sup>
- issue or apply for search warrants about relevant matters (in most jurisdictions).<sup>33</sup>

In most cases, a person cannot refuse to provide information to the Royal Commission on the grounds that it might incriminate them.

## Obstruction is a criminal offence

If a person obstructs our inquiry, they might be guilty of a criminal offence. Offences include:

- failing to attend or provide evidence<sup>35</sup>
- intentionally providing false or misleading evidence<sup>36</sup>
- knowingly or recklessly concealing or destroying evidence we require<sup>37</sup>
- trying to influence the evidence of a witness or to stop them giving evidence.<sup>38</sup>

## Information also comes from research and stakeholders

Apart from public hearings, private sessions and written accounts, we collect information from individuals and organisations through our research projects, issues papers and roundtables.

We then analyse this information to identify systemic issues, help us choose case studies and develop recommendations for reform.

## MANAGING AND RECORDING INFORMATION

### Sensitive information is kept securely

Information we hold is extremely sensitive and we work hard to keep it secure. With contributions from survivors, organisations and the police, it is crucial that we protect all our material from unauthorised access, change, deletion and disclosure. We have detailed policies and custom-

built information technology (IT) systems to ensure this.

The Royal Commission follows the:

- *Protective Security Policy Framework*, which requires Australian Government agencies to protect people, information and assets
- *Australian Government Information Security Manual*, which governs the security of the Government's IT systems.

Our IT network is independent of the government. It uses a secure internet gateway to protect data. This is essential given how quickly and easily information can be transmitted.

Unprotected content could pose a serious risk to the integrity of our systems. Any information we hold, receive or send is protected so it does not damage our IT system or compromise the security of the other material we hold.

### Technology helps us manage information flow

Other technology has been critical in helping us meet the challenges of our task.

We have commissioned purpose-built electronic hearing rooms for our public hearings. These support the eCourt system and allow us to:

- set up video conferences and links, with some witnesses appearing remotely
- show content for a hearing on screens inside and outside the room

- stream the hearing live on our website (with a function that automatically selects the best format to suit the viewer's computer or device).

When we hold public hearings outside Sydney, we try to find courtroom facilities that are secure, accessible, functional and compatible with eCourt.

Specialist portable kits have also been developed to record digital audio in private sessions across Australia. The audio files can be securely transferred to the Royal Commission network for review and transcription.

### We do not release confidential information

We have tried to make our activities transparent by putting information about our work on our website, streaming hearings live and engaging with the media. However, at times we must restrict public access to information that is confidential or sensitive.

We have the power to hold hearings in private under the *Royal Commissions Act 1902* (Cth).<sup>39</sup> We also have powers to direct that certain information or documents must not be published at all, or must be published in such a way and to such people as we specify.<sup>40</sup> These directions will remain in effect after the Royal Commission ends.

Special protections apply to information from private sessions so that:

- disclosing it is an offence<sup>41</sup>
- we may only use it in our reports if we have de-identified it first, it has been later given as evidence or we have obtained it through our coercive powers.<sup>42</sup>

### Record keeping and data management meet international standards

As the volume of information we have grows every day, it is critical we have an effective information management system. Our system conforms with ISO 16175<sup>43</sup>, the international standard the National Archives of Australia endorses for government agencies.

We have tailored our IT infrastructure and software to suit our unique work and we can expand them to support the forecast growth of information we will receive in the future.

As well as a secure shared file server, we have custom-built databases to track information, for internal purposes, through the life of the Royal Commission. We can search these databases for information to support our many activities.

We also comply with state and territory laws for archiving.<sup>44</sup>

## SHARING AND DISCLOSING INFORMATION

### Different laws affect sharing information with third parties

This Royal Commission is established under Commonwealth legislation and legislation in each state. This presents challenges for the way we share, report and publish information.

For example, apart from New South Wales and the Commonwealth jurisdiction, legislation in the other states and territories does not explicitly allow us to communicate information to other commissions and inquiries. As a result, we take great care when sharing information that is not already in the public domain.

### We will share information about law enforcement and children at risk

Despite these difficulties, if we obtain information that could help (or prejudice) law enforcement or other inquiries, we must handle it appropriately. When it might relate to a law being broken, and we believe it is appropriate to do so, we may communicate that information:

- to the Attorney-General, the Director of Public Prosecutions or the police force of the relevant jurisdiction<sup>45</sup>

- without the consent of the person who provided it.

Generally, we will give a summary of the matter, and the contact details of whoever provided the information, to a designated liaison officer in the relevant police force. By 31 May 2014, we had referred more than 160 matters to the police.

We also inform child welfare authorities if there are reasonable grounds to suspect that a child is at risk of significant harm.<sup>46</sup>

### Freedom of information and privacy laws do not apply yet

The *Freedom of Information Act 1982* (Cth) and *Privacy Act 1988* (Cth) do not apply to the Royal Commission or our records while they are in our custody.<sup>47</sup>

When documents are no longer required for our work, they become Commonwealth records and are then subject to both of these Acts.<sup>48</sup>

Under the *Archives Act 1983* (Cth), all our documents, other than private session records, are made public 21 years after they are created.<sup>49</sup> Private session records are made public 99 years after they are created.<sup>50</sup>







# WHAT WE ARE LEARNING ABOUT CHILD SEXUAL ABUSE

### 3. WHAT WE ARE LEARNING ABOUT CHILD SEXUAL ABUSE



The Royal Commission held its first public hearing in September 2013

Chapter 3 sets out what the Royal Commission has learnt about the scope, nature and impact of child sexual abuse in institutions. It is vital that we understand the problem if we are to assess institutional responses. We are considering various issues such as:

- What is child sexual abuse?
- How prevalent is it in institutions?
- What institutions and environments are particularly vulnerable to offending?
- What laws exist to regulate the problem and oversee institutions dealing with children?
- Who are the victims and who are the perpetrators?

## KEY POINTS

Child sexual abuse covers many different behaviours. There is no single profile of a typical victim or perpetrator, nor can the impacts be easily defined or applied to all survivors. However, there are trends we can learn from, and systems that institutions can put in place to better identify risks and protect children in the future.

### Nature and prevalence

- Legal definitions of child sexual abuse are inconsistent, but we know it involves a range of sexually abusive behaviours.
- There is no conclusive research on the prevalence of child sexual abuse in Australia, and even less is known about its prevalence in institutions. More work needs to be done.

### Institutions

- Abuse happens in a variety of institutions but has occurred more frequently in some.
- We are learning why abuse happened in institutions as they changed over time, and what needs to be done to make today's institutions child safe.

### Legal framework

- State and territory governments address child sexual abuse through a combination of laws that include pre-employment screening, and child protection and criminal laws.
- The laws vary between jurisdictions.

### Victims

- All children in institutions and out-of-home care are potentially at risk of sexual abuse.
- Some children are more vulnerable to abuse, based on various factors including age, gender, ethnicity, disability, and prior abuse or neglect.
- Some children may also be more vulnerable to abuse because of situational factors connected to where they are living or being cared for, such as extensive periods of unsupervised contact with adults.
- Everyone's experiences of abuse and institutional responses will differ, and these experiences will affect people differently.

### Perpetrators

- Institutions need to understand the types of perpetrators and their characteristics so they can identify, prevent and respond to abuse.
- Perpetrators can hold any position in an institution.
- Biological, psychological, environmental and interpersonal factors may influence whether abuse occurs.
- Perpetrators might use grooming behaviours and manipulate children, adults and processes to create opportunities to abuse.

## 3.1 NATURE AND PREVALENCE

Early in the Royal Commission's work, it became clear that we needed to:

- define the behaviours that constitute child sexual abuse
- understand the prevalence of abuse in institutions in the past and today.

There is no standard definition of child sexual abuse and there are many differing statutory definitions used within Australia.<sup>1</sup>

While there are a number of studies of child sexual abuse there has been no rigorous, methodological, comprehensive study of the prevalence and nature of child sexual abuse in Australian institutions today.<sup>2</sup>

Research about child sexual abuse faces large challenges:

- The significant delays in reporting abuse, on average 20 years or more, make it difficult to measure the prevalence of abuse in contemporary institutions.
- The high level of under-reporting undermines the ability of both past and present research to measure the prevalence of child sexual abuse in institutions.
- Current research is hindered by the lack of consistent data collections across Australia – particularly where police records fail to differentiate between familial and institutional abuse.

## DEFINING CHILD SEXUAL ABUSE

### Existing definitions of abuse vary

The term 'child sexual abuse' can describe many different sexual behaviours. It covers not only physical assaults involving touching or penetration, but also actions that groom children for sexual activity or expose them to pornography.<sup>3</sup>

For the Royal Commission's work to date, 'child sexual abuse' has been defined as follows:

- Any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards. Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling of breasts, voyeurism, exhibitionism, and exposing the child to or involving the child in pornography. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in preparation for sexual activity with the child.<sup>4</sup>

This has been our working definition for collecting data and evidence, but it is not intended to be final.

Other definitions vary depending on the context. They can be based on:

- relationship dynamics, including those defined by power differences and across gender
- experience or behaviour, including broad descriptions of sexual interaction or touching that makes a child uncomfortable, distressed or anxious
- a clinical or therapeutic context, including types of sexual behaviours that are developmentally inappropriate (in the case of children or young people) or deviant (for example, sexual sadism), which inform treatment eligibility and responses
- existing definitions used in policy or law, including criminal law.

Commonly, definitions look at:

<b>Behaviours</b>	What actions, interactions and behaviours are considered to be abusive?
<b>Relationship dynamics</b>	What relationships do abusive behaviours occur in? Did force, fear, threat, authority and isolation contribute to abuse?
<b>Consequences</b>	How were victims and others affected because of the abuse?

The main differences between definitions are:

<b>Scope of sexual activity</b>	Whether the definition includes: <ul style="list-style-type: none"><li>• non-contact activities, such as being exposed to pornography</li><li>• contact activities, such as sexual touching of genitals</li><li>• sexual penetration</li><li>• grooming for the purposes of sexual contact.</li></ul>
<b>Age difference between victim and perpetrator</b>	This can include issues such as: <ul style="list-style-type: none"><li>• the legal age of sexual consent</li><li>• whether the perpetrator is in a position of care, supervision or authority over a minor.</li></ul>

## ASSESSING THE PREVALENCE OF ABUSE IN TODAY'S INSTITUTIONS

Our focus is on the prevalence and nature of child sexual abuse in institutional contexts. Given the challenges involved in this type of research, we will also be informed by research on abuse that occurs in all contexts.

## Prevalence studies indicate the size of a social problem in a population

‘Prevalence’ refers to the proportion of people in a given population who have experienced a particular phenomenon – in this case, child sexual abuse. The number of victims does not always equate to the number of incidents. For example, one person might have experienced multiple incidents of the same type of harm.

Prevalence studies can obtain data directly by asking people about their experience of child sexual abuse in surveys or questionnaires. The populations sampled might be general or specific, such as university students or public mental health service users.

Overall, these studies give a more accurate picture of the size of a social problem in a population than administrative data or crime statistics do. This is because data and statistics are limited by:

- low rates of formal disclosure and reporting of child sexual abuse
- inconsistent counting and recording of child sexual abuse
- hidden incidents or non-recorded incidents
- attrition of child sexual abuse matters through the criminal justice system and other formal systems.

## Most prevalence rates are likely to underestimate abuse

There are three main reasons why prevalence studies cannot give the complete or ‘true’ picture of a social harm like child sexual abuse.

<b>1. Methodological issues</b>	<p>Prevalence rates will be affected by:</p> <ul style="list-style-type: none"><li>• how sexual abuse is defined</li><li>• how questions are worded, and the number of questions asked</li><li>• how questions are delivered, such as in face-to-face meetings or by computer questionnaire</li><li>• what the sample population is.<sup>5</sup></li></ul> <p>Also, when discussing abuse that may have occurred decades before, there can be memory lapses and difficulty recalling events accurately.</p>
<b>2. The hidden nature of sexual abuse</b>	<p>The dynamics of sexual abuse generally mean that it happens in private or closed settings with no witnesses other than the victim and perpetrator. Victims’ claims may therefore be denied or minimised and victim-blaming is common.<sup>6</sup> These factors can lead to a social reluctance to discuss sexual abuse.</p>
<b>3. Barriers to disclosure</b>	<p>There are many personal reasons – such as feelings of shame, fear or distrust – why individuals might not disclose an experience of child sexual abuse, even when asked as part of a study.</p>

Because of these reasons, compared with other social issues, we know relatively little about the nature and extent of child sexual abuse. Most prevalence rates cited are likely to be underestimations. This is particularly true for specific populations or forms of abuse, such as sexual abuse perpetrated in institutional contexts.

## Australian studies give us some insights

There have been many Australian prevalence studies since the mid-1990s. For this report, we have limited our discussion to studies that provide information about both men and women's experiences of child sexual abuse.

Although some studies estimate the extent of child sexual abuse, their usefulness for our work is limited. In particular, national estimates are not available and most do not indicate whether abuse took place in an institutional, familial or other setting.

The most useful estimates are those of the Australian Bureau of Statistics (ABS) from its *Personal Safety Survey*.<sup>7</sup> This survey asked respondents if they had experienced sexual abuse before the age of 15.<sup>8</sup> The strength of this survey is that it is national and representative, and samples men and women. However, its usefulness is limited because it only included people over 15 years, and excluded anyone living in remote areas or in non-private residences (such as residential, group or aged care, or custodial settings), meaning these figures are likely to be at the lower end of the spectrum.

Studies published between 2001 and 2010 using community samples give us prevalence rates for penetrative and non-penetrative sexual abuse. The ranges quoted for non-penetrative abuse are similar to the findings of a recent meta-analysis of 12 Australian and New Zealand studies (among 271 studies internationally).<sup>9</sup> The table below sets out these rates.

Source of data	Prevalence of sexual abuse experienced by girls	Prevalence of sexual abuse experienced by boys
<b>ABS survey of national prevalence<sup>10</sup></b>	12.0%	4.5%
<b>Community samples: penetrative abuse<sup>11</sup></b>	4.0–12.0%	1.4–8.0%
<b>Community samples: non-penetrative abuse</b>	14.0–36.0%	5.7–16.0%
<b>Meta-analysis of 12 Australian and NZ studies</b>	15.3–29.3%	3.8–14.2%

**Note: Community samples had a sample base of 1,745–2,578 people.**

### Data suggests girls face more abuse than boys, particularly by family members

Overall, the data suggests a higher prevalence rate among girls compared to boys. This is consistent across the international data and could be attributed to:

- an actual gender difference in this type of child maltreatment
- a reluctance on the part of men to identify with sexual victimisation
- a combination of both.

Based on this data, the best estimates are that one in three girls and one in seven boys in Australia have experienced some form of child sexual abuse in their lifetime.

Few studies provide information about whether sexual abuse occurred in an institutional setting or not. However, the national estimates from the ABS do provide data on the relationship between victim and perpetrator. Most victims are sexually abused by someone they know. But there is a significant gender difference as to whether that person is from within their family or not:

- Girls are more likely to be abused by a family member. More than 50 per cent of perpetrators were fathers, stepfathers and other male relatives (including siblings), compared to 21 per cent for boys.
- For boys, the largest category of perpetrators was 'another known person'.
- Twice as many boys (18 per cent) have been sexually abused by a stranger compared with girls (9 per cent).<sup>12</sup>

### Demand for private sessions is an indication of the extent of abuse

We have some sense of the scale of abuse from the number of people who have contacted us to tell their story. As discussed earlier in this report, by 31 May 2014, the Commissioners had already held 1,677 private sessions and received 1,632 written accounts from survivors or their family members and friends (to learn more, please see section 2.1). As at 31 May 2014, there were more than 1,000 people waiting for a private session and we receive about 40 more requests each week.

However, we are very aware that this group might only be a small part of the overall picture. Further, as the average age of survivors was 55 years, the information may not reflect the true nature of the contemporary situation.

To help us gather information, our research program includes an administrative data survey that is examining abuse reported over the last five years. It is using records from the police, child protection agencies, education departments and bodies administering Working with Children Checks.

We acknowledge that administrative data also has its limits because:

- it only covers reported abuse, and reporting rates are low overall
- victims might not come forward until 20 years or more after the abuse.

Of the cases that are reported, only a small percentage lead to a conviction. For example, in New South Wales, fewer

than 16 per cent of cases reported to the police resulted in proven charges of child sex offences between 1995 and 2004.<sup>13</sup> The rate is lower if the complainant is an adult.<sup>14</sup> This reflects the many challenges that can arise in child sex offence cases during the investigation and prosecution process.

We discuss this issue further in Chapter 5 of this volume.

As our work continues, the Royal Commission hopes to use a variety of sources to better understand the extent of institutional child sexual abuse in Australia.



## 3.2 INSTITUTIONS

To understand child sexual abuse in institutional contexts, the Royal Commission needs to understand more about the institutions in Australia.

We are learning about:

- the different organisations that have contact with children today
- what governments and institutions did to respond to children in need of care.

### REVIEWING DIFFERENT TYPES OF INSTITUTIONS AND CARE

#### Many institutions fall within the scope of our inquiry

Our terms of reference acknowledge that public and private institutions both provide important services and support for children and their families that benefit children's development.

An institution is defined in the Royal Commission's terms of reference to mean any public or private body, agency, association, club, organisation or other entity that is, or was in the past, involved with children.

We have received allegations of abuse in more than 1,000 institutions.<sup>15</sup>

We are investigating many institutions to see how they have responded to allegations of child sexual abuse. The types of institutions are broad, as shown in the table below.

Type of institution	Examples
<b>Religion</b>	Church and other places of worship
<b>Education</b>	Government school or private school (secular or faith-based)
<b>Arts and culture</b>	Theatre or music group, tutoring provider or language school
<b>Sports and clubs</b>	Sports, scouts or hobby groups
<b>Childcare</b>	Pre-school, out-of-school-hours care or vacation care
<b>Out-of-home care</b>	Foster care, kinship care or voluntary care
<b>Supported accommodation</b>	Social housing or refuge
<b>Juvenile justice and detention</b>	Police, remand centre, refugee/immigration detention
<b>Non-residential social support</b>	Youth or family support service

Type of institution	Examples
Health and allied support	Hospital, mental health service, or counselling or therapy service
Residential (historical)	Children's homes, orphanages or industrial schools

These institutions might be operated by governments, private companies, faith-based groups, charities or community organisations.

### We are learning from history

Under our terms of reference, we must consider past changes to laws, policies and practices that have helped institutions and governments better respond to child sexual abuse in institutional contexts.

To do this, we have reviewed the history of children in care. This history provides an important context for understanding why institutions responded to child sexual abuse in the ways they did.

Understanding the past can help us address what institutions and governments need to do in the future to prevent and respond to abuse.



Salvation Army Boys' Home, Bexley 1947

## LEARNING FROM A HISTORY OF CHILDREN IN CARE

### Children charged with neglect were perceived as a danger to the state

Child protection laws in Australia began in the middle of the 19th century when the Australian states were still British colonies. The initial raft of legislation aimed mainly to protect the state, because children who were neglected by their parents or guardians were:

- believed to pose a danger to the state
- charged with neglect and committed to an institution where they could be controlled.<sup>16</sup>

At first, these children were sent to adult prisons or generic asylums that housed people who could not provide for themselves due to poverty, age or disability.<sup>17</sup>

However, as child protection policies developed over the century, the colonies and non-government organisations, like faith-based groups, began to set up large institutions just for children. These included industrial schools and reformatories.

<b>Industrial schools</b>	Industrial schools were a popular form of out-of-home care for children with living parents where parental responsibility had passed over to the state. School-aged children were taught basic education and industrial skills (domestic service for girls and farm labour for boys). Overcrowding, diseases and poor organisation led to many school closures before the end of the 19th century.
<b>Reformatories</b>	Reformatories were designed for young offenders who would otherwise have been sent to prison. While most were run by governments, some were established by faith-based bodies. The aim was to transform children into honest workers through prayer and hard work. Although meant as an alternative to prison, many prison routines were mimicked to maintain order among residents. There were issues of overcrowding and poor staffing, leading to some violence within these institutions.

Modelled on similar institutions in England, the focus of industrial schools and reformatories was teaching neglected children the values of work and self-sufficiency. Children were housed in large dormitories, separated by gender, until they were old enough to leave and obtain employment.

## Neglected children were later seen as victims, not risks

Towards the end of the 19th century, child protection laws began to be redefined. 'Child rescue' ideals transformed the neglected child from a risk to a victim. Parental responsibilities for caring for children were scrutinised as governments and the community started to actively investigate cases of child abuse and neglect.<sup>18</sup>

Meanwhile, various government inquiries (including royal commissions) took place in the 1870s and found that industrial schools failed to meet their objectives of reforming neglected children. Plagued by disease, disorder and a sense that the children compared poorly with those growing up in families, many of these large institutions were dismantled and replaced by a system of 'boarding out'.<sup>19</sup>

Boarding out was an early form of foster care. Although not all industrial schools were closed, governments preferred to board out children because:

- in theory, children were to be placed with respectable working-class families in the hope they would adopt their industrial habits
- it cost less than running industrial schools.

However, for the children, boarding out had mixed outcomes. Some undoubtedly experienced care within a family, but others felt isolated, exploited and deprived in a system that cut them off from their own families.<sup>20</sup>

## Governments treated the Stolen Generations differently to other children

When the colonies set up their first child protection systems, a parallel system emerged for Aboriginal and Torres Strait Islander children. While parental abuse and neglect were the usual triggers for governments to intervene and rescue children, these children were treated differently and forcibly removed from their homes because of their race.

From the late 19th century to the early 1970s, children of the Stolen Generations were sent to institutions or adopted by non-Aboriginal or Torres Strait Islander families. A primary aim was to remove them from contact with their families, communities and ways of life, and assimilate them into white society. In fact, many were simply exploited for their labour. Many were abused and neglected.

In 1997, a national inquiry traced the history and implications of forcible removal in the report *Bringing them Home*.<sup>21</sup> Although the inquiry's terms of reference did not mention investigating cases of child sexual abuse, the report's examination of children's experiences in institutions shows the severity of the issue. Of the witnesses that were interviewed, 168 males and 234 females were sexually assaulted in an institution or foster family placement. An overwhelming majority of these assaults went unreported.<sup>22</sup>

The forced removal of children caused much psychological and emotional damage to victims and their families. The Royal Commission must take this history into account as the intergenerational effects have been inherited by today's Aboriginal and Torres Strait Islander children. They remain highly vulnerable to sexual abuse.

Governments proactively removed children

Categories of what constituted neglect in child protection laws were expanded and governments began to actively remove children from parents.<sup>23</sup> This led to more children requiring care. At the same time, fewer families were willing to foster children, in part due to major events like the Great Depression and two world wars.

These factors meant children in need of care were placed in various types of institutions.

<b>Children's homes</b>	Children's homes were one of the more prolific forms of care in the 1920s to 1970s. They were run by various organisations, including churches, charities, governments or private individuals. Some homes were meant to resemble family life with a cottage-style structure and supervisory adults to stand in place of parents. More boys than girls passed through this type of institutional care.
<b>Training homes and farm training schools</b>	Popularised during the late 19th to early 20th century, these smaller institutions took in older children from other institutions or foster care. Girls were trained in domestic services, boys as farm hands. They were meant to enter rural employment on leaving but most returned to cities when they reached adulthood.

The 2004 Senate Standing Community Affairs References Committee's report on Australians who experienced institutional or out-of-home care as children (referred to as the *Forgotten Australians* report) found that, between the 1920s and 1970s, more than 500,000 children were placed in care.<sup>24</sup>

The majority of these children came from poor families or had experienced a family breakdown at a time when there was little support for families in crisis. Some children were put into these homes for short periods, over weekends or during holiday periods. Up to 50,000 Aboriginal and Torres Strait Islander children,<sup>25</sup> known as the 'Stolen Generations'<sup>26</sup> were placed into care over this time. At the same time, between 6,500 and 7,500 child migrants were sent to Australia from Great Britain, Ireland and Malta, known collectively as the 'Lost Innocents'.<sup>27</sup>

Isolated from their families and any kind of support network, the children were at risk of emotional, physical and sexual abuse.

### A survivor from the Forgotten Australians recounting his experience at Clontarf Boys' Town

'What stands out to me about Clontarf, we all slept in big dormitories and rows of beds ... we would have been probably about no more than 10 years old. I can remember quite distinctly, clearly, that, you know, these beasts, one at a time, would walk through the dormitory.

...

Even though we were young kids, we knew that eventually he's going to drag some kid out of the bed and take him up to the end of the dormitory where his room was.'

### Child protection became a government responsibility

By the 1960s, child protection had re-emerged as a serious social concern in western countries, including Australia. However, where the impetus for the earlier 'child rescue' movement came from advocacy and welfare groups, its re-emergence was driven by international media coverage and increased awareness of child abuse issues. For example, researchers in the United States developed the concept of the 'battered-child syndrome', which describes medical evidence of untreated physical injuries caused by abuse by caregivers.<sup>28</sup>

In essence, child abuse was reframed as a social problem that governments and child protection agencies were responsible for addressing. All Australian states and territories apart from Victoria moved to government-based child protection approaches.<sup>29</sup>

There were several key developments through the 1970s, 1980s and 1990s. For example:

- laws forcing the removal of Aboriginal and Torres Strait Islander children were repealed
- mandatory reporting laws were introduced
- definitions of child abuse were broadened to include neglect and emotional, sexual and physical abuse
- the threshold for what constituted abuse and neglect decreased, from fractures and head injuries to bruising, developmental delay and emotional harm
- out-of-home care shifted from institutions to much smaller settings like foster care and smaller group care
- Australia ratified the United Nations *Convention on the Rights of the Child* in 1990, agreeing to protect and promote the rights of children<sup>30</sup>
- 'permanency planning' and stability for children in care became a major focus from the 1990s onwards
- the industry was professionalised, including through increased registration and training requirements for carers.

### The focus has now moved to prevention

In the 1960s, child protection was focused on addressing a very narrow and extreme form of child abuse. By the 1990s, many jurisdictions expanded:

- the definition of child abuse and neglect
- mandatory reporting provisions.

The literature notes that the subsequent rise in child abuse notifications had several consequences, including:<sup>31</sup>

- significant resources being used to assess notifications, to determine whether the abuse was serious enough to warrant protective intervention
- child protection systems becoming the sole point of contact for families at risk of abuse and neglect.

The early part of the 21st century saw new models develop, which linked statutory child protection with broader family support and child welfare service systems.<sup>32</sup> However, statutory child protection services in each state and territory still struggle to meet demand.<sup>33</sup>

It is now well recognised that responding to abuse and neglect after it has been detected is only one aspect of prevention. Numerous policies, research studies and expert commentaries have noted that statutory responses alone are not sufficient or sustainable, and often cannot prevent future harm. They advocate a shift in focus to a public health model.<sup>34</sup>

This model places primary prevention and universal supports for all families as the central strategies out of which more intensive interventions flow. In other words, the focus is on preventing abuse and neglect before it happens.

## 3.3 LEGAL FRAMEWORK

In Australia, there are:

- laws to prevent and respond to child sexual abuse, and to punish offenders
- policies that set out the overarching framework of our child protection system.

Under the federal system, the state and territory governments are primarily responsible for enforcing these laws.

Policies then help ensure the laws are administered and enforced effectively and consistently. They also provide agreed objectives and encourage collaboration between jurisdictions and agencies.

### PROTECTING CHILDREN WITH STATE AND TERRITORY LAWS

#### Pre-employment screening laws aim to prevent abuse

Each state and territory has its own laws to protect children from sexual abuse. The specific laws vary across each jurisdiction, although they fall into three broad areas. The first of these is pre-employment screening.

These require that adults working or volunteering in child-related organisations go through a pre-employment screening process. Screening usually involves police checks, but might also assess any relevant allegations, police investigations, charges or apprehended violence orders.

The states and territories address pre-employment screening differently. Some incorporate it in their principal child protection laws, while most have stand-alone legislation. For more about pre-employment screening and other measures to prevent child sexual abuse in institutions, please see Chapter 4.

Jurisdiction	Principal Act
ACT	<i>Working with Vulnerable People (Background Checking) Act 2011</i>
NSW	<i>Child Protection (Working with Children) Act 2012</i>
NT	<i>Care and Protection of Children Act 2007</i>
Qld	<i>Commission for Children and Young People and Child Guardian Act 2000</i>
SA	<i>Children's Protection Act 1993</i>
Tas	<i>Registration to Work with Vulnerable People Act 2013</i>
Vic	<i>Working with Children Act 2005</i>
WA	<i>Working with Children (Criminal Recording Checking) Act 2004</i>

## Child protection laws seek to prevent and respond to abuse

Like pre-employment screening laws, child protection laws aim to prevent abuse. They also:

- provide support services to alleviate, or remove children from, harmful situations
- punish those who break laws, including perpetrators as well as particular people who fail to properly respond to abuse.

Given the broad scope of child protection, there are multiple government agencies with different responsibilities in each jurisdiction. Usually the department responsible for community or family services will intervene when a child is at risk of harm. For example, the department might investigate an allegation of abuse and coordinate out-of-home care services from a non-government agency. It will also work with the police when reporting allegations.

Each jurisdiction, including the Commonwealth, also has a commissioner or guardian for children. This role advocates for children, promoting and protecting their rights and wellbeing.<sup>35</sup> These powers include monitoring and reviewing the practices and procedures of other government agencies responsible for childrens services.

Jurisdiction	Principal Act	Government agencies
<b>ACT</b>	<i>Children and Young People Act 2008</i>	<ul style="list-style-type: none"> <li>Community Services Directorate – Office for Children, Youth and Family Support</li> <li>Children &amp; Young People Commissioner</li> </ul>
<b>NSW</b>	<i>Children and Young Persons (Care and Protection) Act 1998</i>	<ul style="list-style-type: none"> <li>Office of the Children's Guardian</li> <li>Department of Family and Community Services – Community Services</li> <li>Department of Education and Communities – Commission for Children and Young People</li> <li>NSW Ombudsman</li> </ul>
<b>NT</b>	<i>Care and Protection of Children Act 2007</i>	<ul style="list-style-type: none"> <li>Department of Children and Families</li> <li>Children's Commissioner</li> </ul>
<b>Qld</b>	<i>Child Protection Act 1999</i>	<ul style="list-style-type: none"> <li>Department of Communities, Child Safety and Disability Services – Child Safety Services</li> <li>Queensland Family and Child Commission (commences on 1 July 2014)</li> </ul>
<b>SA</b>	<i>Children's Protection Act 1993</i>	<ul style="list-style-type: none"> <li>Department for Education and Child Development – Families SA</li> <li>Office of the Guardian for Children and Young People</li> <li>Council for the Care of Children</li> </ul>
<b>Tas</b>	<i>Children, Young Persons and their Families Act 1997</i>	<ul style="list-style-type: none"> <li>Department of Health and Human Services – Child Protection Services</li> <li>Commissioner for Children</li> </ul>
<b>Vic</b>	<i>Children, Youth and Families Act 2005</i>	<ul style="list-style-type: none"> <li>Department of Human Services – Children, Youth and Families</li> <li>Commission for Children and Young People</li> </ul>
<b>WA</b>	<i>Children and Community Services Act 2004</i>	<ul style="list-style-type: none"> <li>Department for Child Protection</li> <li>Commissioner for Children and Young People</li> </ul>

Each jurisdiction's principal Act shares similar objectives and key provisions, including the principles outlined in the United Nations' *Convention on the Rights of the Child*. For example:

- 'the best interests of the child' are the primary consideration in decision-making<sup>36</sup>
- there are specific provisions to support culturally informed decisions when it comes to children from Aboriginal and Torres Strait Islander backgrounds<sup>37</sup>
- children in out-of-home care are expected to have the opportunity to participate in decisions affecting them.<sup>38</sup>

The definition of a 'child in need of protection' varies. However, in practice, the threshold for statutory intervention is broadly consistent. For example, the requirement that the child's parent is not 'able or willing' to protect them.<sup>39</sup> The differences in the laws are in the detail. For example:

<b>Mandatory reporting</b>	Anyone can report suspected child abuse, but laws impose a legal requirement on some groups like doctors and teachers. For more information about the differences in mandatory reporting between jurisdictions, please see Section 5.1.
<b>Penalties for offences</b>	Laws impose different penalties for offences. For example, sentencing length and monetary fines can vary. <sup>40</sup>

## Criminal laws set provisions for offences

Child sexual abuse is a crime under the *Crimes Act* in each state and territory.

Like the child protection laws, the relevant offence provisions in each *Crimes Act* varies. We examine the criminal justice system's response to child sexual abuse in section 5.3.

## COLLABORATING TO MANAGE THE CHILD PROTECTION SYSTEM

### Child protection is a shared responsibility

State and territory governments are each responsible for governing and enforcing their own statutory child protection system. In practice, however, the child protection system requires involvement from all levels of government and multiple agencies. The wellbeing and protection of children is a shared responsibility.

The *National Framework for Protecting Australia's Children 2009–2020* outlines the roles of each level of government, and the non-government and private sectors.<sup>41</sup>

<b>Australian Government</b>	<ul style="list-style-type: none"> <li>• delivers universal support and services to help families raise their children (such as income and family support payments)</li> <li>• delivers targeted early intervention services to family and children, promoting child abuse prevention</li> <li>• initiates or coordinates inter-governmental cooperation and interaction.</li> </ul>
<b>State and territory governments</b>	<ul style="list-style-type: none"> <li>• manage statutory child protection systems that provide the interagency services to respond to cases of abuse</li> <li>• deliver universal services and early intervention initiatives to prevent child abuse and neglect (such as therapeutic and support services, healthcare and education)</li> <li>• coordinate and fund child protection services provided by the non-government sector</li> <li>• handle serious cases of abuse, including child sexual abuse, through the police and criminal justice system</li> <li>• set child safe standards.</li> </ul>
<b>Local governments</b>	<ul style="list-style-type: none"> <li>• deliver services to vulnerable families in the local area (such as youth and family centres).</li> </ul>
<b>Non-government sector</b>	<ul style="list-style-type: none"> <li>• delivers direct services and support in child protection, including out-of-home care</li> <li>• delivers programs that promote prevention on a policy level.</li> </ul>
<b>Business and corporate sector</b>	<ul style="list-style-type: none"> <li>• provides family-friendly working environments for parents</li> <li>• delivers training in child protection.</li> </ul>

## National framework aims to substantially and sustainably reduce child abuse

The National Framework provides the overarching policy framework for the child protection system, with the goal of substantially and sustainably reducing child abuse and neglect in Australia over time.<sup>42</sup> Collaboration between government and non-government agencies is a key part of the framework, which requires all governments to meet six child protection outcomes by 2020.

The sixth outcome that governments must meet states: ‘Child sexual abuse and exploitation is prevented and survivors receive adequate support.’<sup>43</sup> This acknowledges child sexual abuse as a serious issue in its own right:

The framework outlines four strategies to deliver this outcome:

1. Raise awareness of child sexual exploitation and abuse, including online exploitation.
2. Enhance prevention strategies for child sexual abuse.
3. Strengthen law enforcement and judicial processes in response to child sexual abuse and exploitation.
4. Ensure survivors of sexual abuse have access to effective treatment and appropriate support.

The framework aims to address the problems that arise from having multiple systems, by setting out a shared commitment by all governments. It acts to better link the support services governments provide and to avoid duplication. Instead, there can be coordinated planning and implementation, and better sharing of information and innovation.<sup>44</sup> We will be reviewing the efficacy of the National Framework.

## 3.4 VICTIMS

All children in institutions or out-of-home care may be at risk of sexual abuse. We are learning:

- who the most vulnerable groups of children are
- what situational factors increase vulnerability
- what the impacts of abuse are on direct and indirect victims.

Some children are vulnerable because of attributes like their age, ethnicity, disability or immigration status.<sup>45</sup> Children with several of these attributes might be more vulnerable; for example, girls with disability are significantly more likely to be victims of abuse.<sup>46</sup>

Children can also be vulnerable because they are in particular situations, such as out-of-home care or detention facilities.<sup>47</sup> These can include situational risk factors arising from extensive periods of unsupervised contact with adults, or residential arrangements with other children who may cause harm or abuse.

When a child does experience abuse, the effects can be devastating and last for years. Children and adolescents may face emotional, physical and social impacts, which may extend into adulthood. Indirect victims – such as parents, families, partners and whistleblowers – may also be affected.

## UNDERSTANDING VULNERABILITY

### Children with disability are vulnerable to abuse

Disability advocates and others have told us that children with disability are more vulnerable to sexual abuse than children without disability.<sup>48</sup>

Significantly, children with disability are more likely to have experienced repeated incidents of sexual abuse by the time they are 18 years of age.<sup>49</sup>

These children are often segregated, to varying degrees, from the mainstream community for long periods.<sup>50</sup> Submissions have suggested that segregation increases the risk of abuse in the following ways.<sup>51</sup>

- heavily scheduled days and restrictive environments can make it difficult to escape violating encounters.
- strict hierarchies are difficult to challenge, and internal cultures of obedience and silence make it risky for children to resist perpetrators.
- children have little or no control over how they spend their time and who they interact with.

Another factor that increases the risk of abuse is special communication

needs. Children with disability might receive inadequate education about sex, inappropriate touching and abuse, making them more vulnerable to abuse.<sup>52</sup>

### Aboriginal and Torres Strait Islander children are at risk of abuse

We have been told that Aboriginal and Torres Strait Islander children are over-represented as victims of sexual abuse; however, very little statistical research is available.<sup>53</sup> Almost 7 per cent of private session participants told us they identified as an Aboriginal or Torres Strait Islander person. This is significantly higher than the estimated 3 per cent of Aboriginal and Torres Strait Islander people in the Australian population.<sup>54</sup> It is important to note that data from our private sessions indicates abuse that may have occurred some time ago and may not reflect current circumstances.

We have been told that Aboriginal and Torres Strait Islander children are vulnerable to abuse due to a lack of sex education for many generations.<sup>55</sup> Submissions have emphasised the need for culturally designed, protective behaviour programs that teach children about inappropriate touching and abuse.<sup>56</sup> For example, 'yarning' programs which encourage discussion about child sexual abuse and build on oral traditions of handing down information through storytelling.<sup>57</sup>

Peak representative bodies have suggested that a lack of a strong cultural identity may place Aboriginal and Torres Strait Islander children at increased risk of abuse.<sup>58</sup> Thus,

government legislation and policy has recognised the importance of maintaining strong cultural connections.<sup>59</sup> For example, the Aboriginal and Torres Strait Islander Child Placement Principle prioritises placing children in their own family or local community, or in the wider Indigenous community.<sup>60</sup>

A joint submission from peak representative bodies also identified that Aboriginal and Torres Strait Islander children are often exposed to additional risk factors because of complex cultural, historical and intergenerational factors. These factors include poverty and social disadvantage.<sup>61</sup>

### Children who have problem sexualised behaviours are at risk

We have also learned that some children show problem sexualised behaviours that place them at risk of harm. These behaviours can include:

- engaging in excessive self-stimulation
- using sexual language
- making approaches towards adults
- having obsessive interests in pornography or sexual activities
- making overtures to other children that are outside the bounds of usual development.

Sexualised behaviours in children might indicate prior sexual abuse or maltreatment.<sup>62</sup> They might also manifest as a response to dysfunctional family relationships or other situational factors.<sup>63</sup>

We have been told that children with problem sexualised behaviours are vulnerable to further abuse, particularly in out-of-home care.<sup>64</sup> These children can 'behave in ways that give encouragement to people who seek to sexually exploit children'.<sup>65</sup>

Children who exhibit problem sexualised behaviours may also experience adverse factors like:

- compromised educational or developmental outcomes
- social isolation
- exposure to drug or alcohol misuse.<sup>66</sup>

They might also face additional challenges, including vulnerability to a range of psychiatric disorders, and 'may struggle to trust or maintain relationships with others'.<sup>67</sup>

### Children with trauma from prior abuse and neglect are at risk of further abuse

Children who have been maltreated in the past have an increased vulnerability to further abuse. Significantly, most children who have been maltreated experience overlapping and multiple types of abuse and neglect.<sup>68</sup> Maltreatment can include sexual abuse, physical abuse, psychological harm and neglect.

Research shows there are several reasons why maltreated children have a higher risk of being maltreated again. For example, they might:

- have attachment and interpersonal difficulties<sup>69</sup>

- have developmental disorders resulting from prior trauma<sup>70</sup>
- be starved for attention<sup>71</sup>
- be inadequately supervised and thus vulnerable to perpetrators.<sup>72</sup>

## IDENTIFYING SITUATIONAL FACTORS

### Situational factors can increase a child's vulnerability

Some children can be more vulnerable to sexual abuse because of where they are living or being cared for. This highlights the importance of implementing child safe policies and procedures in both institutions and out-of-home care.

Situational factors that increase vulnerability can include:

- a lack of trusted adults to approach about abuse<sup>73</sup>
- geographical isolation and reduced access to services<sup>74</sup>
- insufficient capacity or resources to implement child protection policies<sup>75</sup>
- inadequate training and staff supervision<sup>76</sup>
- the physical characteristics of the institution (such as classroom doors without windows).

### Children in out-of-home care face additional risks

Children in out-of-home care face a range of additional factors that make them more vulnerable to abuse. A primary factor is that these children

are in residential or quasi-residential environments, often with extensive periods of unsupervised contact with adults. Further factors may include:

- limited access to trusted adults to advocate on their behalf<sup>77</sup>
- a lack of supportive relationships, such as with siblings, friends and extended family members<sup>78</sup>
- the impact of past abuse or neglect.<sup>79</sup>

In April 2014, we held our first roundtable with experts and government and non-government representatives to discuss issues relating to out-of-home care. These representatives discussed the vulnerability of children to sexual abuse when entering out-of-home care. A podcast and summary of the roundtable are available on our website.

### Children in immigration detention and juvenile justice facilities can be vulnerable to abuse

Children in immigration detention and juvenile justice facilities can be vulnerable to sexual abuse.<sup>80</sup> Factors that increase this risk include:

- the limited ability of staff to protect children from opportunistic abuse
- intermingling of children and adults
- some children lacking a protective parent to supervise or influence their behaviour.<sup>81</sup>

One issue that has emerged is the risk of harm that children face when placed in detention with adults. The Australian Federal Police has noted that, with immigration detention, a

loophole in sex offender registration allows offenders to live with children. There is contention over whether state or territory reporting obligations apply to convicted offenders who are released from corrective services into immigration detention while they wait for their immigration status to be assessed or to be deported. This loophole means they are not registered as sex offenders and are sometimes living with children.<sup>82</sup>

In Queensland, 17-year-old offenders are sentenced to adult correction facilities.<sup>83</sup> As a result, they face additional risks of sexual abuse.<sup>84</sup> Children who are 16 and are currently serving a sentence in a Queensland juvenile detention centre must also transfer to an adult correction facility when they turn 17 (unless their remaining detention period is less than six months from their birth date).<sup>85</sup>

## RECOGNISING THE IMPACTS OF ABUSE

### There is no single set of symptoms

Our work to date has clearly shown us there is no single set of responses that victims and survivors experience because of their abuse. However, common themes are emerging from private sessions and public hearings, which are supported by the available literature.

The short-term and long-term effects of child sexual abuse can be seen in many areas of life, including:

- at the individual level, in terms of

### A survivor reflects on the long-term impact of abuse

‘Some people make the mistake of assuming that it doesn’t hurt you still, that the hurt’s gone, it’s just that you deal – I deal with the hurt in a different way to what some of those other women that I know were victims.’

- mental health and physical health
- at the interpersonal level, in terms of emotional, behavioural and interpersonal capacities
- at the societal level, in terms of quality of life and opportunity.

### Children and adolescents might face emotional, physical and social impacts

Immediately after the abuse, victims can experience:<sup>86</sup>

- symptoms associated with post-traumatic stress disorder, such as re-experiencing and intrusion (commonly called flashbacks), avoidance and numbing, and hyper-vigilance
- shame
- anxiety
- anger, fear and guilt
- depressive symptoms and disorders
- insecure attachments to others
- sexualised or developmentally inappropriate sexual behaviour
- disruptive or changed behaviour
- sleep disturbance or nightmares
- social withdrawal, including disengagement from school and school activities.

They might also suffer physical effects such as:<sup>87</sup>

- bleeding
- physical injuries or bruising
- tearing of the hymen or anus

- sexually transmitted infections
- stress on the sympathetic nervous system, immune system and neuroendocrine system
- painful genitals
- painful urination and defecation.

In the short term, victims can experience social isolation and have contact with the child protection system. They commonly have poorer educational outcomes.

### Impacts often extend into adulthood

Literature on the long-term effects of child sexual abuse into adulthood identifies similarly varied effects across the individual, interpersonal and societal levels. In particular, the effects on mental health have been well documented.<sup>88</sup> Research also indicates that survivors are at increased risk of re-victimisation, future perpetration and intergenerational trauma<sup>89</sup> because of factors including:

- dissociation, where people feel disconnected from themselves or their surroundings
- numbing
- substance abuse and risk-taking behaviours
- social isolation.

In the long term, survivors can experience problems with trust. They might engage in high-risk sexual behaviours, and in some cases, criminal offending. Their relationships might be characterised by:

- difficulties with sexuality and intimacy
- lack of confidence in parenting
- being overprotective of their children
- destruction of once held spiritual beliefs.

Finally, at the societal level, survivors might experience:

- lower levels of community participation
- social isolation and homelessness
- lower earnings and socio-economic status, and difficulty maintaining employment
- imprisonment.

While suicidal thoughts, suicide attempts and actual suicides are not the most common long-term effects of child sexual abuse, they are among the most serious.<sup>90</sup> A number of studies indicate that experiencing sexual abuse as a child can be a significant

risk factor for suicidal behaviours later in life.<sup>91</sup> During private sessions, many survivors have told us of attempts to take their own lives. Some partners, siblings and parents have attended a private hearing on behalf of a survivor who has committed suicide. The nature and severity of impacts vary between survivors.

It is important to note that while some impact appears inevitable, not all impacts – both short-term and long term – are experienced by all survivors, nor are they experienced in the same way. Numerous factors are at play, such as the characteristics of the abuse and the victim's broader family context. It is also important to acknowledge that individual, interpersonal and societal effects are all interconnected.<sup>92</sup>

Many survivors have reflected on the impact of child sexual abuse. Some have told us that particular life events, such as the birth of a child, could trigger memories or impacts. Some have also been affected by an institution's failure to respond appropriately. The impact of abuse extends beyond the immediate victim. It is wide-ranging, affecting parents, colleagues, friends, partners and the community.

### Survivors reflect on the impacts of child sexual abuse they have experienced

‘Sexual abuse is like a bullet’s hit you. You don’t know what it’s hit or when it’s going to come out, but it will.’

‘I was in a lot of pain for days after and bled a lot anally, but I couldn’t see a doctor because I knew if I told anyone they wouldn’t believe me, that’s how it was in the early 1960s. I’ve had ongoing issues with my bowel ever since.’

‘I fell to pieces. I couldn’t sleep. My blood pressure was up. I was taking sleeping pills, Valium and anti-anxiety medication. I was a wreck.’

‘For a decade after the rape I couldn’t sleep through the night and now I can. But my life has been ruined. I ended up in a physically abusive relationship for 20 years because I felt I didn’t deserve better. I’ve tried to kill myself, I’ve abused alcohol, I’ve starved myself, I’ve done everything to punish myself for what happened.’

‘The rape, abuse and abortions destroyed my ability to have children. My husband and I were married for 14 years during which time I managed to fall pregnant a few times, but always miscarried my babies.’

‘That school’s responsible for a lot of suicides and has really led to deaths through other means. I always feel very guilty about a friend because we confided in each other about our abusive pasts, but he’d gotten into drugs and drinking. A few years ago he died of blood poisoning and he was only 40-something. He never made a life for himself and now it’s too late for him, but maybe others can be saved.’

‘It’s affected my relationships. I’ve never had self-respect. Like my morals, my – I never knew what the boundaries were, because it’s really had a profound impact on my life.’

‘Over my life, I’ve attempted suicide four times.’

‘I was fortunate to meet a nice girl and marry her because her and our two boys have kept me going, and my wife has put up with my mood swings over the years. It really hit me when the boys grew up and moved out of home, that’s when the nasties crept in, which were the memories of abuse I’d managed to suppress for over 30 years.’

### Parents describe trauma to victims and families caused by child sexual abuse

'She went to sleep and woke up a different person the day after she was abused, and will never be the same again. She's suffered depression, she's been suicidal.'

'There are no Christmases, no birthday celebrations anymore, our family's been absolutely destroyed by the actions of one man.'

'It's taken away her childhood and ability to form normal, intimate relationships. She's not been able to join the workforce, has post-traumatic stress disorder and bipolar. She's quite obese because she's eaten herself into oblivion, doesn't like social situations, like she was just a total disaster.'

'I've been on workers' compensation since October 2013 because I'm suffering post-traumatic stress disorder. My income has been halved, so my family is struggling financially because I chose to stand up for what's right.'

## 3.5 PERPETRATORS

A significant body of research focuses on the perpetrators of child sexual abuse.<sup>93</sup> We have gained insights into:

- common characteristics
- environments where abuse can occur.

There are a number of theories of why perpetrators abuse children. Recent theories describe how various biological, psychological, environmental and interpersonal factors may lead to a person sexually abusing a child.<sup>94</sup>

Our early work suggests that to prevent child sexual abuse, it may be more effective to address risk factors rather than profile likely offenders. For example, in many instances, pre-employment screening and child safe procedures could have prevented abuse.

### IDENTIFYING COMMON CHARACTERISTICS

#### Literature looks at biological, psychological and interpersonal factors

A number of recently developed theories describe how various biological, psychological and interpersonal factors

may lead to a person sexually abusing a child. The literature suggests that particular factors seem to be associated with perpetrators of child sexual abuse, including:

- prior abuse and neglect
- experiencing harsh discipline as a child from parents and carers
- poor attachment and dysfunction in their own family
- poor social connections with others (such as loneliness or poor social skills)
- higher sex drive and preoccupation with sex
- more deviant sexual interests
- using sexual activities or behaviours to relieve anxiety or stress
- more tolerant attitudes to adult-child sex
- attitudes that minimise perpetrator culpability.<sup>95</sup>

### There may be three broad types of perpetrators

To identify risk factors and develop recommendations on child sexual abuse, we must understand the types and characteristics of perpetrators. Awareness will also help the community to identify and respond to concerning behaviour or abuse.

Theories suggest there are three types of perpetrators who sexually abuse children.

<b>Serial, predatory perpetrators</b>	Serial perpetrators are high-frequency chronic offenders. They choose victims based on situational factors and are likely to actively manipulate environments to create opportunities to abuse. They are the most difficult perpetrators to deter but the frequency of abuse can be reduced through situational prevention. <sup>96</sup>
<b>Opportunistic, occasional perpetrators</b>	Opportunistic perpetrators usually commit occasional, low-level criminal acts. They have a greater stake in conformity and their behaviours are strongly influenced by personal and social constraints. <sup>97</sup> They are more likely to commit abuse where situational factors weaken these constraints. For example, they might abuse when a lack of appropriate controls, such as a code of conduct or reporting procedures, obscures personal responsibility for the abuse. <sup>98</sup> Increasing personal and social constraints reduces the likelihood of abuse.
<b>Situational perpetrators</b>	Situational perpetrators will commit abuse in reaction to environmental factors. <sup>99</sup> They often behave impulsively, when overcome by temptation or a temporary failure of self-control. <sup>100</sup> For example, they might commit abuse if they are alone with a child who is bathing. Situational prevention strategies can prevent abuse.

While the traditional view has been that most abusers are serial, predatory perpetrators, research now suggests that most abusers are usually opportunistic or situational perpetrators.<sup>101</sup>

### Most perpetrators are male

Research has shown that men are far more likely to sexually abuse a child than women.<sup>102</sup> However, some women might act as a co-abuser with a male partner.<sup>103</sup> This is reflected in what we are being told at private sessions, where 86.6 per cent of perpetrators were male.

Some experts question whether lower rates of reporting against female perpetrators truly reflect the rarity of female abusers. They ask whether there could be other reasons for its under-reporting.<sup>104</sup> One possible reason is societal attitudes that discourage male victims from disclosing abuse by female perpetrators. For example, these victims might feel that they would not be believed or taken as seriously. Experts suggest such attitudes are illustrated by lesser criminal penalties applied to female perpetrators compared with men who committed similar abuse.<sup>105</sup>

## Perpetrators can hold any position in the institution

A perpetrator may hold any position in any institution. However, during private sessions, we have heard that one in four perpetrators were members of the clergy or religious orders. Many participants also reported teachers and foster carers as perpetrators.

We recognise there is a lack of comprehensive and definitive research on the prevalence of perpetrators within institutions and how this may have changed over time.

## Some perpetrators are peers

Some child sexual abuse occurs between peers. We are aware there is a range of complex factors that will influence whether a child shows abusive behaviours, including whether they have experienced prior abuse or maltreatment.<sup>106</sup> We have heard – through submissions and discussions at our first roundtable, held in April 2014 – that this is an area of concern and could have significant implications in institutions and out-of-home care.<sup>107</sup>

Australian police statistics from 2003 – 04 show that children under 17 committed 9 to 16 per cent of all the child sexual abuse offences recorded.<sup>108</sup>

## ACKNOWLEDGING WAYS THAT CHILD SEXUAL ABUSE CAN OCCUR

### Environmental factors can influence whether child sexual abuse occurs

Awareness of the way abuse occurs can help institutions identify behaviours, prevent risks and report incidents of abuse. In particular:

- situational and opportunistic offenders are more likely to commit abuse when certain environmental factors are present
- perpetrators may follow steps or patterns of behaviours, including targeting, grooming behaviours and maintaining secrecy.<sup>109</sup>

For both opportunistic and situational perpetrators, the surrounding environment is crucial to their decisions to offend or not.<sup>110</sup> Serial, predatory perpetrators, on the other hand, will actively create environments to abuse. Reducing cues and opportunities for abuse by adjusting the environment can be effective in preventing abuse.<sup>111</sup>

There are two key theories about environmental factors.<sup>112</sup>

<b>Situations allow criminal behaviour</b>	Situations can provide the opportunity that allows a criminal response to occur. For example, a lack of supervision could provide this opportunity. Opportunistic perpetrators are unlikely to actively create opportunities but are likely to recognise and take any that arise. Situational perpetrators are unlikely to create or identify opportunities.
<b>Situations influence criminal behaviour</b>	Situations present behavioural cues, social pressures and environmental stressors that trigger a criminal response. For example, a sense of emotional congruence with a child might turn into a sexual incident. Situational perpetrators are most likely to be influenced by these triggers to commit abuse.

These theories support the need to focus on creating safe institutional environments rather than focusing on the perpetrators or victims. This approach has a promising track record: it has been successful in reducing assaults on adults (physical and sexual), car thefts, robbery and shoplifting.<sup>113</sup>

Opportunistic perpetrators are less likely to commit abuse where organisational controls are in place to prevent and deter abuse. For example, rules may state that a staff member should not be alone with a single child.

Situational perpetrators commit relatively isolated incidents of abuse that are often a reaction to cues. Reducing these cues or environmental triggers can significantly prevent abusive motivations arising. For example, codes of conduct should clearly identify types of unacceptable behaviour and be effectively enforced.

For more on situational prevention strategies to deter these perpetrators, please see section 4.2.

### There are higher numbers of perpetrators within some institutions

The Royal Commission wants to find out why there have been a significant number of perpetrators in certain institutions. In particular, we will examine:

- the circumstances that lead to abuse occurring in these institutions
- the selection processes and training of staff members
- the formation and structure of these institutions.

This will increase our understanding of systemic issues and inform our future work and recommendations.

## Perpetrators also manipulate people, processes and situations

Perpetrators often manipulate people, processes and situations to create opportunities to abuse.<sup>114</sup> In particular, they try to gain and maintain access to children. They also establish trusting or controlling relationships with children and adults so the abuse is not disclosed or reported.

### A survivor reflects on their experiences of grooming

‘There was at least one other incident where there had been questions about what type of person this man was. But a real trust had been built up at the adult level. I think that was one of the reasons I couldn’t come forward and say anything – would I have been believed?’

Institutions have a key responsibility to recognise when perpetrators are using manipulation to commit abuse, and to prevent them from doing so.<sup>115</sup>

By being aware and open, and having proper oversight, institutions can prevent perpetrators from grooming children and manipulating others.<sup>116</sup>

## Institutions must understand and recognise grooming behaviours

Grooming describes behaviours that are used to prepare a child with the intention of sexually abusing them. Grooming comprises of two main elements of:

- building a trusting relationship with the child and carer
- isolating the child to abuse him or her.<sup>117</sup>

It is important to understand what grooming behaviours are and how to identify them. Perpetrators ‘take advantage of ambiguities over boundaries and behaviour to groom children through touch, inappropriate conversations, and a lack of supervision’.<sup>118</sup>

### A survivor reflects on the impact of grooming

‘The impact of grooming is [as] profound as the physical assault. It is as damaging and lifelong in its effect, in my case, as most of the others. I just don’t think that’s emphasised as much.’

Grooming behaviours can also be used to avoid detection once abuse occurs.<sup>119</sup> This can include creating a relationship that will discourage the child from disclosing the abuse to others.

### A survivor explains how a perpetrator exercised power over children

'He had a finely honed process that he had down pat – ways to groom children and creating a whole situation where he was the king. Everybody wanted to be with him, everybody wanted to be like him. He could make you do anything he wanted and you'd just do it.'

Grooming behaviours can be difficult to recognise or distinguish from seemingly innocent actions. However, as perpetrators and victims often know each other for a year or more before the first incident takes place, there is an opportunity to prevent abuse if visible signs of grooming are identified and reported.<sup>120</sup>

Observable signs include:

- a graduation from attention-giving and non-sexual touching to increasingly more intimate and intrusive behaviours
- creating 'special' relationships with particular children
- seeking to spend time with children alone or outside the work role.<sup>121</sup>

### In Case Study No 1, Steven Larkins manipulated processes

Evidence during this public hearing described how Larkins often manipulated processes and people. For example, he evaded a state-run vetting process and manipulated Working with Children Check procedures to gain and maintain access to children.

### In Case Study No 2, Jonathan Lord took advantage of situations

Evidence described how Lord took advantage of situations and environments. For example, he used a bus trip where a child sat on his lap, and babysitting, as opportunities to abuse.





WHAT WE ARE  
LEARNING ABOUT  
PREVENTING  
CHILD SEXUAL  
ABUSE

## 4. WHAT WE ARE LEARNING ABOUT PREVENTING CHILD SEXUAL ABUSE



Roundtable discussion on Working With Children Checks, June 2014

As the Royal Commission inquires into responses to child sexual abuse in institutions, there are four key areas we must consider:

<b>Prevention</b>	How to better protect children against sexual abuse.
<b>Identification and reporting</b>	How to ensure: <ul style="list-style-type: none"><li>• children, staff, parents and the community can identify abuse</li><li>• children disclose abuse quickly</li><li>• people and institutions report allegations, incidents or risks of abuse.</li></ul>
<b>Response</b>	How to eliminate or reduce obstacles so institutions respond effectively to reports of abuse.
<b>Justice for victims</b>	How to address or alleviate the impact of abuse and ensure justice for victims.

Chapter 4 outlines what we have learned so far about prevention. Chapter 5 goes on to discuss our work in the other three areas.

The *National Framework for Protecting Australia's Children 2009–2020* states that governments, institutions, parents, families, neighbourhoods and communities all have a role to play in preventing child sexual abuse.<sup>1</sup> Children can also be included in prevention efforts.

This chapter looks at three areas of activity that our consultations and the limited evidence available from the literature suggest are critical to preventing child sexual abuse in institutional settings.<sup>2</sup> They are:

- conducting recruitment and pre-employment screening
- implementing child safe practices
- teaching children to recognise abuse and helping them to avoid it.

## KEY POINTS

We are learning about the different ways everyone can help to protect children.

### Recruitment and pre-employment screening

- Screening during recruitment can help to detect perpetrators and deter registered offenders from joining institutions that care for children.
- All states and territories have some form of mandatory background check for those working with children, but their checks and conditions vary.
- Many institutions would support a national, or nationally consistent, approach to screening.

### Child safe practices

- To be child safe, it is essential for institutions to be child friendly, prioritise child protection and regularly review their policies, procedures and practices.
- Recent years have seen a major shift towards situational prevention strategies in child safe institutions, like ensuring the physical environment has good natural surveillance.
- Whole-of-community approaches might also have benefits.

### Child-focused programs to reduce vulnerability

- Programs can help children recognise abuse in an age-appropriate way, and help them avoid situations that might put them at risk.
- Institutions can help empower children to avoid and disclose abuse.

## 4.1 RECRUITMENT AND PRE-EMPLOYMENT SCREENING

Our work to date has shown us that:

- screening aims to detect perpetrators and deter registered offenders but it has limitations
- states and territories have different screening tools, but all use police checks
- a national approach would have pros and cons.

### USING PRE-EMPLOYMENT SCREENING TO DETECT AND DETER

#### Screening aims to filter out those who pose a risk to children

Pre-employment screening aims to make it as difficult as possible for perpetrators to work with children.<sup>3</sup> It does this by trying to filter out, during the recruitment process, people who pose a risk to children. There is evidence that it also deters registered offenders from applying for positions that involve working with children if they know they will be detected.<sup>4</sup>

While acknowledging its limitations, the literature generally agrees that pre-employment screening is a necessary way of preventing known child abusers from infiltrating child-focused institutions.<sup>5</sup> Laws across Australia require it, although these laws are not uniform.

We have commissioned research on the evidence relating to pre-employment

screening, and sex offender registration schemes, to further our understanding in this area. Whether it is better to have a government-legislated national system of screening or more uniform state and territory practices is something we must also assess.

#### Screening might not detect perpetrators without records of abuse

There are limits to the effectiveness of screening as a prevention activity because it tends to focus on those who have already left traces of their abuse activity in criminal and other records.<sup>6</sup> But it is likely that a majority of perpetrators will not have been previously detected or left such records. In response, the literature highlights that the majority of offenders detected also had histories of substance abuse and violence.<sup>7</sup> Because of this, pre-employment screening for criminal histories involving substance abuse and violence is practised in some Australian states and territories.<sup>8</sup>

While the focus of screening is on protecting children, it can also be understood as tertiary prevention of child sexual abuse targeting known offenders and aiming to prevent recidivism within an institutional context.

Any institutional approach to prevention must factor in the risk that screening may fail to detect perpetrators during recruitment.

During Case Study No 2, we were told that staff recruiters should watch out for other signs of a perpetrator.<sup>9</sup> This

included being alert to unusual attitudes about children (for example, applicants saying they have ‘special relationships’ with children, or where their desire to work with children seems focused on meeting their own psychological or emotional needs).<sup>10</sup> In Case Study No 2, perpetrator Jonathan Lord had written in his CV that his career ambitions were:

- › ‘To work with kids and help them to experience life, love and friendships in an environment where there are no walls or boundaries’.<sup>11</sup>

To detect such signs, we have been told that employers should also check references carefully and use structured interviews.<sup>12</sup> Interviews allow an institution to give clear information to applicants about its commitment to children’s safety, and about its policies and procedures to prevent child sexual abuse. They also allow close observation of prospective staff, including how they respond to child safe policies and practices.<sup>13</sup>

## States and territories have different screening practices

Under current Australian practice, there are two main types of screening checks:

<b>Police check</b>	SA and Tas
<b>Working with Children Check (including police checks)</b>	NSW, NT, Qld, Vic and WA ACT uses a similar Working with Vulnerable People background check

The Australian Institute of Family Studies fact sheet *Pre-employment screening: Working With Children Checks and Police Checks*, updated for the Royal Commission in October 2013, discusses these regulatory schemes.<sup>14</sup> All have different standards. For example, similar child-related roles might have different screening requirements in one state when compared to another. In the Australian Capital Territory, workers who communicate with children by phone or in writing (including online) need a Working with Vulnerable People (WWVP) check.<sup>15</sup> But in New South Wales only face-to-face contact between a worker and a child requires a Working with Children Check (WWCC).<sup>16</sup> (From now on, our references to WWCCs also relate to WWVP checks.)

The main features of background checks for carer applicants for out-of-home care are similar across the states and territories. An applicant must be assessed as not posing a risk to the child and as being able to protect the child from harm. This is done through a selection process that can last many months and is more extensive than pre-employment screening.

However, beyond these broad similarities, requirements vary for screening out-of-home care placements and out-of-school-hours care staff and volunteers. For example, while most states and territories screen the other adult members of

the applicant's household, Western Australia and South Australia do not require this. We describe the differences in out-of-home care regulations in our *Issues Paper No 4: Preventing sexual abuse of children in out-of-home care*.<sup>17</sup>

Kinship care is where government agencies place a child with relatives or kin under a legal order. We have heard that this is particularly important for out-of-home care for Aboriginal and Torres Strait Islander children, to keep them connected to their cultural and familial background. Here too, screening procedures vary between jurisdictions. There is also a significant, if unquantifiable, amount of informal kinship care in Australia. This is usually temporary and is not overseen by an institution, let alone screened.<sup>18</sup>

## APPLYING STATE AND TERRITORY SCREENING TOOLS

### Police checks are used for screening in all jurisdictions

Police checks are a baseline pre-employment screening tool used across Australian states and territories. In South Australia and Tasmania, they are the main tool used. Other states and territories include police checks as part of broader procedures.

These police checks are outlined in the Australian Institute of Family Studies fact sheet *Offender registration legislation in each Australian state and territory* that was compiled for the Royal Commission.<sup>19</sup> It highlights the different information that states and territories

provide as part of a check, based on what they see as relevant criminal or other records.

### Working with Children Checks are more comprehensive

WWCCs are more thorough than police checks because they also assess other records.

Depending on the state or territory, they can include:

- convictions for offences that are no longer part of official criminal records, or were committed by a juvenile
- apprehended violence orders and other orders, or related prohibitions and reporting obligations
- charges, even where a conviction has not been recorded because a proceeding has not been heard or finalised by a court, or where charges have been dismissed or withdrawn
- allegations or police investigations
- employment proceedings, including disciplinary information from professional organisations.<sup>20</sup>

### Certification to work with children is monitored

A WWCC aims to certify a person as suitable for child-related work. It is valid for up to five years, depending on the jurisdiction.<sup>21</sup> Usually, people can carry their certification between positions within a state or territory, but not between different states and territories (because of the differences in screening requirements).<sup>22</sup>

By requiring regular renewal, WWCCs aim to allow a person's suitability for child-related work to be monitored across their working life.<sup>23</sup> If they commit a relevant criminal offence or face work-related disciplinary procedures while their certification is valid, their certification status might change. The authorities must inform the person's employer of that change in status, but are not required to disclose the details of the charge or offence.<sup>24</sup>

Part of our future work will be to assess whether the stated aims of WWCCs are being achieved.

## MOVING TO A NATIONALLY CONSISTENT APPROACH

### Efforts to achieve consistency focus on shared standards

The Council of Australian Governments' *National Framework for Protecting Australia's Children 2009–2020* has a goal of developing 'a nationally consistent approach to Working with Children Checks and child safe organisations across jurisdictions'.<sup>25</sup> There are three main ways to achieve this by:

- introducing a national WWCC scheme
- adopting a consistent approach to screening across all states and territories
- reaching an agreement among the states and territories to recognise each other's screening practices, and to allow 'cleared' workers from one place to work in another.

Efforts so far have focused on the second option, seeking to develop shared screening standards for states and territories.

### Reform has been proposed to overcome jurisdictional inconsistencies

In 2005, the Community and Disability Services Ministers' Conference released the *Creating Safe Environments for Children – Organisations, Employees and Volunteers* framework.

This set out a national approach to creating child safe institutions. Among four schedules it contained:

- An Evidence-Based Guide for Risk Assessment and Decision-Making when Undertaking Background Checking<sup>27</sup>
- Guidelines for Exclusion of Persons from Employment/Volunteering in Child-Related Areas.<sup>28</sup>

The latter considers the categories of criminal behaviour that should exclude a person from working with children. It proposes that reform is needed because people excluded in one state or territory should not be allowed to then work with children in another.<sup>29</sup>

Further, in October 2011, the Community and Disability Services Ministers' Advisory Council (that advises the related Ministers' Conference) adopted the position paper *Toward a Nationally Consistent Approach to Working with Children Checks*.<sup>30</sup>

## A national screening agency will be considered

The Royal Commission will consider whether a national pre-employment (and out-of-home care applicant) screening agency offers any advantages over the current disparate system. A national agency would take the onus for carrying out the checks away from institutions.

This issue was raised in our first two public hearings. A witness in Case Study No 1 gave evidence that:

- › ‘Working with Children Checks in the first instance should never have been, in my opinion, the responsibility of the manager of the service. It should come from the Department of Community Services or human services ... to ensure that anyone who is employed or a potential employee ... be checked out physically by them.’<sup>31</sup>

We will listen to the arguments for and against this and other national approaches.

## Submissions argue for and against national approaches

Most of the non-government submissions we received supported the introduction of one national WWCC scheme or nationally consistent approaches. The benefits were said to include:

- reducing the likelihood that individuals would slip through the national screening net<sup>32</sup>
- providing continuous national monitoring of a person’s suitability to work with children<sup>33</sup>
- reducing compliance costs through economies of scale<sup>34</sup>
- enabling consistency with other relevant national schemes, including the National Disability Insurance Scheme<sup>35</sup> and the registration framework for healthcare workers<sup>36</sup>
- helping those who work with children to move across state and territory boundaries.<sup>37</sup>

In contrast, government submissions gave only limited support to nationally consistent approaches.<sup>38</sup> They told us that challenges would include:

<b>Lowered standards</b>	Unless minimum standards reflect practices from states and territories with the greatest protections, those same jurisdictions' protections will be weakened. <sup>39</sup> For example, the NSW Government does not want to compromise its WWCC scheme's strength by agreeing to minimum standards. <sup>40</sup> Victoria has similar concerns. <sup>41</sup>
<b>High cost</b>	Significant costs might arise from changes to: <ul style="list-style-type: none"> <li>• law and policy</li> <li>• contracts and forms</li> <li>• information technology and data management systems.<sup>42</sup></li> </ul>
<b>Complex implementation</b>	The Victorian Government identifies complex issues that must be addressed before any national scheme could operate, such as: <ul style="list-style-type: none"> <li>• prescribing common offences across different jurisdictions</li> <li>• overcoming the lack of WWCC schemes in South Australia and Tasmania</li> <li>• dealing with differences in child employment laws.<sup>43</sup></li> </ul>

There was also the question of an evidence base upon which to build a national approach. From what we have been told, significant differences between existing WWCC schemes suggest little agreement on best practice.<sup>44</sup>

## A national approach needs to address several key areas

For a nationally consistent approach, a position is needed on a number of issues.

Issue	What we have heard
<b>What counts as 'working with children'?</b>	<p>Some submissions favour very broad definitions to prevent perpetrators moving into roles that involve contact with children but do not currently require a WWCC, and are thus less 'policed'.<sup>45</sup> For example, some suggest that any healthcare worker who has contact with children should need a WWCC – this would include unsupervised ward assistants who move children around a hospital.<sup>46</sup></p> <p>Other submissions recommend that religious organisations be expressly included in the child-related sector.<sup>47</sup> All priests, clerics, chaplains and members of these organisations would then need a WWCC.</p> <p>Some submissions favour narrower definitions of child-related work, sectors and roles. The Australian Human Rights Commission believes that the WWCC should only be for people directly involved in child-related work. It argues that blanket checks, which are common in some jurisdictions, diminish the value of a WWCC, strain resources and unfairly prevent people working where they would pose no threat.<sup>48</sup></p>

Issue	What we have heard
<b>Are volunteers exempt?</b>	<p>New South Wales exempts parent volunteers from screening unless they provide personal care to children with disabilities, or they mentor as part of a mentoring program.<sup>49</sup></p> <p>Victoria has a similar exemption to the above however, the Victorian Commission for Children and Young People does not support its state's exemption for parent volunteers. It argues that just because a person is a parent does not guarantee their suitability to work with children.<sup>50</sup></p> <p>The Queensland Commissioner for Children and Young People and Child Guardian finds that most stakeholders might feel that the parent volunteer exemption creates too much risk.<sup>51</sup></p>
<b>How long should a clearance period last?</b>	<p>Clearance periods of five, three, two and even one year have been recommended to us in submissions.<sup>52</sup></p> <p>Others suggest that the duration is less important than continuous institutional monitoring and supervision of those holding WWCCs, and a system that proactively notifies employers of any change in status.<sup>53</sup></p>
<b>Should a person be able to start work before the check is complete?</b>	<p>The New South Wales scheme allows someone to start work before the WWCC is complete, as long as it has been applied for and the WWCC agency has not placed an interim bar on that person.<sup>54</sup></p> <p>Several submissions acknowledge that, although it is not best practice, a person could start work without a WWCC clearance.<sup>55</sup> This would only be if they have applied for a WWCC, they are supervised, their work is for a short time, and the employer is a child safe organisation.</p> <p>Some submissions highlight practical difficulties with the current Queensland and Western Australian schemes. In these, employers must complete some parts of the WWCC application after a person is appointed. This could cause considerable delays to them actually starting work.<sup>56</sup></p>

## 4.2 CHILD SAFE PRACTICES

There has been a major shift in prevention in recent years, towards increasing the focus on situational prevention or using different practices to make institutions safe for children. These are known broadly as ‘child safe’ practices. These range from addressing the way institutions operate and staff behave (so that they work in a child-friendly manner), to the design of environments such as classrooms.

As discussed in Chapter 3, situational prevention can be particularly effective against opportunistic abuse and could also affect the way predatory perpetrators operate.<sup>57</sup>

From our work, we are learning about:

- existing standards and proposals for a consistent, national approach to standards and accreditation
- elements that help to make an organisation child safe.

### ADOPTING NATIONAL STANDARDS AND ACCREDITATION

#### Progress has been made to develop national standards

The Community and Disability Services Ministers’ Conference’s national framework from 2005 includes a schedule of guidelines to help organisations be child safe.

These are not prescriptive but aim to ‘identify nationally agreed

characteristics of a child safe organisation and promote best practice which takes account of the diverse range of community services’.<sup>58</sup>

Many submissions still support the schedule as providing best practice principles and a nationally consistent approach to building child safe organisations.<sup>59</sup>

Other work towards national standards has occurred through the:

- *National Framework for Protecting Australia’s Children 2009–2020*, which contains an action to develop a nationally consistent approach to child safe institutions<sup>60</sup>
- Australian Children’s Commissioners and Guardians’ *Principles of Child Safety in Organisations*<sup>61</sup>
- Council of Australian Governments’ *National Disability Strategy 2010–2020*, which contains actions to reduce violence, abuse and neglect of people with disability, including children.<sup>62</sup>

#### Accreditation and stronger laws are suggested

We have received submissions recommending the accreditation of institutions as child safe by a government-appointed independent body. Some suggest that this accreditation, which would involve auditing child safety values and practices, should be voluntary.<sup>63</sup>

An example of a voluntary accreditation scheme is the Australian Childhood Foundation’s Safeguarding Children Program for organisations with a duty of care to children.<sup>64</sup>

It involves an independent audit of an institution's operational framework, benchmarked against a set of standards.<sup>65</sup>

We have heard that licensing and regulatory frameworks could incorporate requirements for accreditation. Institutions could be held accountable to these benchmarks by transparent auditing processes.<sup>66</sup>

Some submissions proposed strengthening existing child safety law to hold senior management accountable for breaches. In certain cases, directors and officers of institutions could also be liable under the *Corporations Act 2001* (Cth). One submission recommended that we consider how to use existing law more effectively to ensure directors and officers comply with their duties.<sup>67</sup>

### Independent oversight has been proposed

A national body with oversight for many or all child safety and sexual abuse matters has also been proposed to us. For example, People with Disability Australia Inc. has argued that the Government should set up an independent, statutory, national protection mechanism with capacity for local oversight and intervention. The organisation recommends this mechanism should have broad powers to protect, investigate and enforce findings on exploitation, violence and abuse experienced by people with disability. And it should address the complicated forms of violence and abuse that can arise when disability intersects with Indigenous status, culture or gender.<sup>68</sup>

Such a body could also be responsible for independent external investigation and complaints processes. In our ongoing work, we will consider options for effective oversight, including the costs and other challenges associated with establishing a national body.

### Standards to guide national consistency for out-of-home care

The 2011 National Standards for Out-of-Home Care (developed under the *National Framework for Protecting Australia's Children 2009–2020*) give uniform guidance for government and non-government organisations. They observe that:

- › 'Each state and territory government has its own legislative and policy framework governing and regulating its child protection system. Most [states and territories] also already have standards for out-of-home care. While there are some common elements, there are also areas of diversity in the maturity, focus and range of standards for out-of-home care systems between states and territories, including a complex history of development, system structure and legislative framework. Although all governments are working to improve outcomes for children and young people in out-of-home care, the practices, processes and outcomes are diverse when trying to create a national picture of outcomes for children in care. The National Standards seek to drive improvements in the quality of care so that children and young people in out-of-home care have the same opportunities as

other children and young people to reach their potential in life wherever they live in Australia.’<sup>69</sup>

Some have suggested taking this one step further, so that all Australian out-of-home care services are governed under one national, or nationally consistent, system.<sup>70</sup> As part of our work, we are examining each state and territories’ current approach to managing and overseeing out-of-home care services and how to address national consistency.

### Oversight and regulation is widely supported for out-of-home care

Most submissions support an independent body to oversee and regulate out-of-home care service providers. This would be separate from state and territory child protection departments that currently have this role.<sup>71</sup> Some highlight that a government’s regulatory role should be independent of its statutory child protection roles where it manages cases and makes decisions about out-of-home care placement.<sup>72</sup>

Most also support accreditation of out-of-home care agencies and service providers, including regular review and audits. Other proposals include:

- accreditation standards for training staff
- a central agency to receive and investigate complaints of child sexual abuse in out-of-home care<sup>73</sup>
- a national register to accredit carers in a way similar to the WWCC system.<sup>74</sup>

## UNDERSTANDING CHILD SAFE INSTITUTIONAL PRACTICE

### Institutions without external scrutiny pose risks to children

Institutions that operate without accountability, or with accountability only to themselves, present significant risks to the children they work with. This can be because they are disconnected from the wider community or government agencies, and hence from regular external scrutiny.

Situations that can lead to this include:

- operating in physically isolated places
- falsely understanding themselves to be above scrutiny because of their spiritual, recreational or charitable purpose
- having policies and practices that prevent children from coming into contact with other services, their families or the community
- being economically independent, such that this precludes external scrutiny of contracts, funding agreements and the like.

A common theme in our case studies, and in many private sessions, is that institutions respond to child sexual abuse by conducting internal investigations, without involving independent agents. This removes both the abuse and the response from external scrutiny. Sometimes this may have allowed the perpetrator to abuse other children.

## Child safe institutions begin with leadership, governance and culture

Submissions tell us of the importance of institutional governance for promoting child safety.<sup>75</sup> Save the Children Australia, for example, argues that:

- › ‘... the role of governance and management leadership in creating a child safe organisational culture is vital. There must be congruence in leadership behaviour and commitment to achieving this. Board and Executive staff are powerful role models and their actions and behaviour can send strong messages about organisational culture, which can motivate staff. Their advocacy and support for child safe organisational culture is critical.’<sup>76</sup>

Some submissions argued that child safe governance involves not just leadership, but also management styles that are child friendly, open and egalitarian.<sup>77</sup> Conversely, rigid and overly hierarchical governance disconnects those governing from regular contact with staff, parents and children. It increases the risk of child sexual abuse going undetected by:

- acting as a barrier to staff and children reporting abuse
- limiting how far up the hierarchy a report of abuse might travel
- impeding scrutiny of staff and their implementation of child safe policies and practices
- impeding scrutiny of children, especially those who might be showing signs of abuse.<sup>78</sup>

## Child safe institutions know about potential risks

Submissions and case studies have told us that a major risk for child sexual abuse is an institutional culture that:

- lacks awareness about the prevalence, nature and impact of child sexual abuse
- lacks knowledge about the ways in which abuse can occur in institutions, leading to a tendency to ignore or downplay warning signs such as grooming
- does not know how to respond when abuse is detected or disclosed<sup>79</sup>
- does not foster a child-friendly culture that supports children disclosing abuse and suspicious behaviour
- does not recognise a potential disclosure
- places more value on its own reputation than the safety of children.

We have been told that creating a child safe institution begins with a clear, evidence-informed understanding of the potential risks to children in that setting. For sexual abuse, this requires basic knowledge on the characteristics of abusers and victims, and how, when and where abuse tends to occur.<sup>80</sup>

Child Wise identifies three risk management practices, namely:

- identifying children who are at risk
- managing the behaviour of individuals considered a risk to children
- controlling the situations or environments that pose a risk to children’s safety and wellbeing.<sup>81</sup>

The physical environment plays a role in creating a child safe institution, particularly in how it allows the continual supervision of staff and children. We have been told that schools, for instance, should:

- be well supervised
- have environments that enable good natural surveillance, where there is line of sight to all areas
- have large, unobstructed windows and observation panels in rooms, including in sensitive places
- do random checks on less-transparent areas (like dressing rooms, first aid rooms and sick bays, or sporting grounds away from the main buildings)
- install surveillance, such as CCTV, if needed
- regularly audit prevention activity, including the safety of the physical environment.<sup>82</sup>

### Preventing abuse in out-of-home care poses challenges

Submissions tell us that it is important to strike the right balance in monitoring children in out-of-home care. Inadequate monitoring increases the chance for child sexual abuse to take place and go unreported. However, excessive monitoring, narrowly focused on compliance, could be counter-productive if it diverts resources and attention away from a more holistic approach to the care and safety of the child.<sup>83</sup>

Submissions also support various ways to monitor out-of-home care services and providers: audits, regular supervisory visits, irregular visits or an

official community visit scheme. The NSW Government advises:

- › ‘Each model of monitoring and regulating out-of-home care practices has its own strengths and weaknesses ... Given this, NSW considers that a system which embeds several models of quality assurance provides the most robust system of oversight, and has adopted a hybrid approach which incorporates aspects of each model referred to in the question.’<sup>84</sup>

We are also told that research is needed on the merits of the different models for monitoring out-of-home care schemes.<sup>85</sup>

### Policies, procedures, codes of conduct and values must be child-friendly and place child safety first

According to Bravehearts, any institution working with children should have a suite of child protection policies that includes:

- a statement of intent and commitment to child safety and protection
- a statement of policy philosophy and purpose about child protection and duty of care, clearly articulating the organisation’s intention to act in children’s best interests
- definitions of what is meant by ‘child protection’, ‘child sexual assault’, ‘child abuse’ and related terms, including reference to laws where appropriate
- recruitment processes for staff and volunteers with well-defined position descriptions, clear selection

criteria, thorough reference checks, WWCCs, selection panels and behavioural-based interview questions

- written rules on appropriate behaviour for staff contact with children
- guidelines on how children should behave with each other
- reporting protocols and notification management.<sup>86</sup>

Submissions also told us that risks might arise from not regularly auditing policies and practices designed to prevent child sexual abuse.<sup>87</sup>

Many noted that staff codes of conduct should have rules on:

- boundaries (such as physical contact)
- privacy and confidentiality
- language
- respect for others and cultural sensitivity
- personal relationships and friendships
- appearance and presentation
- contact outside the institution and out-of-hours
- discipline
- reporting procedures and action required for breaches of the code
- photography, video and social media.<sup>88</sup>

On the last point, the Victorian Government identifies institutional risks associated with the internet and mobile phones. These could amplify existing risks (such as electronic access to children by outsiders) and create new ones (such as 'sexting').<sup>89</sup> National Disability Services also supports policies on social media so

that inappropriate interactions between children and institutional staff are less likely.<sup>90</sup> Another submission called for policies that define boundaries around online communication.<sup>91</sup>

We are learning about the importance of staff understanding their institution's code of conduct. We have been told that rules about adult-child and child-child relationships should be unambiguous, widely disseminated, and supported by staff supervision and training.<sup>92</sup> How the policies actually affect the behaviour and experience of staff needs to be understood.<sup>93</sup>

Submissions have also told us of the need for a clear, accessible and child-friendly complaints process, and robust disciplinary procedures.<sup>94</sup> Suggested features include ensuring that:

- staff know about child sexual abuse reporting procedures
- processes are transparent, accountable and accessible, with built-in oversight for compliance
- independent, external bodies investigate allegations.<sup>95</sup>

### Staff-child interactions should be supervised by trained staff

Submissions have also observed that staff supervision plays a central role in child safe institutions.<sup>96</sup>

Key management goals include:

- ensuring staff are well supervised and given performance reviews
- establishing the chain of authority, reporting lines and accountability for each position

- making adherence to child safe policies and procedures integral to staff performance<sup>97</sup>
- having effective processes for supervising staff who work in isolated settings<sup>98</sup>
- managing allegations and incidents.<sup>99</sup>

The Australian Human Rights Commission argued that one of the greatest risk factors for the harm or abuse of children is the lack of awareness about it among an institution's staff and volunteers.<sup>100</sup>

There is much to learn about best practice in this area, which might include:

- a widely shared, valid understanding of how abuse occurs
- an institutional culture in which responsible adults feel able to raise even minor concerns
- procedures that allow small pieces of relevant information to be connected and patterns of perpetrator behaviour to be noticed and acted upon.<sup>101</sup>

We have been told that staff should also be told not to wait until there is a firm suspicion of problematic behaviour. Some signs of grooming, for example, can be observed long before a clear suspicion forms.<sup>102</sup>

A code of conduct can support staff in identifying suspicious behaviour. This can help ensure that people are not left to their own devices to recognise potential problems, and helps them decide if and how to voice concerns.<sup>103</sup>

To further our understanding about child safe institutions, we have commissioned research to examine:

- why child sexual abuse occurs in institutions, and what the risks and protections are for victims, perpetrators and institutions
- what grooming is and how potentially risky behaviours can be identified
- what key aspects of out-of-home care practice prevent abuse.

## USING WHOLE-OF-COMMUNITY APPROACHES

### The broader community shares responsibility for child safety

The Council of Australian Governments' *National Framework for Protecting Australia's Children 2009-2020* supports the idea that society as a whole shares responsibility for promoting the wellbeing and safety of children.<sup>104</sup>

We are considering what role the broader community can play in ensuring children are safe in institutional settings.

### Research will help us identify ways the community can help prevent abuse

Features of whole-of-community approaches could include:

- communities demanding institutional responsibility for stopping abuse

- adults taking children seriously and acting on their complaints and concerns
- institutions working with each other to provide community-wide services to prevent abuse.

We are learning about the strengths and limitations of each approach, and we have commissioned research on community involvement in prevention.

1. I think you should make the checks better.
2. I don't think that it should be aloud to be 1 on 1 with a child care worker.
3. I definittly didn't fell comfortable around him.
4. my gut was telling me something wasant rite.
5. Once he stopped to buy us chips.
6. he just wasant someion I could trust.

Written by Bundy, a nine year old boy.

## 4.3 CHILD-FOCUSED PROGRAMS TO REDUCE VULNERABILITY

Child-focused sexual abuse prevention aims to stop children from being abused, and victims from experiencing ongoing or future abuse.<sup>107</sup>

We are looking at whether we can:

- teach children to recognise and avoid abuse
- empower children to disclose abuse when it does happen.

### TEACHING CHILDREN TO RECOGNISE AND AVOID ABUSE

#### Personal safety programs offer knowledge and skills

Personal safety programs help children to understand abuse in an age-appropriate way, and help them avoid situations that might put them at risk. These programs also teach children ways to physically and verbally resist sexual advances, or to disclose them if they occur or are attempted.

Programs are usually based on the following concepts.<sup>108</sup>

Concept	Description
<b>Body ownership</b>	<ul style="list-style-type: none"><li>• The child's body belongs to them</li><li>• The child has a right to control access to their body.</li></ul>
<b>Touch</b>	<ul style="list-style-type: none"><li>• There is 'good', 'bad' and 'confusing' touch</li><li>• The child has the right to reject 'bad' or 'confusing' touch.</li></ul>
<b>Saying 'no'</b>	<ul style="list-style-type: none"><li>• The child has the right to say 'no' if an adult suggests something inappropriate.</li></ul>
<b>Escape</b>	<ul style="list-style-type: none"><li>• The child should try to get away if they are in danger.</li></ul>
<b>Secrecy</b>	<ul style="list-style-type: none"><li>• There are appropriate and inappropriate secrets</li><li>• The child should tell someone if they are asked to keep an inappropriate secret.</li></ul>
<b>Intuition</b>	<ul style="list-style-type: none"><li>• The child should trust their instincts if they believe something is wrong.</li></ul>
<b>Support</b>	<ul style="list-style-type: none"><li>• The child should identify trusted adults or adults they can go to for help</li><li>• The child should be persistent if the first adult does not believe them .</li></ul>
<b>Blame</b>	<ul style="list-style-type: none"><li>• The child is never to blame.</li></ul>
<b>Bullying</b>	<ul style="list-style-type: none"><li>• The child should be assertive with bullies and help friends who are bullied.</li></ul>

Many of these programs educate children by instruction, modelling, rehearsal and feedback.<sup>109</sup>

### Programs are considered useful but it is not known whether they reduce child sexual abuse

A 2013 international review examined the effectiveness of school-based protective behaviour programs. It included 24 studies involving 5,802 children in primary and high schools. The review found that sexual abuse prevention programs are effective in increasing children's protective behaviours. It found that children who participated in the programs were more likely to have disclosed their abuse than children who had not.<sup>110</sup>

However:

- › '[w]hile there is good evidence that programmes can achieve significant increases in children's knowledge about [child sexual abuse] concepts and self-protection strategies, there is almost no available research that can demonstrate behavioural transfer of knowledge to real-life situations and resultant reductions in [child sexual abuse] for participants.'<sup>111</sup>

A 2009 study further highlighted the need for programs to target specific age groups and to present concepts in a concrete rather than abstract way.<sup>112</sup> One reason for this is recognising that as children get older, their general understanding of what constitutes inappropriate sexual behaviour by adults begins to develop. A 2014 report that examined responses between two

groups of students, aged nine to 11 and 12 to 13, revealed that in spite of the small age gap between the two groups, there was a significant difference in awareness of grooming behaviour. Older participants were more likely to be suspicious of overly friendly adults than the younger participants, who were more concerned about aggressive bullying adults.<sup>113</sup> A further study suggested that children from lower socio-economic backgrounds might require tailored programs.<sup>114</sup>

There has also been criticism of the concepts underpinning such programs, with concerns about the appropriateness of shifting the burden of prevention onto children.<sup>115</sup>

## EMPOWERING CHILDREN TO DISCLOSE

### Children must feel safe to complain about abuse

We have been told that for an institution to simply rely on children to disclose abuse is itself a risk factor for child sexual abuse. Instead, institutions should proactively engage children in an age-appropriate manner about sexual abuse. They can also remove obstacles to reporting and establish clear, child-friendly channels for raising concerns or reporting abuse.<sup>116</sup> This might include incorporating independent elements, such as visiting programs, into an overall approach.<sup>117</sup>

A theme we have detected in all areas of our work relates to victims not being believed when they complain about abuse. A survivor told us:

- › 'I had plucked up the courage to say to a priest in the confessional box that I had been attacked by a teacher. He said to me, 'What did you do wrong?'

This evidence is consistent with research findings in the *No one noticed, no one heard* report of the National Society for the Prevention of Cruelty to Children in the United Kingdom. The report found that 90 per cent of young people had either a mixed (50 per cent) or broadly negative (40 per cent) experience of disclosure due to:

- receiving little emotional support
- initial disclosures being ignored
- disclosures being poorly handled or not linked
- accusations of lying
- poor communication.<sup>118</sup>

### Children can help design child safe institutions

Children have knowledge and experience different to adults and can make a unique contribution to developing institutions that will be safe for them.<sup>119</sup> Submissions have highlighted the need to make institutions child friendly by actively engaging children in the development of child safe institutions.<sup>120</sup>

Suggestions include:

- consulting directly with children on their views of what is meant by a child safe institution<sup>121</sup>
- giving children information about the standards of care they are entitled to, particularly about children's rights<sup>122</sup>
- teaching children how to raise concerns or make complaints if they feel unsafe<sup>123</sup>
- regularly checking with parents and children that they are aware of relevant child safe policies and procedures and that the child safety culture is visible.<sup>124</sup>

To further our understanding in this area, we have commissioned research on:

- the views of children about their safety from sexual abuse in institutions
- child-focused sexual abuse prevention programs in pre-schools
- the extent to which prevention-based activity in schools aligns with research evidence for best practice.

In considering prevention, it is important that institutions do not overly rely on any one practice, including child-focused programs. Rather, they need to holistically address the risk of child sexual abuse with the range of approaches we discuss in this chapter.







# WHAT WE ARE LEARNING ABOUT RESPONDING TO CHILD SEXUAL ABUSE

## 5. WHAT WE ARE LEARNING ABOUT RESPONDING TO CHILD SEXUAL ABUSE



Roundtable discussion on out-of-home care, April 2014.

As Chapter 4 noted, there are four key areas we must consider in our work:

<b>Prevention</b>	How to better protect children against sexual abuse
<b>Identification and reporting</b>	How to ensure: <ul style="list-style-type: none"><li>• children, staff, parents and the community can identify abuse</li><li>• children disclose abuse quickly</li><li>• people and institutions report allegations, incidents or risks of abuse</li></ul>
<b>Response</b>	How to eliminate or reduce obstacles so institutions respond effectively to reports of abuse
<b>Justice for victims</b>	How to address or alleviate the impact of abuse and ensure justice for victims

This chapter looks at **identification** and **reporting**, **response** and **justice for victims**.

## KEY POINTS

### Identification, disclosure and reporting

- Child sexual abuse in institutions is widely under-reported, despite legal obligations.
- Individuals and institutions often fail to identify children who have been abused.
- Many survivors delay disclosure for years and even decades.
- Mandatory reporting laws exist across Australia but they are inconsistent and many people are unaware of their responsibilities under those laws.

### Institutional responses

- There is always a risk that child sexual abuse will occur, and it is essential that institutions respond effectively when it does.
- Institutions must respond effectively to reports or information about allegations, incidents or risks of child sexual abuse. Effective responses can help to stop abuse, keep victims safe, ensure accountability and prevent future abuse.
- Ineffective responses, meanwhile, can allow abuse to continue, compound the harm of the abuse, impede justice and undermine abuse prevention.
- Many institutions treat their duty to respond to reports of abuse seriously and have improved their responses over time. However, the evidence emerging of institutional failures to respond will shock the Australian community, both in their scale and seriousness.

### Justice for victims

- Justice for victims of abuse is crucial, but emerging evidence shows that victims have often been denied justice by criminal or civil systems or redress schemes.
- We are consulting widely to understand how these measures can be improved.

## 5.1 IDENTIFICATION, DISCLOSURE AND REPORTING

Despite the reporting obligations across Australia, it is widely accepted that child sexual abuse is significantly under-reported.<sup>1</sup>

This happens because:

- people fail to effectively identify children who have been abused
- victims often delay disclosure
- there are major barriers to reporting abuse.

Institutions become aware of suspected child abuse in various ways. They may become aware through disclosure by the victim, or complaints or reports made by other children, family and staff. Oversight bodies, such as child protection bodies, will generally become aware via mandatory reporting channels.

Under-reporting causes many problems for victims. For instance, abuse might continue and the child might suffer further mental and physical health issues, as appropriate responses from service providers are delayed. Survivors seeking justice through the criminal law system could also face more legal challenges if their disclosure is delayed. Under-reporting can also cause problems for other children, notably by putting them at risk of sexual abuse.

It is therefore vital for us to understand how children disclose abuse, how institutions identify abuse and

what their reporting obligations are. We must also consider the systemic measures that will improve identification, disclosure and reporting.

### IDENTIFYING THE SIGNS OF CHILD SEXUAL ABUSE

#### Child safe institutions must have a clear understanding of abuse

To be child safe, institutions must understand the concept, dynamics and effects of child sexual abuse, and be able to identify it.

In the Royal Commission's second case study, looking at YMCA NSW, Professor Stephen Smallbone from the School of Criminology and Criminal Justice at Griffith University told us that a clear conception of the problem of abuse is critical. While everybody in the institution should share that conception, it is key for management in particular.<sup>2</sup>

This means managers, staff and parents need to understand what abuse might entail, where children are most at risk, and what the short-term and long-term impacts are. They should also understand common perpetrator profiles and methods of offending.

Also important is the ability to recognise possible signs of sexual abuse in children, such as:

- sexualised behaviour or knowledge of sexual behaviour that is inappropriate to their age, including touching other children and themselves sexually

- pain or bleeding in the anal or genital area with redness or swelling
- presence of a sexually transmitted infection
- significant changes in behaviour
- sudden unexplained fears or the fear of being alone with a particular person
- bed wetting or soiling
- implication that they must keep secrets
- disclosure either directly or indirectly through drawing, playing or writing that describes abuse.<sup>3</sup>

More ambiguous behaviours that might arise from sexual abuse could also arise from other childhood trauma. For example, a child might withdraw from society, be unusually quiet or more aggressive, start performing poorly at school, self-harm or act in an antisocial way. However, this behaviour gives carers a chance to speak to the child and investigate why the child's behaviour has changed.

#### Survivor talks about the importance of recognising the signs of child sexual abuse

'When a kid is quiet, when a kid is silent, when they have injuries like a split lip or a black eye, people should know the signs and investigate. When they cower like a dog, people should know that something is wrong.'

We were told just how important it is that adults understand the signs of abuse during our case study on responses to allegations at St Ann's Special School in South Australia.

In 2001, several parents identified that their children had been abused, years after the abuse happened, when they became aware of allegations against Brian Perkins dating back to 1991. The parents knew that their children had been in Perkins' company and recognised changes in their behaviour, development and demeanour that they could trace back to this time. The changes then resonated with them and the abuse was finally identified.

#### Identification is hampered by lack of training

Parents are not the only people who sometimes struggle to identify abuse. We are aware that some professionals who work or have contact with children also fail to see the signs. This might be because they have not had adequate training or they do not recognise the full spectrum of abusive behaviours as criminal offences.

The Royal Commission is researching these failures and barriers to identification, so we can recommend ways for institutions to overcome them. A specific research project will look at identification and reporting.

We are already learning from our research and case studies that child safe institutions address barriers to identification through a range of measures, including:

- ensuring a widely shared, valid understanding of what abuse is and how it happens, through child protection training
- teaching caregivers how to question children sensitively or give them chances to talk when they are ready to, such as by asking open questions about their wellbeing that encourage a free narrative response<sup>4</sup>
- supporting and encouraging staff to be observant, exchange views and raise any concerns with management<sup>5</sup>
- having a culture of shared personal responsibility for the safety of children.<sup>6</sup>

## DISCLOSING ABUSE TO FAMILY OR FRIENDS

Disclosure is when a child tells another person that he or she has been sexually abused, or when an adult tells another person he or she was abused as a child.

### Children are mostly likely to talk to parents or friends

Disclosure is distinct from making an allegation or report, even though they sometimes happen at the same time. Reporting to police and making allegations are formal mechanisms to bring an incident to the attention of law enforcement and other agencies.<sup>7</sup>

Research suggests that children and young people are most likely to disclose abuse to either a parent or same-aged friend.<sup>8</sup> For instance:

- school-age children tend to tell their caregivers, particularly mothers
- adolescents are more likely to tell friends, so peer influence is significant in encouraging disclosure amongst adolescents<sup>10</sup>
- very young children tend to accidentally reveal abuse, because they do not have as much understanding of what has happened or the words to explain it.<sup>11</sup>

Research also tells us that girls are more likely to disclose abuse than boys.<sup>12</sup>

### Children might disclose abuse spontaneously, slowly or accidentally

We are learning that children might disclose abuse spontaneously (disclosure as an event), indirectly and slowly (disclosure as a process), or accidentally. Their developmental features, such as their age at the onset of abuse or at the time of disclosure, can affect how they make their disclosures. For example, preschool children are less likely to spontaneously disclose than older children.<sup>13</sup>

Children might disclose abuse indirectly to trusted adults by behaving differently or making ambiguous verbal statements. Older children may indirectly attempt to disclose or cope with their abuse through risk-taking behaviours, such as self-harm, suicidal behaviour or disordered eating.<sup>14</sup>

Children might also disclose:

- when asked or after taking part in an intervention or education program
- after initially denying it or saying that they forget<sup>15</sup>
- partially<sup>16</sup>
- repeatedly until they find an adult who is prepared to act on their behalf.<sup>17</sup>

Some children will later retract what they have said, claiming that they made a mistake or lied, or that the abuse actually happened to another child. They might do this to ease the stress of disclosing and receiving potentially negative responses from caregivers.<sup>18</sup>

### Survivor's experience of telling their story to the Royal Commission

'This is the first time in my life that I've been able to tell my story to someone who gives a shit – someone who will listen to me, believe me and not judge me.'

### Children might make disclosures that adults do not recognise

The National Society for the Prevention of Cruelty to Children (NSPCC) in the UK has completed primary research exploring young survivors' experiences of disclosures of childhood abuse.<sup>19</sup>

The study identified that young people who had experienced abuse wanted someone to notice when things were not right, someone to ask when had concerns, and someone to hear them when they did disclose.

Children will often disclose information in a number of ways, ranging from subtle to direct disclosure. The NSPCC study showed that 13 per cent of initial disclosures were indirect, verbal disclosures. Children, mostly under the age of 12, made ambiguous statements to try to alert adults to the fact they were being abused. This highlights the importance of carers being aware of the ways that children might disclose and of indirect disclosures a child might make.

Our future work will further explore issues around disclosure by children.

### Adult disclosure is often delayed by over 20 years

Some survivors disclose years later as adults, and some never disclose. Disclosure is often delayed by over 20 years.<sup>20</sup>

These patterns are mirrored by our analysis of the people who attended our private sessions between 17 January 2013 and 30 April 2014. Survivors took an average of 22 years to disclose their abuse after it began.

When they did disclose, they most often told someone in authority in the institution, followed by a parent or the police. To learn more, please see Appendix C.

### Thirty years passed before a survivor could talk about their abuse

'I have waited 30 years to tell this story.'

### Barriers to disclosure include shame, fear and distrust

Children face many barriers to disclosing their abuse. For example, Case Study No 5 on The Salvation Army showed that many boys did not disclose their abuse when it occurred because they feared punishment, retribution and not being believed.

Many children are also reluctant to disclose because they feel ashamed or embarrassed, or they blame themselves.<sup>21</sup> This was the most common barrier for survivors speaking in our private sessions. Other survivors felt they had nobody to talk to or feared not being believed.

Children might not disclose abuse because they:

- fear that they will not be believed
- do not know who they can trust or who will give them support
- do not trust that disclosure will be confidential and result in positive action
- feel there is no safe place to disclose their abuse
- fear that the abuser will hurt them or their families
- fear that they will be blamed and get into trouble, or be taken away from their families<sup>22</sup>
- fear that they will upset their families (children who are abused by a family member are less likely to disclose)<sup>23</sup>
- fear that they will be stigmatised, such as being labelled as a victim or suffer social and cultural impacts (for example, being labelled as a homosexual, particularly for males<sup>24</sup>, or, for females in some cultures, not suitable to marry)
- do not know what child sexual abuse is, or understand when behaviour is wrong.

### Survivors discussed some of the barriers they faced to disclosing their abuse

'When you are a child and you've been tormented, you would just shake when other bad things happened. We were so frightened, who could we trust? I was frightened until I was 30 years old.'

'Silence is golden – you can't get into trouble if you don't say anything.'

'I wanted to tell my mother but she was always busy and I felt that she would stop being affectionate towards me and stop giving me cuddles if she knew what had been done to me. I felt very dirty and didn't want her to see me as dirty too.'

'Who was I supposed to tell? The people who were doing it to me? The police don't listen to children.'

'I did not know at that age that what [the priest] was doing was a crime. I couldn't adequately describe what was happening, and I knew that no-one would believe me.'

'My mother told me not to say anything because I would be responsible for turning people away from God and the Church.'

We are learning that institutional culture can present more barriers for children to disclose abuse.<sup>25</sup> For example, if a child believes that an institution does not take action when abuse is disclosed and does not support victims.

Submissions and research are telling us that particular groups of children are less likely to disclose due to extra barriers. For example:

- children with disabilities might struggle to communicate or to find someone appropriate to tell, especially if they rely on an abusive carer<sup>26</sup>
- children with mental health difficulties, particularly those with dissociative or other post-traumatic stress symptoms, might find it hard to disclose
- children who are in care or who are away from their family might feel they do not have a trusted adult to confide in
- very young children have limited language skills and capacity to understand the nature of the abuse against them.

We have heard that Aboriginal and Torres Strait Islander children might fear retribution against their or the perpetrator's family. It has been reported that these children might not be able to access culturally appropriate support services. This can

make it difficult for them ‘to overcome reticence, their fear of being misunderstood, and their often well justified fear of the consequences of disclosure, especially in legal/criminal justice contexts’.<sup>27</sup>

We have also heard that ‘[w]ithin the tight kinship structures of Aboriginal communities, disclosure can be perceived as bringing shame both to the victim and to the perpetrator and their families’.<sup>28</sup>

### Empowering children and raising awareness will improve disclosure rates

Understanding the dynamics of disclosure is key to helping children to speak up sooner.<sup>29</sup> We need to acknowledge the different roles that children, peers and adults play. For example, we are learning that this includes children maintaining control over the process, the important role of peers, opportunities to tell and the positive response of adults.

Ways to encourage early disclosure in institutions include:

- empowering children and raising their awareness of what abuse is, how they can access help and what might happen after disclosure
- giving children opportunities to disclose by training carers to identify concerns, and to listen, believe and respond appropriately
- building trust and giving children a sense of control over the disclosure process, such as by reassuring them that their complaint will be taken seriously
- training peers and adolescents on how to ask about abuse and what to do if someone discloses abuse
- promoting an institutional culture that confirms everyone will be heard if they disclose abuse, no matter who the perpetrator is
- referring victims and their families to support services.

Institutions can also target disadvantaged groups and communities. For children with disability, for example, there are many different communication methods, such as braille and other non-verbal communication.<sup>30</sup> Particular communities might benefit from specific strategies and support services to address the cultural, historical and intergenerational factors that prevent disclosure. Institutions can also ensure that vulnerable groups have access to protective behaviour programs.

#### Survivor emphasises the importance of empowering abuse victims to stand up for themselves

‘[I hope that] others like me can find solace and never be afraid, remove any guilt, shame and pain, and empower themselves to stand up and reclaim their dignity.’

## REPORTING ABUSE ACROSS AUSTRALIA

### Mandatory reporting laws cover all states and territories

Mandatory reporting laws require designated people who reasonably believe or suspect that a child is in need of protection to report that belief. Designated people include medical practitioners, teachers and police officers.

#### Introduction of mandatory reporting laws in Australia

Mandatory reporting laws for child sexual abuse were enacted across Australia over 40 years, starting with a law in South Australia in 1969.

The first laws were generally limited to medical practitioners. They were developed mainly to respond to physical abuse, but also applied to sexual abuse. As the nature, prevalence and effects of child sexual abuse gained greater recognition and understanding, legislative provisions developed a clearer focus on this type of abuse.

In many cases, laws changed when it became clear that cases of sexual abuse were not being reported. Further legal developments were influenced by evidence that states and territories with mandatory reporting had higher rates of identifying cases of child sexual abuse.

Between 1977 and 2013, many inquiries and reports favoured the introduction of mandatory reporting for child sexual abuse. Where it already existed, they suggested extending or changing the law, policies and practices to improve its operation. The major inquiries and reports, their key recommendations about mandatory reporting, and their translation into law, are set out in Appendix D, Table 2.

### Mandatory reporting laws aim to identify cases of abuse to:

- prevent further abuse of the children involved
- help detect perpetrators and stop them abusing other children
- provide medical and therapeutic aid to abused children and their families.

A designated person has a duty to report. This is obligatory, rather than discretionary, and must be complied with as soon as practicable. That person is immune from legal liability if the report is made in good faith, and their identity is protected.

## States and territories differ in their requirements

There are several significant differences between the laws in each state and territory.

<b>Designated people</b>	Generally, the reporting duty applies to people in at least four occupations who regularly work with children: police, teachers, doctors and nurses. But there are different approaches across the states and territories. For example, only South Australia includes the clergy as mandated reporters (although the duty does not extend to suspicions developed through the confessional).
<b>Temporal or situational scope</b>	There are differences in whether the reporting duty is applied to past or current abuse only, or also to the perceived risk of future abuse.
<b>Reporter's state of mind</b>	The state of mind that a reporter must have before the duty applies also varies. The laws refer to either 'belief on reasonable grounds' or 'suspicion on reasonable grounds'. Victoria further limits the duty to cases where the reporter has a reasonable belief that the child's parent has not protected the child from suffering harm because of the abuse (or there is no parent who is likely to protect the child).
<b>Extent of harm</b>	Some laws require all cases of sexual abuse to be reported, regardless of the extent of harm to the child. However, others adopt the same threshold applied for physical or psychological abuse, or neglect: a report must relate to acts and omissions that are 'significantly harmful' to the child's health, safety, wellbeing or development.
<b>Age of 'child'</b>	In most states and territories, the reporting duty applies in cases involving children under 18 years of age. However, the duty applies to cases involving children under 16 in New South Wales and under 17 in Victoria.
<b>Penalties</b>	Seven of the eight states and territories have penalties for non-compliance, although they differ substantially. New South Wales removed penalties after the Wood Inquiry recommendations and legislation in 2009. <sup>31</sup>

We are investigating the impacts of such major differences, and will consider whether:

- it would be beneficial and practical to have a national, evidence-based minimum standard
- the operation of the laws could be enhanced, such as through educating reporters and systemic resourcing.

## Reporting duties extend beyond mandatory obligations

A person might have other duties to report known or suspected child sexual abuse, as detailed below.

<b>Legislation</b>	A person might have a legislative duty to report known criminal offences. For example, under section 316 of the <i>Crimes Act 1900</i> (NSW), concealing knowledge or belief that an offence has been committed is an offence itself, even when there is no benefit from concealment. <sup>32</sup>
<b>Common law</b>	A person might also have a general common law duty to disclose certain offences, as a public duty. <sup>33</sup> This is regardless of whether the person received a benefit from the non-disclosure.
	People in certain occupations or institutions might have a common law tortious duty of care to the child, which extends to a duty to report knowledge or reasonable suspicion that the child had been or is being sexually abused. <sup>34</sup>
<b>Policy</b>	People in certain occupations might also have an occupational or industry-based policy duty to report these cases. Failure to comply with such a duty could present grounds for professional disciplinary proceedings. <sup>35</sup>

## There is a range of barriers to adults reporting child sexual abuse

As with identification and disclosure, we are learning about barriers to adults reporting abuse. So far, they include a lack of understanding of what child abuse is and who is responsible for reporting it. Policies and procedures in this area are often non-existent, of poor quality or not understood by children, staff and parents.

For example, in its submission to our Issues Paper No 3 on child safe institutions, the Australian Childhood Foundation noted the following statistics from a survey by Project Axis in 2000:

- half of the 66 non-government schools had no guidelines for dealing with allegations of abuse involving school employees
- only three of the 51 community groups had formal policies for reporting allegations of child abuse involving employees or volunteers
- more than half of these groups said they would not involve the police in an allegation of child sexual abuse.<sup>36</sup>

We know from our private sessions that power imbalances between institutions and victims can also hinder reporting. For example, the perpetrator might be placed on a pedestal and seen as ‘untouchable’, such as a priest. Further, individual staff or management sometimes fail to take responsibility, and institutions might prioritise

self-preservation and reputation over the best interests of the child.

We are learning that child safe institutions have a range of measures to address barriers to reporting, such as:

- recognising the criminal status of abuse and immediately referring it to external authorities (the police and statutory child protection departments)
- distinguishing between the institution's responsibilities and those of the external authorities (for instance, managers or church leaders should not try to determine the guilt or innocence of an alleged perpetrator<sup>37</sup>)
- ensuring responses to disclosures are open and transparent (see section 4.3 in this volume)
- ensuring that the best interests of the known affected child, and other children potentially at risk, take priority over any perceived threat to the reputation of the institution or associated individuals.<sup>38</sup>

From research, submissions and case studies, we understand the importance of having clear policies and procedures that are understood by all staff. These might include a graduated system of informing others, such as staff and parents, on a need-to-know basis.<sup>39</sup> They should also clarify what is considered unacceptable behaviour for all children and adults connected with the institution, and the consequences of this behaviour.

We are aware, however, that best practice in child protection policies is unclear, due to the limited evaluation

of child safe principles and strategies. We will work to identify best practice in child safe organisations as our research continues.

## 5.2 INSTITUTIONAL RESPONSES TO REPORTS

Our terms of reference require us to examine institutional responses to reports or information about allegations, incidents or risks of child sexual abuse.<sup>40</sup> We are examining:

- how institutions have responded over time to reports or information, and the impact of these responses
- the key elements of an effective institutional response
- the obstacles to an effective response and how they can be eliminated or reduced.

Several themes have already emerged, four of which stand out:

1. There is always a risk that child sexual abuse may occur, so it is crucial that institutions are able to respond effectively.
2. If and how institutions respond directly affects victims and can even exacerbate the harm of the abuse.
3. When institutions respond effectively, they help to prevent future abuse by sending a clear message that it is unlawful and will not be tolerated.
4. Reports of child sexual abuse should prompt institutions to review and strengthen their policies, procedures and systems for addressing child sexual abuse.

## UNDERSTANDING THE IMPACT OF INSTITUTIONAL RESPONSES

### The nature of the response can have a significant impact on the victim

How an institution responds to a report or information about allegations, incidents or risks of child sexual abuse has a direct and significant impact on the victim. Effective responses can also be key to holding perpetrators and institutions accountable and to preventing future abuse.

On the other hand, ineffective institutional responses can both allow the abuse to continue and compound the harm. They can also:

- put other children at risk, such as where institutions relocate perpetrators
- foster a culture of impunity and impede access to justice
- undermine efforts to prevent abuse.

So far, most people we have spoken to have been disappointed in the way institutions have responded to reports of child sexual abuse.

#### Witness describes his experience of the Catholic Church's *Towards Healing*

'From 1976 to 1981, I was sexually abused. ... I had put my trust back in them for *Towards Healing* and ... I just felt that the same angry, cruel men had done the same thing to me 25 years later. It's the same abuse. I don't call it *Towards Healing*, I call it "Towards Hurting".'<sup>41</sup>

#### Witness explains how an institution's response exacerbated the impact of her son's alleged abuse

'We were more shocked when we heard that ... information about the alleged abuse had been kept from us for the past 10 years. We could not understand how this happened and why it was kept from us ... We spent many painful hours searching for answers.'<sup>42</sup>

## RESPONDING EFFECTIVELY

### We are reviewing different response models

To help institutions respond effectively to reports or information about allegations, incidents or risks of child sexual abuse, the Royal Commission is examining different response models and the key elements of an effective response.

To date, we have focused on two distinct areas:

1. What are the key elements of an effective response to an individual case?
2. How can institutions strengthen their policies, procedures and systems based on what they learn from individual cases?

### Institutions must respond quickly and fully to individual reports

We have already received a range of evidence and views on the key elements of an effective response to

individual reports of abuse. Most have emphasised the need for institutions to:

- introduce and follow policies and procedures
- respond quickly to reports or information about child sexual abuse
- prioritise the child's best interests (for example, with referrals to support services)
- ensure the safety of the victim and other children (for example, by removing the accused person from contact with children while the allegations are investigated)
- notify police and other authorities, and cooperate fully with any investigations
- inform and support parents, carers and staff (for example, with debriefings and counselling)
- record reports or information about abuse and any actions taken in response
- treat all parties consistently and fairly
- take disciplinary action against perpetrators if reports are substantiated.

### Expert gives evidence about the elements of an effective institutional response

During the public hearing for Case Study No 2, Professor Stephen Smallbone gave evidence about the elements of an effective response to reports of abuse. He explained that, at a minimum, institutions must:

- ensure the safety and welfare of the children
- cooperate fully with any police investigation
- introduce and implement clear policies on supporting and providing services to affected or concerned children, parents and staff.<sup>43</sup>

### Victorian inquiry also considers the elements of an effective response

‘[A]n effective process ensures that victims, their families and personnel in the organisation can make reports or disclosures of child abuse without fear of negative repercussions or of not being believed. It emphasises the safety of children and the need to provide adequate supports. It has a clear framework for assessing what happened and whether there are reasonable grounds to believe that criminal child abuse has occurred that should be reported to police or other relevant authorities. It also provides a basis for pursuing any necessary disciplinary processes and ensures that the organisation’s systems and processes are subject to review.

Different considerations can apply in determining the suitability of an organisation’s response where the allegation relates to events that occurred in the past. However, there are similarities between responses to current and past child abuse, particularly where the alleged perpetrator remains working in the organisation or for other organisations with access to children.’<sup>44</sup>

## Reflection on these cases can help to improve policies, procedures and systems

A lot of evidence has stressed the importance of institutions monitoring and evaluating the effectiveness of their responses to individual reports or information about allegations, incidents or risks of child sexual abuse.

We are hearing that, once an institution has finalised its response to an individual case, it should:

- reflect on how the abuse was able to happen and the steps needed to stop it recurring in the same or similar circumstances
- assess the strengths and weaknesses of its response to the victim, the perpetrator and third parties, and how it could have responded better
- in light of this, examine how its policies, procedures and systems on addressing child sexual abuse can be strengthened.

## TRACKING PAST RESPONSES

### Institutional responses to reports of abuse vary

A key focus of our work has been tracking how institutions have responded to reports or information about allegations, incidents or risks of child sexual abuse. Perhaps unsurprisingly, we have seen great variety in the way institutions respond to reports and information.

First, policies and procedures in this area vary considerably. Some institutions have formal guidance, while others do not. Where formal systems exist, they do not always deal specifically with child sexual abuse. There are also marked differences in their quality, availability, appropriateness and accessibility.

Second, there are often differences between these formal policies and procedures on paper, and how they are put into practice. We understand that there are sometimes inconsistencies within institutions in how policies and procedures are applied, for example in the redress that victims receive.

### *Towards Healing: The response of the Catholic Church in Australia to child sexual abuse*

One response model we are reviewing is *Towards Healing: Principles and Procedures in Responding to Complaints of Abuse against Personnel of the Catholic Church in Australia*.

The principles of *Towards Healing* include truth, humility, healing for victims, a just and compassionate response to victims, and effective responses to accused and guilty people.

The process is triggered when a person makes a complaint. Depending on the victim's wishes, the complaint should go through several steps, some of which are highlighted below:

- the complaint is referred to the relevant Director of Professional Standards, who manages the complaint process
- a contact person is appointed to meet the victim and record the complaint
- the victim is encouraged to report the abuse to the police
- the Church authority is given a copy of the complaint
- an independent assessment is sought if the authority does not accept the allegations
- a meeting between the victim and the authority is held so the victim can tell their story and a response can be negotiated
- the accused is disciplined, where appropriate.

There is also the possibility of review in some instances.

The Church received at least 2,215 complaints under *Towards Healing* between 1 January 1996 and 30 September 2013.<sup>45</sup>

### Victims' experiences of institutional responses also vary

Just as institutional responses vary, so do victims' experiences of those responses. For some, their experiences have been positive. But for most victims who have come forward to the Royal Commission, their experiences have been negative or, at best, mixed.

In cases involving multiple institutions, some victims were satisfied with the response of one institution but not another. Even within a single institution, the level of satisfaction often changed based on the different individuals involved in the response.

A key factor that has affected satisfaction is whether the best interests of the victim were prioritised. Other factors for victims include:

- their understanding of the process for responding to reports of abuse
- their expectations of what can be achieved through the response
- the nature, timeliness and consistency of the response
- their treatment by the person who handled the response (such as whether they were believed and offered support) and that person's position of authority in the institution.

### Victims' experiences of *Towards Healing* are varied

Some people have told the Royal Commission that their experiences of *Towards Healing* were positive, either in whole or part. For example, one person said that the representative had been a wonderful support for many years. Another said that the investigators showed great empathy and were very professional in all aspects of their questioning.

However, mostly we have heard concerns about *Towards Healing*, relating to:

- gaps between the principles and procedures and their application in practice
- the way Catholic Church authorities have treated victims and the power imbalance between the parties
- the role of the Church's lawyers and insurers
- facilitations (such as facilitator independence and confidentiality requirements)
- tensions between the adversarial and pastoral elements of the process
- delays and inconsistencies (such as in the redress given)
- lack of transparency
- outcomes for victims.

Our inquiries into *Towards Healing* are ongoing. We are encouraged that the Church is already considering how to improve its response. The Truth, Justice and Healing Council has recognised, for instance, that the Catholic Church in Australia needs a 'more professional, effective and consistent pastoral response' and an 'oversight body which can hold Church authorities and agencies to an agreed set of standards that can also be audited by that body'.<sup>46</sup>

## The responses of many institutions have been inadequate

Many institutions treat their duty of care to children seriously. They take great care to provide a child safe environment, including by taking steps to prevent sexual abuse and responding appropriately if it does happen.

Yet we have heard of many occasions where institutions have failed to respond to reports or information about abuse or, if they have responded, have done so ineffectively. We have already examined some of these failures in detail, especially through our public hearings.

### Witness recalls how she was sexually abused again after NSW Police failed to respond effectively

'[The police] were lovely to me and so I told them that CRAWFORD was sexually abusing me at Parramatta Girls. ... [The police officer] started to cry and she said: "Leave it to us. We'll see what we can do". ... They ... finally told me: "We can't do anything". ... I asked: "What do you mean you can't do anything?" They mentioned words to the effect that it was too much of a "hot potato". I overheard the police stating that it was the fault of the government. They told me they had to take me back to Parramatta Girls but I begged them not to. ... CRAWFORD continued to sexually abuse me when I returned to Parramatta Girls.'<sup>47</sup>

We must find out why institutions have failed, and are still failing, to respond effectively to reports or information about abuse. Already we have heard a range of views. For example, many institutions do not:

- identify incidents or risks of abuse
- have policies and procedures for responding to reports, or information about abuse, or implement any they do have
- apply policies and procedures consistently
- provide regular and ongoing training for staff on responding to reports or information about abuse
- recognise that child sexual abuse is a criminal offence, and deal with reports internally rather than referring them to the police to decide whether abuse occurred
- provide adequate information and support to victims, parents and staff
- prioritise the best interests of the child, and instead protect the reputation and interests of the institution or perpetrator, including by covering up or minimising allegations.

### Institutions' responses were hampered by concern for reputation and inadequate training

Our findings in Case Study No 1 support some of these views. We found that the response of Scouts Australia NSW official Allan Currie to allegations against Steven Larkins was influenced by a desire to protect the organisation's reputation. They also found that Senior Constable Turney, who investigated allegations against Larkins, was inexperienced in dealing with allegations of child sexual abuse.<sup>48</sup>

We are aware that many institutions face obstacles in responding to reports or information about abuse such as:

- limited understanding of the problem (that is, the nature and extent of child sexual abuse in institutional contexts)
- limited awareness of legal obligations to report abuse
- inadequate resources for developing policies and training staff
- inadequate communication within and between institutions
- institutional culture, such as where bullying is tolerated or the reputation of the institution is paramount.

National institutions face the added barrier of needing to comply with laws in multiple states and territories. As one institution has noted, this can restrict their ability to develop and provide standard national processes.<sup>49</sup>

### Institutional responses have improved over time

It is heartening that we have already seen evidence of institutions improving their responses to reports or information about abuse. Some improvements appear to have been driven by the institutions themselves. Many, however, appear to have been prompted by external factors, including:

- changing social views about children and their welfare (see section 3.2 of this volume)
- greater public awareness of child sexual abuse
- the reframing of child protection from a charitable endeavour to a government responsibility
- pressure on governments to improve child protection measures
- proactive child protection measures, such as mandatory reporting (see section 5.1 above)
- a shift away from unquestioning acceptance of the authority and good intentions of institutions.

Some institutions have also taken steps to improve their responses based on the Royal Commission's early work.

#### Archbishop of Melbourne announces review of the *Melbourne Response* compensation cap

In April 2014, Archbishop Denis Hart announced a review of the compensation scheme established under the *Melbourne Response*, the Catholic Archdiocese of Melbourne's response to child sexual abuse. The review will consider whether to increase or remove the current compensation cap of \$75,000.

Archbishop Hart said, 'In light of the report of the Victorian Parliamentary Inquiry and the work of the Royal Commission, we are looking again at victims' needs and their views on how best to improve the compensation process'.<sup>50</sup> He also said, 'We plan to share the outcomes of the consultation with the Royal Commission when it examines the *Melbourne Response* ...'.<sup>51</sup>

The Royal Commission appreciates that concerns will continue to emerge as our knowledge of institutional responses deepens. We need to:

- better understand why institutions have failed, and continue to fail, to respond effectively to reports or information about allegations, incidents or risks of child sexual abuse
- identify practical strategies for improving these responses.

We will also identify improvements and best practice in institutional responses, including through a future roundtable.

## 5.3 JUSTICE FOR VICTIMS

The Royal Commission's terms of reference require us to investigate what should be done to address or alleviate the impacts of past and future institutional child sexual abuse. To do this, we must consider the extent to which victims find justice.

Justice might be pursued through:

- the criminal justice system, which can investigate allegations of abuse and prosecute alleged perpetrators
- civil litigation, which can recover damages for loss suffered because of abuse
- redress schemes, which can provide a range of remedies or compensation including counselling and support services
- appropriate institutional responses (as discussed in section 5.2 of this volume).

We are looking at each of these elements to see how effective they are and whether they can be improved. We have not yet considered the support needs of survivors in detail. We are scoping research projects in this area and will consult widely to identify any reforms.

## USING THE CRIMINAL JUSTICE SYSTEM

[Our Criminal Justice Project is reviewing the system across Australia](#)

Much is already known about how the criminal justice system works for offences generally, and a lot of research has been done on sexual offences. We need to understand how the system works for child sexual abuse offences specifically and, where possible, those in an institutional context.

We also need to understand the differences between states and territories and what happens when survivors report abuse as adults, rather than as children.

We have established the Criminal Justice Project to help us gain a comprehensive view of the system. The research we obtain, along with accounts from public hearings and private sessions, will give us a complete view of the issues where possible.

The project will look at various issues, including how:

- allegations are received and investigated by the police
- the prosecution and trial process works, from charging the alleged perpetrator to holding a trial
- offenders are sentenced.

Our Criminal Justice Working Group, with expert practitioners, researchers and academics, has helped to set the project's research agenda. It will also help us to interpret that research and identify appropriate reforms. We will consult further on these issues.

### Past and current child sexual abuse offences must be identified

Our first step in understanding the criminal justice system is to identify past and current child sexual abuse offences.

Our website features a report by the Australian Institute of Criminology, which sets out all the child sexual abuse offences that exist in each state and territory (at 31 December 2013). Another report we are obtaining from the institute will set out all the offences that have existed since 1788.

This research will enable us to understand what conduct has been criminal, and how this has changed over time. It will also identify how offences vary between the states and territories to help us to identify any gaps.

### Private sessions give insight into police treatment of victims

Accounts from private sessions have given us insight into the experiences of victims when reporting allegations of child sexual abuse to the police.

#### Survivor shares her positive experiences of making a complaint to the police

'[One police officer] would ring me to say who he had found or who he was looking for and what people had said, just clarifying questions ... [H]e was really helpful. ... [H]e did a lot ... beyond what I expected him to do. He followed people to Queensland to get statements and things like that. ... [H]e had been moved from stations, so he actually took me with him. He was moved three or four times... He rang me the day of ... court and ... the day of the sentencing ...'

#### Survivor tells his experience when reporting the matter to the police

'I was told to sit in this big chair and tell [the Sergeant] what had happened to me ... all he did was scream at me with a loud voice to scare me ... saying ... that I made them up ... I couldn't tell my side of what had happened, it was a terrible feeling going through my body so I just shut up and took all that he gave and just went very tired and scared.'

Police responses and investigations have also been raised in some public hearings, as detailed in the table below:

Case study	Issues relating to the police
No 1	<p>The Commissioners made findings about:</p> <ul style="list-style-type: none"><li>• the inexperience of the police officer who investigated a 1997 allegation of indecent assault against Steven Larkins</li><li>• the substantial delays in the police investigation</li><li>• the communication of incorrect information</li><li>• how the delays and misinformation adversely influenced the complainant and his mother, which meant that the prosecution did not proceed in 1998.</li></ul>
No 2	<p>Matters raised during the hearing include:</p> <ul style="list-style-type: none"><li>• the way allegations of child sexual abuse offences against Jonathan Lord in 2011 were first reported to the police</li><li>• advice that the police gave to YMCA NSW.</li></ul> <p>The hearing also considered the investigation processes of the NSW Joint Investigation Response Team (JIRT). Several parents of the victims gave evidence about their experiences with JIRT. Some were positive, while others were critical.</p> <p>No findings were made about the JIRT's operation as it is being considered more broadly in the Criminal Justice Project.</p>
No 9	<p>The hearing considered:</p> <ul style="list-style-type: none"><li>• the South Australia Police investigation into the 1991 allegations of child sexual abuse against Brian Perkins at St Ann's Special School</li><li>• the delay in bringing Perkins to justice, as he was able to breach bail and leave South Australia around 1993</li><li>• the way the police communicated with the victims' parents.</li></ul>

We will continue to gather information on police responses and investigations through public hearings and forums. We will consider whether there is a best practice approach in how police respond to and investigate allegations of child sexual abuse in institutions and whether any reforms are needed.

## Research will look at prosecution and trial processes

We have also identified several issues relating to the prosecution and trial process. We need to consider whether:

- these issues affect the outcome of prosecutions, and what that impact is
- there is a best practice approach
- any reforms are needed.

One issue relates to delayed disclosure. Many victims take years, sometimes decades, to report their abuse to the police. We are interested in what effect this has on trials and prosecutions. We are obtaining research that compares the prosecution process for cases reported by victims as adults with that for cases reported by children. The research will investigate trends to see if this contributes to differences in the process and prosecution outcomes.

Another issue relates to how alleged offenders should be charged when there are multiple alleged offences against one victim or against multiple victims. Outcomes can be affected by the:

- structure of charges
- trial process, such as the need for separate trials for each charge.

We are commissioning more research in this area, and it could also be considered in public hearings.

Research will look at the current law and practice governing how complainants of child sexual abuse give evidence in a trial. The states and territories have different rules. In some jurisdictions, complainants can give evidence by pre-recorded video, by video link from a different location, or when the alleged offender is not present. Depending on the place, these options may be selected by the complainant or decided by the court. In other places, they are not practical or not permitted.

We are also commissioning research on the admissibility of certain types of evidence and warnings, directions and comments that a judge gives to the

jury. For example, if evidence suggests the alleged offender has a tendency to offend, the judge might have to warn the jury. In other cases, such evidence is inadmissible.

There are also rules and practices regarding judges commenting on problems arising from a delayed disclosure, or on the risks of convicting on the uncorroborated evidence of the complainant alone. Research will identify the current law and practice in each state and territory and what impact they have on jury decision-making.

Other issues we are looking at include:

- how people with communication and intellectual disabilities are dealt with as victims and witnesses
- whether people from culturally and linguistically diverse backgrounds are disadvantaged in the prosecution and trial processes
- the challenges faced by victims in rural, regional and remote locations.

### Sentencing options are being reviewed

We need to better understand the options for sentencing convicted offenders. Like prosecutions and trials, this is an important part of the criminal justice system.

We are looking at past and present sentencing in each state and territory. We have commissioned research on:

- the principles and purposes of sentencing, focusing on those relevant to child sexual abuse in institutions

- different sentencing options and practices, including how the gravity of an offence is determined and how victim impact statements are used
- technical issues relating to fact finding and the consequences of historical offences, including how the prosecution frames its case for multiple offences and the sentencing principles for historical abuse
- judicial and public attitudes that affect sentencing for child sexual offences
- the consequences of sentencing and the use of ancillary and post-sentence orders.

This research, with input from the Criminal Justice Working Group, will help us to assess whether current options and practices are effective and to identify any areas for reform.

## PURSUING JUSTICE THROUGH CIVIL LITIGATION

### We are consulting widely to understand systemic issues

Civil litigation is one of the ways that victims of abuse can seek compensation. They can bring a claim for damages against the institution, and potentially against the perpetrator, in the civil courts.

All states and territories and the Australian Government have civil litigation systems that allow people to seek damages from an individual or institution that they allege has caused them harm. The systems are broadly similar across Australia.

The Royal Commission is considering these systems to identify the elements that raise issues, and any changes that might be needed. We are also considering whether civil litigation enables victims to seek redress as well as, or instead of, damages or financial compensation. We need to understand the effectiveness of civil litigation as a way of providing justice for victims, compared with other mechanisms such as redress schemes (including statutory victims of crime compensation schemes).

We are looking at individual cases and the experience of institutions that have had a significant number of child sexual abuse claims made against them. Our Claims Project will analyse data from these institutions, including damages awarded or settlements reached in civil litigation and some payments made under redress schemes.

Our recent *Issues Paper No 5: Civil litigation* sought public input on the effectiveness of current civil litigation systems, and we received 40 submissions in response. We have also heard accounts in both public hearings and private sessions about experiences of civil litigation and why some victims decided not to pursue it. We will continue to consult on aspects of civil litigation and redress.

### Our Claims Project is examining resolved claims

The Claims Project has given us data about how government and non-government institutions resolved claims involving child sexual abuse between

1995 and 2011. It covers all claims, whether they were made by starting litigation, applying under a redress scheme or directly approaching the institution.

We have details about how the claims were resolved, including whether the institution paid money, apologised or provided counselling.

The Claims Project is continuing to analyse the data to identify the:

- number of claims made and trends over time
- time between the abuse and the claim being received and resolved
- range of, average and median amounts paid to claimants
- different outcomes of claims that did and did not involve litigation.

### Public hearings are giving us evidence about the conduct of civil litigation

We have heard evidence about civil litigation in some of our public hearings, and are likely to learn more in future hearings. Some of the evidence is outlined below.

Case study	Issues relating to civil litigation
<b>No 3</b>	<p>The public hearing examined how the Anglican Diocese of Grafton in New South Wales handled claims of abuse from former residents of the North Coast Children's Home, including whether policies and procedures were applied consistently and fairly.</p> <p>Forty claimants, half of whom claimed to have suffered sexual abuse, brought a group claim against the Diocese. It reached a settlement with most claimants in 2007, but later received further claims from new claimants.</p>
<b>No 7</b>	<p>Women who were sexually abused as children gave evidence that they sought compensation through civil litigation against the State of New South Wales. However, they were told that they would not be successful because of the Limitation Act and were warned about the risk of being ordered to pay costs.</p> <p>No compensation claims were resolved through civil litigation, although some women obtained statutory victims of crime compensation payments for the abuse they suffered.</p>

Case study	Issues relating to civil litigation
No 8	<p>In examining the Catholic Church's response to John Ellis' complaint of being sexually abused by a priest as a child, the public hearing considered his civil litigation against:</p> <ul style="list-style-type: none"> <li>• Cardinal Pell as the Archbishop of the Catholic Archdiocese of Sydney</li> <li>• the Trustees of the Roman Catholic Church for the Archdiocese of Sydney</li> <li>• the priest who was the subject of his complaint.</li> </ul> <p>Mr Ellis first had to seek to extend the limitation period for his claim. In this preliminary application, the Archdiocese argued that neither Cardinal Pell nor the Trustees were the proper defendant in the claim. As the Cardinal was not then the Archbishop and the Trustees had nothing to do with appointing and supervising priests, they were not legally responsible. This argument was successful and Mr Ellis could not pursue his substantive claim for damages.</p> <p>We also heard evidence about how the Archdiocese and its lawyers conducted the defence of the civil litigation, and about the legal costs and payments ultimately made to Mr Ellis.</p>

Findings have not yet been made for those case studies.

## Submissions have flagged concerns about institutional liability

In *Issues Paper No 5*, we asked whether elements of the current civil litigation systems could adversely affect litigation conducted by survivors. We received 40 submissions in response. Some supported reforms, while others recommended caution.

Knowmore's submission criticised the civil litigation system as a whole, saying:

- › '[It] operates in such a way that its capacity to compensate survivors and deter institutions that repeatedly fail to prevent child sexual abuse is circumvented. Specific to child sexual abuse, this circumvention shifts huge social, health and financial costs away from institutions and back onto survivors and the broader Australian community.'<sup>52</sup>

The issues paper targeted specific elements of civil litigation. It noted, for instance, that some institutions:

- cannot be sued because they are not incorporated bodies, they no longer exist or decisions were made personally by an individual officeholder
- do not hold assets from which damages could be paid
- are not insured or their insurance status is unknown.

We received many submissions that commented on these issues. Several referred to Mr Ellis' litigation in Case Study No 8,<sup>53</sup> noting difficulties in identifying an institutional defendant in religious or unincorporated organisations.<sup>54</sup> Some also agreed that a lack of assets and insurance can hinder litigation.<sup>55</sup>

To ensure that victims have legal entities they can sue, there was support for requiring institutions to incorporate if they:

- receive public money or have charitable status<sup>56</sup>
- are responsible for children.<sup>57</sup>

Submissions discussed requiring institutions to hold appropriate insurance,<sup>58</sup> or amending church property trust laws so that assets are available to pay damages in successful claims.<sup>59</sup>

The issues paper also asked people to consider the circumstances in which institutions are liable for the criminal conduct of staff or others. Responses discussed Australian cases and the possibility that an institution might not be considered liable.<sup>60</sup> Some also discussed the legal position in other countries, where institutions have been held liable.<sup>61</sup>

Various submissions supported measures that included:

- making institutions with responsibility for children vicariously liable<sup>62</sup> for the acts of their staff or others<sup>63</sup>
- imposing a non-delegable duty<sup>64</sup> on those institutions to take reasonable care of children.<sup>65</sup>

A number of submissions discussed a further related recommendation.<sup>66</sup> This came from the 2013 Victorian Parliamentary Inquiry.<sup>67</sup>

### Limitation periods and confidentiality are other concerns

Submissions also raised the special features of child sexual abuse cases, such as delayed disclosure,<sup>68</sup> and the psychological injuries that can impair a victim's ability to start litigation.<sup>69</sup> Bravehearts noted:

- › 'Such a significant delay in disclosing the childhood sexual assault, as an adult, is not an anomaly but is a reflection of key characteristics of the offending itself, namely: silence; secrecy; and, shame.'<sup>70</sup>

Many commented on the limitation periods that restrict the time within which a victim may sue. Several supported removing these periods, making them much longer,<sup>71</sup> or making it easier to seek an extension.<sup>72</sup> A survivor in a private session commented:

- › 'The statute [of limitations] is designed for someone who has tripped over in Kmart. It is not designed for victims of child sexual abuse.'

Others noted that courts must still ensure that a trial is fair for all parties.<sup>73</sup>

We are aware that the Victorian inquiry into the handling of child abuse by religious and other non-government organisations recommended that the Victorian Government consider

amending the *Limitations of Actions Act 1958* (Vic) to 'exclude criminal child abuse from the operation of the limitations period under that Act'.<sup>74</sup> We understand that the Victorian Government has said it intends to amend the Act to 'remove inappropriate limitations and impediments with respect to access to justice for victims of criminal child abuse'.<sup>75</sup>

Responses also commented on confidentiality clauses,<sup>76</sup> observing that most litigation involving institutional child sexual abuse is settled rather than determined by a court. Settlement agreements can prevent victims speaking about the abuse they suffered, as well as the litigation and any payments they receive.

Other reforms were suggested. For instance, it was suggested that claimants should have different ways to give evidence in hearings,<sup>77</sup> and access to independent legal advice and funding. Submissions also suggested that institutions should act as model litigants.<sup>79</sup> Others commented that record-keeping and access should be improved.<sup>80</sup>

Wirringa Baiya Aboriginal Women's Legal Centre submitted that

- › '[f]or many, re-telling the story causes significant anxiety and can re-traumatise them ... Much can be learned from other jurisdictions that enable pre-recording of a victim's evidence, as in the case with child sexual abuse victims in European countries ... Indeed we suspect much can be learned from those countries that use

an inquisitorial rather than an adversarial legal system as a more effective system to seek truth.'<sup>81</sup>

### Civil litigation offers some forms of redress

Submissions also commented on the forms of redress that victims seek, and the extent to which these can be obtained through civil litigation.

Several suggested issues with the current systems could be overcome by introducing a redress scheme or fund.<sup>82</sup> Others argued that this would not be as effective as litigation, particularly because litigation offers a hearing before a judge and damages determined by the court.<sup>83</sup>

Submissions discussed the importance to victims of receiving:

- financial compensation<sup>84</sup>
- an acknowledgement of what they suffered and a genuine and sincere apology<sup>85</sup>
- practical support and access to health and social services.<sup>86</sup>

A number raised forms of redress that are not usually sought through civil litigation. These include pastoral care and assistance, assurances that the abuse could not recur in the future, other institutional changes, and redress to meet family and community needs.<sup>87</sup>

Care Leavers Australia Network submitted that:

- › '[i]t is not just monetary compensation that Care Leavers

want. In many cases they need more practical support and access to services. They require priority access to housing and better understanding and support within the social welfare system, especially Centrelink.’<sup>88</sup>

All these submissions will continue to inform our work on civil litigation.

## CLAIMING REDRESS

### We are reviewing national and international redress schemes

Redress has emerged as a major issue through private sessions, public hearings and consultations. Should institutions provide redress to those who suffer child sexual abuse? If so, how? This issue ties in with our work on civil litigation as we ask whether redress should replace or supplement other remedies and damages.

We use the term ‘redress’ in a broad sense, as a remedy that fixes a wrong. Redress might include financial compensation, service provision, recognition or apologies. Some institutions and commentators prefer terms such as ‘reparations’, ‘restorative justice’ or ‘ex gratia payments’. At this stage, we are not distinguishing between these terms.

Our review of redress schemes is considering the needs of victims. What we have found so far from private sessions, public hearings and other consultations is consistent

with the findings of other inquiries. For example, a report by the Law Commission of Canada, *Restoring dignity: Responding to child abuse in Canadian institutions*, found that people who suffered child abuse in residential institutions had diverse and unique needs, but many sought:

- an acknowledgment of harm done and accountability for that harm
- an apology
- access to therapy and education
- financial compensation
- some means of memorialising the experiences of children in institutions
- a commitment to raising public awareness of institutional child abuse and preventing its recurrence.<sup>89</sup>

Aspects of redress we are looking at include government and non-government schemes, both past and present; international experiences; and options for the future.

### Four state governments have offered redress schemes

Four Australian states have offered redress schemes for former residents of institutions for children. The schemes have different coverage, eligibility rules, validation procedures and payment options.

The following table outlines the schemes based on publicly available information. The Royal Commission has gained more information on government schemes using coercive powers.

State	Description of scheme	Examples of redress
<b>Qld</b>	After the Forde Inquiry, the government set up and largely funded a charitable foundation to provide grants to people who lived in state institutions as children. <sup>90</sup> The Forde Foundation has had several rounds of grants since 2000, with \$4.15 million provided by the government.	Medical and dental treatments Training and personal development Counselling, support and advocacy
	Within the scope of the inquiry, a redress scheme was offered to those who had experienced abuse or neglect in Queensland institutions as children. The scheme was finalised in 2010.	Payments totalling around \$100 million
<b>SA</b>	After the Mullighan Inquiry in 2008, the government made compensation available to those who had been sexually abused in state care. <sup>91</sup> This was through ex-gratia payments under the statutory victims of crime compensation legislation.	Payments under the statutory victims of crime compensation scheme Counselling and support services
<b>Tas</b>	During a review by the Ombudsman and the Department of Health and Human Services, the government announced that payments would be available to those who were abused as children in state care. The scheme ran from 2003 to 2013.	Payments totalling around \$52 million
	In 2006, the government set up a statutory scheme for members of the Stolen Generations, or the children of those members of the Stolen Generations who had died. This scheme was not focused on particular cases of abuse, but provided redress for children who had been removed from their families and communities under Tasmanian law or by Tasmanian officials.	Payments totalling around \$5 million Counselling
<b>WA</b>	The government announced Redress WA in 2007 for those who were abused or neglected in state care, including foster and residential care. The scheme's rules changed over time.	Payments totalling around \$120 million Counselling, support and advocacy
	After the Blaxell Inquiry, during 2012 and 2013, the government also set up the Country High School Hostels Scheme, which was similar to Redress WA. <sup>92</sup> It covered those who had been abused as secondary school students boarding in WA hostels.	Payments totalling around \$3.2 million Counselling and support

Other states and territories do not have specific redress schemes, apart from statutory victims of crime compensation schemes. These offer various amounts of compensation and have different eligibility rules and application processes. They generally require victims to report the offence to the police, and some schemes offer extra support services.

In 2004, the Senate Community Affairs References Committee's *Forgotten Australians* report recommended that:

- a national reparation fund be set up for victims of institutional abuse
- funding be provided by the Australian Government, state governments and relevant non-government organisations.<sup>93</sup>

The Australian Government did not support this recommendation.

However, in 2013, it established the Defence Abuse Reparation Scheme for those who suffered sexual or other abuse in the Australian Defence Force. Some claimants might have been under 18 when the abuse happened, so it includes child sexual abuse claims. At 3 March 2014, payments totalled \$13.9 million, although it is not clear what proportion of those payments relate to child sexual abuse.<sup>94</sup> The Defence Abuse Response Taskforce has been extended to 30 November 2014, although survivors can no longer register new claims.

### Experiences of non-government redress schemes vary

Several non-government institutions also offer redress schemes. Faith-based

schemes from the Catholic Church, Anglican Church and The Salvation Army have been discussed in public hearings and many private sessions so far.

For the Catholic Church's *Towards Healing* scheme, we heard evidence in Case Studies No 4 and No 8 from people in Queensland and New South Wales. We do not intend to make findings until we have completed further hearings on *Towards Healing* and the *Melbourne Response*.

We have also used our coercive powers to obtain data from the National Committee for Professional Standards. Although incomplete, the data shows that Catholic Church authorities have paid more than \$43 million to claimants since 1997.

Further, we received 55 submissions on Issues Paper No 2 about *Towards Healing*. These are continuing to inform our work.

Like the Catholic Church, the Anglican Church has developed procedures to respond to complaints of child sexual abuse. Its General Synod made canonical laws about professional standards for dealing with abuse, giving the 23 dioceses a model to follow. However, the dioceses can decide whether to adopt the laws and protocols.

Case Study No 3 considered how the Anglican Diocese of Grafton in New South Wales responded to particular allegations and claims for redress relating to abuse at the North Coast Children's Home in Lismore. It also looked at the Anglican Church's general

approach to redress. Findings have not yet been made in this case study.

The Salvation Army has also adopted a process for responding to claims. Since 1997, the Personal Injuries Complaints Committee has considered claims of child sexual abuse but its approach has changed over time. At first, the committee could report allegations to the police, provide a written response to the claimant, make an apology, and arrange mediation or reconciliation. By 2000, it was offering modest payments and these payments have increased gradually.

In Case Studies No 5 and No 10, we heard evidence of how The Salvation Army responded to particular claims. We also heard how its claims process has operated more generally, including the available options for redress and whether payments are fair or equitable.

We have used our powers to obtain data about claims involving child sexual abuse resolved between 1995 and 2011. We will consider this information in the Claims Project.

Finally, we have heard about people's experiences in seeking redress from private sessions. It is clear that people have had different experiences. While some have been satisfied, others have not.

### Overseas experience is informing our work

A number of redress schemes have been established or proposed in overseas jurisdictions. These vary from small

schemes for former residents of only one institution to larger schemes across a group of related institutions. In some cases, there are statutory schemes.

Some have been established and funded by government and have applied mainly to government-run institutions. Others have been run by religious institutions, sometimes with government input.

Publicly available material is giving us insight into these overseas experiences. We already have considerable research on schemes in Canada and Ireland, as these seem to be particularly relevant.

### Proposals for a national redress scheme raise serious questions

We know redress is an important issue and any recommendations we make will have a major impact on both victims and institutions.

We have heard calls for a national redress or compensation scheme in public hearings, in submissions to Issues Paper No 5, and in the media. Some have noted the importance of having a transparent and independent process, while others are looking for consistent coverage for all those who suffered institutional child sexual abuse.

We have not yet reached a view on a national scheme. It is likely that we will be able to identify shortcomings in the institutional redress schemes we have considered in detail. We might also recommend some principles of best practice. Before we decide whether we can go further, we must first consider:

- if it is appropriate in principle to recommend a national scheme
- if it is possible to devise a scheme that is fair to both claimants and institutions
- how that scheme might fit with existing redress schemes and options like civil litigation.

It is already clear that we have many questions to answer. These become more difficult if the scheme is to cater for more than one institution or group. There are also implications beyond sexual abuse, including the legal liability of unincorporated associations. For example:

- When should institutions be responsible for the sexual assault of a child by a member of that institution? Would this be a moral or legal responsibility, or both?
- If moral, what would that responsibility entail? How would it differ from a legal obligation?
- Should institutions provide financial compensation as a court would in civil litigation? If a survivor cannot work because of the abuse, should redress cover lost earnings?
- Survivors from wealthier institutions may receive more compensation than those from poorer institutions. What would be fair and consistent in these cases?
- What should happen if the institution no longer operates and has no clear successor?

- How should the financial contributions of institutions be determined in a national scheme? Should participation be voluntary or compulsory? Would the scheme be compatible with an institution's insurance cover?
- What level of proof is needed that a claimant has been abused? How should institutions be involved in verifying or contesting claims for compensation? Should courts be removed from the process in favour of an administrative decision-making model?
- What support should be available for claimants? Should counselling and legal advice be provided? If so, should there be limits on these services?
- If a claimant has already received some financial compensation, should this be taken into account by any new scheme?

We are still reviewing redress through public hearings, private sessions, research, issues papers, consultations and roundtables. We are also seeking detailed expert input on technical issues such as cost, funding, insurance, and investigation and verification processes.

The Royal Commission understands the importance of this issue to victims and institutions and will consult widely as our thinking develops.





WHAT WE NEED  
TO DO NEXT

## 6. WHAT WE NEED TO DO NEXT

### KEY POINTS

The terms of reference provide that we must:

- enable those affected by child sexual abuse to share their experiences with the Royal Commission
- fully explore claims of systemic failures by institutions in relation to child sexual abuse
- identify what institutions and governments should do to achieve best practice in reporting and responding to child sexual abuse and ensure justice for victims.

We need another two years to undertake the work that is necessary to properly complete this task.

### Private sessions

- By the end of 2015 the Royal Commission will have conducted up to 4,000 private sessions.
- If the Royal Commission is not extended we will not be able to hold a private session for any person who contacts us after September this year. This will deny many survivors the opportunity to share their experiences with us, in particular those from vulnerable or hard-to-reach groups.

### Public hearings

- By the end of 2015 we will be able to complete no more than 40 public hearings.
- If the Royal Commission is not extended we will not be able to complete the additional 30 hearings we have identified as essential to fulfil the terms of reference. Another two years will enable us to complete these additional hearings. We will also be able to revisit key institutions to identify changes they have made in response to our findings and recommendations.

### Research and policy

- By the end of 2015 we will have completed up to 52 research projects.
- If the Royal Commission is not extended we will not be able to use this research to effectively inform our recommendations. We need another two years to consult on the research outcomes and test proposals for change.

### Time and resources

- The estimated cost of extending the Royal Commission to December 2017 is \$104 million, \$95 million of which relates to the two additional financial years.

## 6.1 THE TASK

### IDENTIFYING THE SCOPE OF THE TASK

The task given to the Royal Commission is clearly set out in the *Letters Patent* reproduced at the beginning of this volume. They provide the terms of reference for our inquiry and are discussed in section 1.2. The aspects of the terms of reference relevant to this chapter include that:

- it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse be fully explored, and that best practice is identified
- it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms
- we inquire into what institutions and governments should do to
  - better protect children against child sexual abuse in institutional contexts in the future
  - achieve best practice in encouraging the reporting of, and responding to, reports or information about, allegations, incidents or risks of child sexual abuse in institutional contexts
  - address, or alleviate the impact of, past and future child sexual abuse in institutional contexts, including, in particular, ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services

- we have regard to the following matters:
  - the experience of people directly or indirectly affected by child sexual abuse in institutional contexts
  - systemic issues
  - the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse in institutional contexts
  - changes to laws, policies, practices and systems that have improved the ability of institutions and governments to better protect against and respond to child sexual abuse in institutional contexts
- we make recommendations about any policy, legislative, administrative or structural reforms.

### Managing the task

When the Royal Commission began, no one knew how long may be required to carry out the tasks in the *Letters Patent*. We did not know how many people might come forward to tell their personal stories. No one was aware of the number of institutions about which there may be allegations of abuse. Furthermore, the need for research into measures that make institutions safe for children was unknown. The work required to adequately address the issue of justice for victims had not been assessed. The number and complexity of essential public hearings had not been identified.

## Focusing on key areas

The *Letters Patent* provide comprehensive terms of reference to the Royal Commission. They require us through private sessions and public hearings to bear witness to the trauma inflicted on children who suffered sexual abuse in an institutional context. We must also identify and focus our inquiry and recommendations on systemic issues. These issues are as follows:

Key area	Issues
<b>Scope of child sexual abuse</b>	<ul style="list-style-type: none"><li>• Prevalence of child sexual abuse in institutions</li><li>• Who offends and why?</li><li>• Are some children particularly vulnerable? Why?</li><li>• What institutions are vulnerable to offending? Why?</li><li>• What environments encourage or facilitate offending?</li></ul>
<b>Prevention</b>	<ul style="list-style-type: none"><li>• Pre-employment screening, Working with Children checks and prohibited employment</li><li>• Recruitment and induction processes for people working with children</li><li>• Training and professional development of staff working with children</li><li>• Supervision, performance management and disciplinary processes for staff working with children</li><li>• Promoting for and monitoring compliance with child safe policies and procedures</li><li>• Building safeguards for children</li><li>• Strategies to promote awareness and resilience in children</li><li>• Monitoring, auditing and evaluating strategies used by institutions to prevent child sexual abuse</li></ul>
<b>Reporting and responding</b>	How institutions should: <ul style="list-style-type: none"><li>• encourage and act on reports</li><li>• report incidents to external authorities</li><li>• respond to victims, their families and the community</li><li>• respond to perpetrators</li></ul>
<b>Regulation and oversight</b>	<ul style="list-style-type: none"><li>• Who has reporting obligations and are they effective?</li><li>• How is information shared?</li><li>• What is the role of oversight agencies?</li></ul>
<b>Compensation and redress schemes</b>	<ul style="list-style-type: none"><li>• State-based redress schemes</li><li>• Institutional redress schemes</li><li>• Victim compensation schemes</li><li>• Civil claims</li><li>• Limitation periods</li><li>• How have these schemes worked in the past? How do they work now?</li><li>• What is best practice?</li></ul>

Key area	Issues
<b>Criminal justice system</b>	<ul style="list-style-type: none"> <li>• Police practices and procedures</li> <li>• Prosecution and trial processes</li> <li>• What reforms are necessary to ensure justice for victims?</li> </ul>
<b>Support services</b>	<ul style="list-style-type: none"> <li>• Advocacy services</li> <li>• Support services for survivors and families</li> </ul>

## Using the three pillars

We are carrying out the task set by our terms of reference through private sessions, public hearings, and research and policy. These are the three pillars that underpin the work of the Royal Commission.

<b>Private sessions</b>	<i>The Royal Commissions Act 1902 (Cth)</i> was amended to enable this Royal Commission to conduct private sessions. Private sessions allow survivors to speak directly with a Commissioner about their experiences of sexual abuse in a private and supportive setting. They enable Commissioners to hear from survivors about abuse in institutions and the impact it has had on individuals. Survivors can tell their stories free from the constraints of a traditional public hearing setting. <sup>1</sup>
<b>Public hearings</b>	A public hearing is a formal process during which the Royal Commission receives evidence that explains how institutions have responded to the sexual abuse of children. A hearing follows intensive investigation, research and preparation. Matters chosen for public hearing include those that involve systemic issues, key institutions or many victims. Because our resources are limited, we can only hold a limited number of public hearings into institutions.
<b>Research and policy</b>	Our extensive research program focuses on four broad areas: prevention, identification, response and justice for victims. It includes research by external consultants and our own staff. We also seek input from experts and community representatives by holding roundtables and inviting submissions on issues papers.

Together, these three pillars will provide the foundation for our final recommendations for change.

## 6.2 THE WORK REQUIRED

### MEETING THE DEMAND FOR PRIVATE SESSIONS

#### What we must do

To properly complete the task set for us in the terms of reference we must:

- enable those affected by child sexual abuse to share their experiences with the Royal Commission
- have regard to the experience of people affected by child sexual abuse to inform the development of our recommendations.

Enabling those affected by child sexual abuse in institutions to share their experiences is central to our task. Feedback from private sessions indicates that for many people telling their story is an important step in the process of recovery. It is also essential that we hear individual stories to help us to understand the circumstances of abuse, the obstacles people face when dealing with the abuse and the impact it has had on people's lives. These individual stories can reveal systemic issues which lead to an investigation and a possible public hearing.

We have learnt that it can take survivors many years or decades to disclose the abuse to someone. Our analysis of information from private sessions held up until 30 April 2014 revealed that, on average, it took them about 22 years after the onset of abuse to disclose.

There may be a significant number of survivors in the community who have never disclosed their abuse to anyone, let alone the Royal Commission. Information from our private sessions reveals that almost nine in 10 people reported impacts on their health, including depression, anxiety, low self-esteem and a lack of trust in authority.

We have heard that some groups are particularly vulnerable or overrepresented as victims of child sexual abuse in institutional context, including:

- Aboriginal and Torres Strait Islander children<sup>2</sup>
- children with disability<sup>3</sup>
- inmates.<sup>4</sup>

We must enable people from all these groups to share their experience with us. We must remove barriers to enable those affected by child sexual abuse, including the most disadvantaged and vulnerable, to share their story with us. To do this we need time – time to raise awareness about our work and time for people and communities to develop confidence and trust in the Royal Commission.

#### What we have done

When the Royal Commission began, we did not know how many people might come forward to tell their stories. As a result, it was difficult to estimate how long it would take to fulfil our terms of reference.

The response has been considerable. By 31 May 2014 we had held almost

1,700 private sessions with people who experienced abuse. Each week, we receive at least a further 40 requests for private sessions – a number that rises whenever we hold a public hearing. We expect it will rise further because of our recent public awareness campaign and outreach to vulnerable groups.

Importantly, and as a direct consequence of private sessions and written accounts, we have also referred over 160 matters to police.

We discuss private sessions in detail in section 2.1 of this volume. This includes our analysis of information obtained from private sessions.

### What we still have to do

By the end of 2015 the Royal Commission will have conducted up to 4,000 private sessions. However, at the current rate of request there will be an estimated 1,000 people who have not attended a private session by the end of 2015.

If the Royal Commission is not extended we will not be able to hold a private session for any person who contacts us after September this year. This will mean we will not be able to meet the demand generated by our national public awareness campaign. We will also not be able to fully realise the benefits of our prison pilot scheme, our work with Aboriginal and Torres Strait Islander communities and strategies to encourage the participation of people with disability.

An extension of the final report date to

15 December 2017 will enable the Royal Commission to offer an additional 3,000 private sessions, bringing the total number to 7,000. This will enable us to hear from more of the most vulnerable and disadvantaged and from those survivors who have never disclosed their abuse to anyone. This will lead to additional referrals to police and the identification of further institutions in which the abuse has occurred.

## HOLDING PUBLIC HEARINGS

### What we must do

To properly complete the task set for us in the terms of reference we must:

- ‘fully explore’ claims of systemic failures by institutions in relation to child sexual abuse
- identify what institutions and governments should do to achieve ‘best practice’ in reporting and responding to child sexual abuse
- identify what institutions and governments should do to ensure justice for victims by providing redress by institutions, processes for referral for investigation and prosecution, and support services.

Public hearings enable the Royal Commission to evaluate institutional failures so we can understand the problems and identify the elements of best practice.

The Royal Commission has already received allegations of child sexual abuse in more than 1,000 individual institutions. Of course, we cannot

investigate every institution or every activity. We must be selective.

To ‘fully explore’ claims of systemic failures by institutions we must be confident that we have held public hearings into a representative sample of these institutions. We have identified approximately 70 public hearings that will do this.

We have developed a matrix of institutions that identifies the different types of institutions and the range of activities undertaken by each type of institution (see table Representative Institutions). An institution that

delivers an activity may be owned or administered by a government, non-government, faith-based or private body. From this matrix a list of ‘representative institutions’ can be identified. For example, within education there are more than 10 representative institutions including: government primary school; private faith-based secondary day school; private secular secondary boarding school; and government funded further education.

Each representative institution may have unique systemic failures or obstacles to responding appropriately to child sexual abuse.

## Representative institutions

Institution type	Activity
<b>Arts and cultural services</b>	Music Dance Entertainment
<b>Childcare</b>	Long day care or preschool Out-of-school-hours care Vacation care Family day care
<b>Children's homes, reformatories and orphanages</b>	Residential care Juvenile detention
<b>Education</b>	Primary or secondary school Boarding or day school Further education
<b>Health and allied services</b>	Hospital care Mental health care Counselling or therapy Rehabilitation General practice
<b>Juvenile justice and detention</b>	Remand centre Lockup Detention centre
<b>Non-residential social support</b>	Family support service Youth support service
<b>Out-of-home care</b>	Foster care Kinship care Voluntary care
<b>Places of worship</b>	Church or place of worship Parish Seminary or formation Private homes (visiting religious) Camp or youth group
<b>Recreation, sports and clubs</b>	Scouting Sporting Hobby or recreational group
<b>Supported accommodation</b>	Refuge (24/7) Social housing

## What we have done

The Royal Commission held its first public hearing in September 2013. At 30 June 2014, we will have held 13 public hearings in New South Wales, Queensland, South Australia, the Australian Capital Territory and Western Australia.

In section 2.2 of this volume we provide more information about these hearings and discuss what is involved in selecting a case and running a public hearing.

Generally, we look for cases that:

- illustrate systemic issues that have yet to be fully explored
- involve a significant cluster of allegations in a single institution.

When deciding whether to then hold a public hearing, we consider factors including:

- any related criminal investigations, prosecutions or civil litigation
- evidence of disclosure to someone in, or associated with, the institution
- availability of witnesses and documentary evidence
- the currency of the institution and issues
- whether previous inquiries have already considered an institution
- the geographic location of the institution
- subject matter or a witness that might make a compelling story to tell in public.

Our hearings so far have covered a range of institutions including

Scouts, schools, children's homes and organisations offering out-of-school-hours care. These institutions offer diverse activities including recreation, education and residential care. At times governments run these institutions, but some are in the private sector and religious groups operate others.

In addition, the public hearings have examined the way that the Catholic Church, The Salvation Army and the Anglican Church responded with financial payments to claims of abuse that have occurred in their institutions. We have also scrutinised the actions of police, child protection services and oversight agencies.

## What we still have to do

By the end of 2015 we will be able to complete no more than 40 public hearings of the 70 hearings we have identified as necessary. This means that we will not have been able to 'fully explore' claims of systemic failures in a representative sample of the institutions covered by the terms of reference.

We need an extension of the final report date to 15 December 2017 to enable the Royal Commission to conduct an additional 30 public hearings, bringing the total number to 70.

Further time will also enable us to revisit key institutions that have been subject to public hearings, to hear how they have responded to our findings and recommendations and the changes they have made. This would give the public a unique opportunity to see the impact of the Royal Commission's work.

## CONSULTING ON RESEARCH OUTCOMES AND POLICY PROPOSALS

### What we must do

To properly complete the task set for us in the terms of reference we must:

- identify what institutions and governments should do to achieve 'best practice' in reporting and responding to child sexual abuse in institutional contexts
- identify what institutions and governments should do to ensure justice for victims by providing redress by institutions, processes for referral for investigation and prosecution, and support services
- make recommendations about any policy, legislative, administrative or structural reforms
- have regard to changes to laws, policies, practices and systems that have improved the ability of institutions and governments to better protect against and respond to child sexual abuse in institutional contexts.

To fulfil these requirements, research, stakeholder consultation and policy development are essential activities. We cannot just undertake research. We must build on our research projects to develop recommendations that are practical, necessary and targeted. This means evaluating, analysing and consulting on our research projects to test theories, findings and proposed solutions before using them as the basis for any recommendations.

### What we have done

We discuss our research program in section 2.3 of this volume including details of our completed research projects, current projects and projects in the scoping phase. In section 2.4 of this volume we detail the issues papers we have released and the roundtables we have held. In summary we have:

- completed 21 research projects and have over 30 additional research projects either underway or in the scoping phase
- released seven issues papers and received almost 300 submissions in response to the first five
- held two roundtables.

### What we still have to do

By the end of 2015 we will have completed 52 research projects. This is subject to the 20 projects currently in the scoping phase proceeding to completion. We will have released at least 12 issues papers and held at least as many roundtables. However, it will not be possible to consult widely on the research outcomes or test theories to support recommendations for change.

An extension of the final report date to 15 December 2017 will enable us to consult with relevant institutions and regulatory bodies to test and properly evaluate necessary systemic recommendations, and provide authoritative recommendations for change to government and institutions. We would do this through public options papers, roundtables and consultation with experts and key stakeholders. This step is essential if

research is to effectively inform our final recommendations.

External input will evaluate and at times challenge our proposed recommendations and help us adapt them where necessary. By giving external stakeholders this opportunity, we will also promote greater acceptance of the actions that will address child sexual abuse in institutions.

## INVESTING MORE TIME AND RESOURCES

### We need another two years to complete our task

An investment of time and resources beyond 2015 is essential for the Royal Commission to properly fulfil its terms of reference and develop recommendations that make a difference.

Another two years will mean:

- more survivors can share their experiences with us, in particular those from groups that are particularly vulnerable or hard to reach
- we will inquire, through public hearings, into a representative sample of institution types covered by our terms of reference, enabling claims of systemic failures by institutions to be fully explored

- we will test and consult on our research and explore policy proposals with stakeholders before determining best practice and making recommendations for change.

### Funding of around \$104 million would allow a two-year extension

The estimated cost of a two-year extension is \$104 million, \$95 million of which relates to the two additional financial years. We have based this estimate on the following assumptions:

- 1,500 private sessions will be held each year until late 2017
- 20 public hearings will be held each year, with an average hearing time of up to two weeks
- staffing, supplier and fixed costs will remain the same until June 2017 (allowing for inflation)
- from June to December 2017, our staffing levels will fall
- from January to June 2018, a skeleton staff will wind down the business by finalising contracts, settling leased properties, decommissioning assets and archiving records.





# APPENDIX A



# APPENDIX A

## STATE LETTERS PATENT

## NEW SOUTH WALES

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,

Mr Robert Atkinson,

The Honourable Justice Jennifer Ann Coate,

Mr Robert William Fitzgerald AM,

Dr Helen Mary Milroy, and

Mr Andrew James Marshall Murray

GREETING

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

ENTERED on the Record by me in Register of Patents No. 91 Page 27, this 25<sup>th</sup> day of January 2013.

DEPARTMENT OF PREMIER AND CABINET  
DIRECTOR GENERAL

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor on the advice of the Executive Council and under the *Royal Commissions Act 1923* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- (a) what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- (b) what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (c) what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;

- (d) what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (e) the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- (f) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- (g) the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (h) changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (i) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 12AP of the *Royal Commissions Act 1923* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- (j) the need to establish investigation units to support your inquiry;
- (k) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (l) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- (m) the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We appoint you, the Honourable Justice Peter David McClellan AM, to be the Chairperson of the Commission.

AND We declare that the provisions of Division 2 of Part 2 of the *Royal Commissions Act 1923* are to have effect in relation to this Commission AND IT IS FURTHER declared that section 17 of the Act shall apply to and with respect to your inquiry.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by Our Governor-General of the Commonwealth of Australia, by any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

**institution** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- (i) includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- (ii) does not include the family.

**institutional context:** child sexual abuse happens in an **institutional context** if, for example:

- (i) it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- (ii) it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- (iii) it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

**law** means a law of the Commonwealth or of a State or Territory.

*official*, of an institution, includes:

- (i) any representative (however described) of the institution or a related entity; and
- (ii) any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- (iii) any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- (iv) any other person who you consider is, or should be treated as if the person were, an official of the institution.

*related matters* means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND We:

- (n) require you to begin your inquiry as soon as practicable, and
- (o) require you to make your inquiry as expeditiously as possible; and
- (p) require you to submit to Our Governor:
  - (i) first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as Our Premier may, by notice in the *Gazette*, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and
  - (ii) then and as soon as possible, and in any event not later than the date Our Premier may, by notice in the *Gazette*, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and
- (q) authorise you to submit to Our Governor any additional interim reports that you consider appropriate.

IN WITNESS, We have caused these Our Letters to be made Patent and the Public Seal of Our State to be hereunto affixed.



WITNESS Her Excellency Professor Marie Bashir, Companion of the Order of Australia, Commander of the Royal Victorian Order, Governor of the State of New South Wales in the Commonwealth of Australia.

Dated this 25<sup>th</sup> day of January 2013.

Governor

By Her Excellency's Command,

Premier.



## Premier of Queensland

For reply please quote: ODDGG/LK - TF/12/1537, DOC/13/1512/

- 5 FEB 2013

The Honourable Justice Peter McClellan AM  
Chairperson  
Royal Commission into Institutional  
Responses to Child Sexual Abuse  
Department of Prime Minister and Cabinet  
PO Box 6500  
CANBERRA ACT 2601

Executive Building  
100 George Street Brisbane  
PO Box 15185, City East  
Queensland 4002 Australia  
Telephone +61 7 3224 4500  
Facsimile +61 7 3221 2631  
Email [ThePremier@ppm.qld.gov.au](mailto:ThePremier@ppm.qld.gov.au)  
Website [www.thepremier.qld.gov.au](http://www.thepremier.qld.gov.au)

Dear Commissioner

I am pleased to inform you that on 24 January 2013, the Governor of Queensland, Her Excellency Ms. Penelope Wesley AC, issued Letters Patent establishing a Royal Commission into Institutional Responses to Child Sexual Abuse (the royal commission) in the State of Queensland. Please find enclosed a copy of the sealed Letters Patent.

Queensland fully supports the establishment of the royal commission and I wish you and your fellow commissioners well in your undertaking.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Campbell Newman".

CAMPBELL NEWMAN

\*Encl

## LETTERS PATENT

ELIZABETH THE SECOND, by the Grace of God, Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO:

The Honourable Justice Peter David McClellan AM,

Mr Robert Atkinson,

The Honourable Justice Jennifer Ann Coate,

Mr Robert William Fitzgerald AM,

Dr Helen Mary Milroy, and

Mr Andrew James Marshall Murray

GREETING:

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse,

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional

contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do by these Our Letters Patent issued in Our name by Our Governor in and over Our State of Queensland acting by and with the advice of Our Executive Council of Our State of Queensland and in pursuance of the *Commissions of Inquiry Act 1950* and all other powers her therunto enabling HEREBY APPOINT YOU to be Commissioners to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- (a) what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- (b) what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (c) what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- (d) what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (e) the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- (f) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- (g) the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;

- (h) changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (i) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with any relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- (j) the need to establish investigation units to support your inquiry;
- (k) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (l) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- (m) the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We appoint you, the Honourable Justice Peter David McClellan AM, to be the chairperson of the Commission.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by Our Governor-General of the Commonwealth of Australia or any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

*child* means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

**institution** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- (i) includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- (ii) does not include the family.

**institutional context:** child sexual abuse happens in an **institutional context** if, for example:

- (i) it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- (ii) it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- (iii) it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

**law** means a law of the Commonwealth or of a State or Territory.

**official**, of an institution, includes:

- (i) any representative (however described) of the institution or a related entity; and
- (ii) any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- (iii) any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- (iv) any other person who you consider is, or should be treated as if the person were, an official of the institution.

**related matters** means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND We:

- (n) require you to begin your inquiry as soon as practicable, and

- (o) require you to make your inquiry as expeditiously as possible; and
- (p) require you to submit to Our Governor:
  - (i) first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as Our Premier may, by notice in the Gazette, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and
  - (ii) then and as soon as possible, and in any event not later than the date Our Premier may, by notice in the Gazette, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and
- (q) authorise you to submit to Our Governor any additional interim reports that you consider appropriate.

IN TESTIMONY WHEREOF We have caused the Public Seal of Our said State to be hereunto affixed.



*Penelope Anne Wensley*

WITNESS Our Trusty and Well-beloved Her Excellency Penelope Anne Wensley, Companion of the Order of Australia, Governor in and over the State of Queensland and its Dependencies, in the Commonwealth of Australia, at Government House, Brisbane this twenty-fourth day of January in the year of Our Lord, Two thousand and thirteen and in the Sixty-first year of Our Reign.

By Command

RECORDED in the Register of Patents, No. 49, page 8, on 24 January 2013.

*[Signature]*  
Clerk of the Executive Council



South



Australia

(TO WIT)

**HIS EXCELLENCY REAR ADMIRAL KEVIN JOHN SCARCE**, Companion in the Order of Australia, Conspicuous Service Cross, Governor in and over the State of South Australia:

TO

**THE HONOURABLE JUSTICE PETER DAVID McCLELLAN AM**

**Greeting:**

**Whereas** all children deserve a safe and happy childhood,

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

I, the Governor, with the advice and consent of the Executive Council and under the *Royal Commissions Act 1917*, DO HEREBY APPOINT YOU to be Commissioners and require and authorise you to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- (a) what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- (b) what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (c) what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- (d) what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND I direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (e) the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- (f) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;

- (g) the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (h) changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND I further declare that you are not required by this commission to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and I authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (i) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things:
  - (i) that, in your opinion, relate, or that may relate, to a contravention of a law, or evidence of a contravention of a law, of the Commonwealth, of a State or of a Territory to the Attorney-General of the Commonwealth, of a State, of the Australian Capital Territory or of the Northern Territory, or the Director of Public Prosecutions, or the Commissioner of the Australian Federal Police or of the Police Force of a State or of the Northern Territory, or the authority or person responsible for the administration or enforcement of that law; or
  - (ii) that, in your opinion, relate or may relate to a matter into which another Commission is required or authorised to inquire, to that other Commission; or
  - (iii) that, in your opinion, relate or may relate to the performance of the functions of the Australian Crime Commission, to the Chief Executive Officer of the Australian Crime Commission; or
  - (iv) that, in your opinion, relate or may relate to the performance of the functions of the Integrity Commissioner (within the meaning of the *Law Enforcement Integrity Commissioner Act 2006*), to the Integrity Commissioner; or
  - (v) that, in your opinion, relate or may relate to corruption in public administration, misconduct in public administration or maladministration in public administration (within the meaning of the *Independent Commissioner Against Corruption Act 2012*, to the Office for Public Integrity;
  - (vi) as otherwise authorised by law;
- (j) the need to establish investigation units to support your inquiry;

- (k) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (l) the need to establish appropriate arrangements in relation to current and previous inquiries, in South Australia and elsewhere (whether or not in Australia), for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- (m) the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND, pursuant to Section 4 of the *Royal Commissions Act 1917*, I appoint you, The Honourable Justice Peter David McClellan AM, to be the Chairman of the Commission.

AND, pursuant to Section 4 (2) of the *Royal Commissions Act 1917*, I authorise you to sit independently to conduct parts or aspects of your inquiry that are, by direction of the Chairman, to be dealt with independently by individual Commissioners.

AND I declare that you are authorised to conduct your inquiry into any matter under this commission in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by the Governor-General or any of the Governors of the States or by the Government of any of the Territories.

AND I declare that in this Commission:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

**institution** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- (i) includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and

- (ii) does not include the family.

***institutional context***: child sexual abuse happens in an ***institutional context*** if, for example:

- (i) it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- (ii) it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- (iii) it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

***law*** means a law of the Commonwealth or of a State or Territory.

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- (iii) any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- (iv) any other person who you consider is, or should be treated as if the person were, an official of the institution.

***related matters*** means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND I:

- (n) require you to begin your inquiry as soon as practicable, and
- (o) require you to make your inquiry as expeditiously as possible; and
- (p) require you to submit to me:
  - (i) first and as soon as possible, an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date for the submission of your final report; and

- (ii) then and as soon as possible your final report of the results of your inquiry and your recommendations; and
- (q) authorise you to submit to me any additional interim reports that you consider appropriate.

**GIVEN** under my hand and the Public Seal of South Australia, at Adelaide, this 7<sup>th</sup> day of March 2013.

By command,



for Premier

Recorded in Register of Commissions,  
Letters Patent, Etc., Vol. XXVII

*B. E. Christensen*  
Clerk of Executive Council

GOD SAVE THE QUEEN!



South



Australia

(TO WIT)

**HIS EXCELLENCY REAR ADMIRAL KEVIN JOHN SCARCE**, Companion in the Order of Australia, Conspicuous Service Cross, Governor in and over the State of South Australia:

TO

**ROBERT ATKINSON**

**Greeting:**

**Whereas** all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

I, the Governor, with the advice and consent of the Executive Council and under the *Royal Commissions Act 1917*, DO HEREBY APPOINT YOU to be Commissioners and require and authorise you to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- (a) what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- (b) what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (c) what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- (d) what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND I direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (e) the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- (f) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;

- (g) the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (h) changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND I further declare that you are not required by this commission to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and I authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (i) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things:
  - (i) that, in your opinion, relate, or that may relate, to a contravention of a law, or evidence of a contravention of a law, of the Commonwealth, of a State or of a Territory to the Attorney-General of the Commonwealth, of a State, of the Australian Capital Territory or of the Northern Territory, or the Director of Public Prosecutions, or the Commissioner of the Australian Federal Police or of the Police Force of a State or of the Northern Territory, or the authority or person responsible for the administration or enforcement of that law; or
  - (ii) that, in your opinion, relate or may relate to a matter into which another Commission is required or authorised to inquire, to that other Commission; or
  - (iii) that, in your opinion, relate or may relate to the performance of the functions of the Australian Crime Commission, to the Chief Executive Officer of the Australian Crime Commission; or
  - (iv) that, in your opinion, relate or may relate to the performance of the functions of the Integrity Commissioner (within the meaning of the *Law Enforcement Integrity Commissioner Act 2006*), to the Integrity Commissioner; or
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AND, pursuant to Section 4 of the *Royal Commissions Act 1917*, I appoint you, The Honourable Justice Peter David McClellan AM, to be the Chairman of the Commission.

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AND I declare that in this Commission:

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By command,



for Premier

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*B. E. Christensen*  
Clerk of Executive Council

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South



Australia

(TO WIT)

**HIS EXCELLENCY REAR ADMIRAL KEVIN JOHN SCARCE**, Companion in the Order of Australia, Conspicuous Service Cross, Governor in and over the State of South Australia:

TO

**THE HONOURABLE JUSTICE JENNIFER ANN COATE**

**Greeting:**

**Whereas** all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

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AND I:

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By command,



for Premier

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*B. E. Christensen*  
Clerk of Executive Council

GOD SAVE THE QUEEN!



South



Australia

(TO WIT)

**HIS EXCELLENCY REAR ADMIRAL KEVIN JOHN SCARCE**, Companion in the Order of Australia, Conspicuous Service Cross, Governor in and over the State of South Australia:

TO

**ROBERT WILLIAM FITZGERALD AM**

**Greeting:**

**Whereas** all children deserve a safe and happy childhood:

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

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I, the Governor, with the advice and consent of the Executive Council and under the *Royal Commissions Act 1917*, DO HEREBY APPOINT YOU to be Commissioners and require and authorise you to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

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  - (i) that, in your opinion, relate, or that may relate, to a contravention of a law, or evidence of a contravention of a law, of the Commonwealth, of a State or of a Territory to the Attorney-General of the Commonwealth, of a State, of the Australian Capital Territory or of the Northern Territory, or the Director of Public Prosecutions, or the Commissioner of the Australian Federal Police or of the Police Force of a State or of the Northern Territory, or the authority or person responsible for the administration or enforcement of that law; or
  - (ii) that, in your opinion, relate or may relate to a matter into which another Commission is required or authorised to inquire, to that other Commission; or
  - (iii) that, in your opinion, relate or may relate to the performance of the functions of the Australian Crime Commission, to the Chief Executive Officer of the Australian Crime Commission; or
  - (iv) that, in your opinion, relate or may relate to the performance of the functions of the Integrity Commissioner (within the meaning of the *Law Enforcement Integrity Commissioner Act 2006*), to the Integrity Commissioner; or
  - (v) that, in your opinion, relate or may relate to corruption in public administration, misconduct in public administration or maladministration in public administration (within the meaning of the *Independent Commissioner Against Corruption Act 2012*, to the Office for Public Integrity;
  - (vi) as otherwise authorised by law;
- (j) the need to establish investigation units to support your inquiry;

- (k) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (l) the need to establish appropriate arrangements in relation to current and previous inquiries, in South Australia and elsewhere (whether or not in Australia), for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- (m) the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND, pursuant to Section 4 of the *Royal Commissions Act 1917*, I appoint you, The Honourable Justice Peter David McClellan AM, to be the Chairman of the Commission.

AND, pursuant to Section 4 (2) of the *Royal Commissions Act 1917*, I authorise you to sit independently to conduct parts or aspects of your inquiry that are, by direction of the Chairman, to be dealt with independently by individual Commissioners.

AND I declare that you are authorised to conduct your inquiry into any matter under this commission in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by the Governor-General or any of the Governors of the States or by the Government of any of the Territories.

AND I declare that in this Commission:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

**institution** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- (i) includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and

- (ii) does not include the family.

***institutional context***: child sexual abuse happens in an ***institutional context*** if, for example:

- (i) it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- (ii) it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- (iii) it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

***law*** means a law of the Commonwealth or of a State or Territory.

***official***, of an institution, includes:

- (i) any representative (however described) of the institution or a related entity; and
- (ii) any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- (iii) any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- (iv) any other person who you consider is, or should be treated as if the person were, an official of the institution.

***related matters*** means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND I:

- (n) require you to begin your inquiry as soon as practicable, and
- (o) require you to make your inquiry as expeditiously as possible; and
- (p) require you to submit to me:
  - (i) first and as soon as possible, an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date for the submission of your final report; and

- (ii) then and as soon as possible your final report of the results of your inquiry and your recommendations; and
- (q) authorise you to submit to me any additional interim reports that you consider appropriate.

**GIVEN** under my hand and the Public Seal of South Australia, at Adelaide, this 7<sup>th</sup> day of March 2013.

By command,



for Premier

Recorded in Register of Commissions,  
Letters Patent, Etc., Vol. XXVII

*C. B. Christensen*  
Clerk of Executive Council

GOD SAVE THE QUEEN!



South



Australia

(TO WIT)

**HIS EXCELLENCY REAR ADMIRAL KEVIN JOHN SCARCE**, Companion in the Order of Australia, Conspicuous Service Cross, Governor in and over the State of South Australia:

TO

**HELEN MARY MILROY**

**Greeting:**

**Whereas** all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

I, the Governor, with the advice and consent of the Executive Council and under the *Royal Commissions Act 1917*, DO HEREBY APPOINT YOU to be Commissioners and require and authorise you to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- (a) what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- (b) what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (c) what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- (d) what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND I direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (e) the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- (f) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;

- (g) the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (h) changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND I further declare that you are not required by this commission to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and I authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (i) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things:
  - (i) that, in your opinion, relate, or that may relate, to a contravention of a law, or evidence of a contravention of a law, of the Commonwealth, of a State or of a Territory to the Attorney-General of the Commonwealth, of a State, of the Australian Capital Territory or of the Northern Territory, or the Director of Public Prosecutions, or the Commissioner of the Australian Federal Police or of the Police Force of a State or of the Northern Territory, or the authority or person responsible for the administration or enforcement of that law; or
  - (ii) that, in your opinion, relate or may relate to a matter into which another Commission is required or authorised to inquire, to that other Commission; or
  - (iii) that, in your opinion, relate or may relate to the performance of the functions of the Australian Crime Commission, to the Chief Executive Officer of the Australian Crime Commission; or
  - (iv) that, in your opinion, relate or may relate to the performance of the functions of the Integrity Commissioner (within the meaning of the *Law Enforcement Integrity Commissioner Act 2006*), to the Integrity Commissioner; or
  - (v) that, in your opinion, relate or may relate to corruption in public administration, misconduct in public administration or maladministration in public administration (within the meaning of the *Independent Commissioner Against Corruption Act 2012*, to the Office for Public Integrity;
  - (vi) as otherwise authorised by law;
- (j) the need to establish investigation units to support your inquiry;

- (k) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
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- (m) the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND, pursuant to Section 4 of the *Royal Commissions Act 1917*, I appoint you, The Honourable Justice Peter David McClellan AM, to be the Chairman of the Commission.

AND, pursuant to Section 4 (2) of the *Royal Commissions Act 1917*, I authorise you to sit independently to conduct parts or aspects of your inquiry that are, by direction of the Chairman, to be dealt with independently by individual Commissioners.

AND I declare that you are authorised to conduct your inquiry into any matter under this commission in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by the Governor-General or any of the Governors of the States or by the Government of any of the Territories.

AND I declare that in this Commission:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

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- (i) includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and

- (ii) does not include the family.

***institutional context:*** child sexual abuse happens in an ***institutional context*** if, for example:

- (i) it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- (ii) it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
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- (i) any representative (however described) of the institution or a related entity; and
- (ii) any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- (iii) any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- (iv) any other person who you consider is, or should be treated as if the person were, an official of the institution.

***related matters*** means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND I:

- (n) require you to begin your inquiry as soon as practicable, and
- (o) require you to make your inquiry as expeditiously as possible; and
- (p) require you to submit to me:
  - (i) first and as soon as possible, an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date for the submission of your final report; and

- (ii) then and as soon as possible your final report of the results of your inquiry and your recommendations; and
- (q) authorise you to submit to me any additional interim reports that you consider appropriate.

**GIVEN** under my hand and the Public Seal of South Australia, at Adelaide, this 7<sup>th</sup> day of March 2013.

By command,



for Premier

Recorded in Register of Commissions,  
Letters Patent, Etc., Vol. XXVII

*Clerk of Executive Council*

GOD SAVE THE QUEEN!



South



Australia

(TO WIT)

**HIS EXCELLENCY REAR ADMIRAL KEVIN JOHN SCARCE**, Companion in the Order of Australia, Conspicuous Service Cross, Governor in and over the State of South Australia:

TO

**ANDREW JAMES MARSHALL MURRAY**

**Greeting:**

**Whereas** all children deserve a safe and happy childhood,

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

I, the Governor, with the advice and consent of the Executive Council and under the *Royal Commissions Act 1917*, DO HEREBY APPOINT YOU to be Commissioners and require and authorise you to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- (a) what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
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- (d) what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND I direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (e) the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- (f) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;

- (g) the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (h) changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND I further declare that you are not required by this commission to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and I authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (i) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things:
  - (i) that, in your opinion, relate, or that may relate, to a contravention of a law, or evidence of a contravention of a law, of the Commonwealth, of a State or of a Territory to the Attorney-General of the Commonwealth, of a State, of the Australian Capital Territory or of the Northern Territory, or the Director of Public Prosecutions, or the Commissioner of the Australian Federal Police or of the Police Force of a State or of the Northern Territory, or the authority or person responsible for the administration or enforcement of that law; or
  - (ii) that, in your opinion, relate or may relate to a matter into which another Commission is required or authorised to inquire, to that other Commission; or
  - (iii) that, in your opinion, relate or may relate to the performance of the functions of the Australian Crime Commission, to the Chief Executive Officer of the Australian Crime Commission; or
  - (iv) that, in your opinion, relate or may relate to the performance of the functions of the Integrity Commissioner (within the meaning of the *Law Enforcement Integrity Commissioner Act 2006*), to the Integrity Commissioner; or
  - (v) that, in your opinion, relate or may relate to corruption in public administration, misconduct in public administration or maladministration in public administration (within the meaning of the *Independent Commissioner Against Corruption Act 2012*, to the Office for Public Integrity;
  - (vi) as otherwise authorised by law;
- (j) the need to establish investigation units to support your inquiry;

- (k) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (l) the need to establish appropriate arrangements in relation to current and previous inquiries, in South Australia and elsewhere (whether or not in Australia), for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- (m) the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND, pursuant to Section 4 of the *Royal Commissions Act 1917*, I appoint you, The Honourable Justice Peter David McClellan AM, to be the Chairman of the Commission.

AND, pursuant to Section 4 (2) of the *Royal Commissions Act 1917*, I authorise you to sit independently to conduct parts or aspects of your inquiry that are, by direction of the Chairman, to be dealt with independently by individual Commissioners.

AND I declare that you are authorised to conduct your inquiry into any matter under this commission in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by the Governor-General or any of the Governors of the States or by the Government of any of the Territories.

AND I declare that in this Commission:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

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- (i) includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and

- (ii) does not include the family.

**institutional context:** child sexual abuse happens in an **institutional context** if, for example:

- (i) it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- (ii) it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- (iii) it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

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- (ii) any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- (iii) any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- (iv) any other person who you consider is, or should be treated as if the person were, an official of the institution.

**related matters** means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND I:

- (n) require you to begin your inquiry as soon as practicable, and
- (o) require you to make your inquiry as expeditiously as possible; and
- (p) require you to submit to me:
  - (i) first and as soon as possible, an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date for the submission of your final report; and

- (ii) then and as soon as possible your final report of the results of your inquiry and your recommendations; and
- (q) authorise you to submit to me any additional interim reports that you consider appropriate.

**GIVEN** under my hand and the Public Seal of South Australia, at Adelaide, this 7<sup>th</sup> day of March 2013.

By command,



for Premier

Recorded in Register of Commissions,  
Letters Patent, Etc., Vol. XXVII

*B. E. Christensen*  
Clerk of Executive Council

GOD SAVE THE QUEEN!



Tasmania

**Order Under the  
*Commissions of Inquiry Act 1995***

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry

will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, being satisfied that it is in the public interest and expedient to do so, by this my order made under Section 4 of the Commissions of Inquiry Act 1995 –

- (a) Direct that an Inquiry be made into the Institutional Responses to Child Sexual Abuse.
- (b) Establish a Commission to conduct and report, with such recommendations as it may consider appropriate, on the Inquiry.
- (c) Appoint  
The Honourable Justice Peter David McClellan AM  
Mr Robert Atkinson  
The Honourable Justice Jennifer Ann Coate  
Mr Robert William Fitzgerald AM  
Dr Helen Mary Milroy and  
Mr Andrew James Marshall Murray  
as members of the Commission.
- (d) Appoint the Honourable Justice Peter David McClellan AM as President of the Commission.

AND I require and authorise you, to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- (i) what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- (ii) what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;

- (iii) what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- (iv) what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND I direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (i) the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- (ii) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- (v) the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (vi) changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND I further declare that you are not required by this Order to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, I direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and I authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (i) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- (j) the need to establish investigation units to support your inquiry;
- (k) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (l) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- (m) the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND I declare that you are authorised to conduct your inquiry into any matter under this Order in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any

Commission, or under any order or appointment, made by the Governor General of the Commonwealth of Australia, by any of the Governors of the States or by the Government of any of the Territories.

AND I declare that in this Order:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

**institution** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- (i) includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- (ii) does not include the family.

**institutional context:** child sexual abuse happens in an **institutional context** if, for example:

- (i) it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- (ii) it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- (iii) it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

**law** means a law of the Commonwealth or of a State or Territory.

*official*, of an institution, includes:

- (i) any representative (however described) of the institution or a related entity; and
- (ii) any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- (iii) any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- (iv) any other person who you consider is, or should be treated as if the person were, an official of the institution.

*related matters* means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND I:

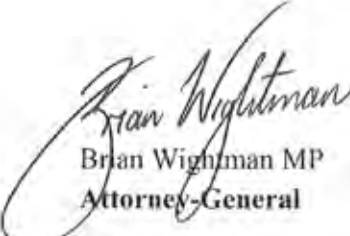
- (n) require you to begin your inquiry as soon as practicable, and
- (o) require you to make your inquiry as expeditiously as possible; and
- (p) require you to submit to me :
  - (i) first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as I may order), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015 (or such later date as I may order), to be fixed for the submission of your final report; and
  - (ii) then and as soon as possible, and in any event not later than the date I may order, your final report of the results of your inquiry and your recommendations; and

- (q) authorise you to submit to me any additional interim reports that you consider appropriate.

Dated 4 March 2013

  
**Governor**

By His Excellency's Command

  
Brian Wightman MP  
**Attorney-General**

**ELIZABETH THE SECOND, BY THE GRACE OF GOD  
QUEEN OF AUSTRALIA AND HER OTHER REALMS AND TERRITORIES,  
HEAD OF THE COMMONWEALTH:**

To    The Honourable Justice Peter David McClellan AM  
      Mr Robert Atkinson AO APM  
      The Honourable Justice Jennifer Ann Coate  
      Mr Robert William Fitzgerald AM  
      Dr Helen Mary Milroy  
      Mr Andrew James Marshall Murray

**GREETINGS:**

WHEREAS the Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the *Constitution of the Commonwealth of Australia*, the *Royal Commissions Act 1902* (Cth) and every other enabling power, has by Letters Patent appointed you to be a Commission of inquiry to inquire into, and report upon, certain matters relating to institutional responses to allegations and incidents of child sexual abuse and related matters.

AND the Governor-General has declared that you are authorised to conduct that inquiry in combination with any inquiry into the same matter, or a matter related to that matter, that it is directed or authorised to conduct by any Commission issued, or under any order or appointment made, by any of the Governors of the States or the Government of any Territory.

AND the Governor of the State of Victoria, in the Commonwealth of Australia, by and with the advice of the Executive Council, has deemed it expedient that a Commission should issue to you in the terms set out below.

AND WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE the Governor of the State of Victoria, in the Commonwealth of Australia, by and with the advice of the Executive Council and acting pursuant to section 88B of the *Constitution Act 1975* and all other enabling powers, appoints and constitutes you to be Our Commissioners.

FOR THE PURPOSE OF inquiring into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- (a) what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- (b) what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about,

allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;

- (c) what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- (d) what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND WE direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (e) the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- (f) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- (g) the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- (h) changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND WE further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are

satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- (i) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with any relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- (j) the need to establish investigation units to support your inquiry;
- (k) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (l) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- (m) the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND WE hereby appoint the Honourable Justice Peter David McClellan AM, to be the Chair of the Commission.

AND WE declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission issued, or under any order or appointment made, by the Governor-

General of the Commonwealth or the Governor of any other State or by the Government of any Territory.

AND WE give and grant you full power and authority to inquire of and concerning any matter under these Our Letters Patent by all other lawful ways and means whatsoever, including by receiving evidence, either upon oath or affirmation, or otherwise.

AND WE declare that the powers of the Commission at the discretion of the Chair may, at any time, be exercised by one or more Commissioner.

AND WE declare that the Chair may make directions as to the procedures by which the Commission will conduct its inquiry.

AND WE declare that in these Our Letters Patent:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

**institution** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- (i) includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- (ii) does not include the family.

**institutional context:** child sexual abuse happens in an *institutional context* if, for example:

- (i) it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- (ii) it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution)

where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or

- (iii) it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

*law* means a law of the Commonwealth or of a State or Territory.

*official*, of an institution, includes:

- (i) any representative (however described) of the institution or a related entity; and
- (ii) any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- (iii) any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- (iv) any other person who you consider is, or should be treated as if the person were, an official of the institution.

*related matters* means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND WE:

- (n) require you to begin your inquiry as soon as practicable, and
- (o) require you to make your inquiry as expeditiously as possible; and
- (p) require you to submit to the Governor:
  - (i) first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as the Premier may, by notice in the Government Gazette, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial

report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and

- (ii) then and as soon as possible, and in any event not later than the date the Premier may, by notice in the Government Gazette, fix on your recommendation your final report of the results of your inquiry and your recommendations; and
- (q) authorise you to submit to the Governor any additional interim reports that you consider appropriate.

IN TESTIMONY WHEREOF WE have caused these Our Letters to be made Patent and the Seal of the State to be hereunder affixed.



WITNESS His Excellency the Honourable Alex Chernov, Companion of the Order of Australia, one of Her Majesty's Counsel, Governor of the State of Victoria in the Commonwealth of Australia at Melbourne this 12<sup>th</sup> day of February Two thousand and thirteen.

*Alex Chernov*

By His Excellency's Command

TED BAILLIEU MLA  
Premier of Victoria

Entered on the record by me in the Register of Patents Book No 45 Page No 75  
on the 12<sup>th</sup> day of February 2013.

Secretary, Department of Premier and Cabinet

# WESTERN AUSTRALIA

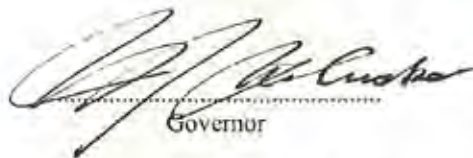
Western Australia

## Commission

appointing a Royal Commission  
to inquire into and report on  
institutional responses to child sexual abuse

Western Australia

*By His Excellency  
Malcolm James McCusker,  
Companion of the Order of Australia,  
Commander of the Royal Victorian Order,  
Queen's Counsel,  
Governor of the State of Western Australia*

  
Governor



To: **The Honourable Justice Peter David McClellan AM**  
**Mr Robert Atkinson**  
**The Honourable Justice Jennifer Ann Coate**  
**Mr Robert William Fitzgerald AM**  
**Dr Helen Mary Milroy**  
**Mr Andrew James Marshall Murray**

### RECITALS

1. All children deserve a safe and happy childhood.
2. Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.
3. All forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.
4. Child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.
5. Public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.
6. It is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and

to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

7. It is important that those affected by child sexual abuse can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.
8. Noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.
9. All Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

#### OPERATIVE PART

By this commission issued under the Public Seal of the State, I, the Governor, acting under the *Royal Commissions Act 1968* (WA) and all other enabling powers and with the advice and consent of the Executive Council—

- (a) appoint you to be a Royal Commission to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters—
  - (i) what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
  - (ii) what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
  - (iii) what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
  - (iv) what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services;
- and
- (b) direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms; and
- (c) without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters—
  - (i) the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;

- (ii) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
  - (iii) the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
  - (iv) changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts;
- and
- (d) declare that you are not required to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding; and
  - (e) without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration—
    - (i) the need to establish mechanisms to facilitate, subject to any applicable law, the timely communication of information, or the timely furnishing of evidence, documents or things, for example, for the purpose of enabling the timely investigation and prosecution of offences;
    - (ii) the need to establish investigation units to support your inquiry;
    - (iii) the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
    - (iv) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
    - (v) the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material;
- and
- (f) appoint you, the Honourable Justice Peter David McClellan AM, to be Chairman of the Commission; and
  - (g) declare that the *Royal Commissions Act 1968* (WA) section 18 applies to the Royal Commission; and
  - (h) declare that you are authorised to conduct your inquiry into any matter under this commission in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any

commission, letters patent, order or appointment issued or made by the Commonwealth, another State or a Territory; and

- (i) declare that in this commission—

*child* means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989;

*government* means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government;

*institution* means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and—

- (i) includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- (ii) does not include the family;

*institutional context*: sexual abuse happens in an *institutional context* if, for example—

- (i) it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- (ii) it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- (iii) it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children;

*law* means a law of the Commonwealth or of a State or Territory;

*official*, of an institution, includes—

- (i) any representative (however described) of the institution or a related entity; and
- (ii) any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- (iii) any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- (iv) any other person who you consider is, or should be treated as if the person were, an official of the institution;

*related matters* means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse;

and

- (j) require you to begin your inquiry as soon as practicable; and
  - (k) require you to make your inquiry as expeditiously as possible; and
  - (l) require you to submit to me—
    - (i) first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as the Premier may, by notice in the *Government Gazette*, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and
    - (ii) then and as soon as possible, and in any event not later than the date the Premier may, by notice in the *Government Gazette*, fix on your recommendation, your final report of the results of your inquiry and your recommendations;
- and
- (m) authorise you to submit to me any additional interim reports that you consider appropriate;

ISSUED under my hand and the Public Seal of the State

at Perth on                      22 January                      2013.

By command of the Governor,

Premier.

A handwritten signature in blue ink, appearing to read 'C. B. Smith', is written over the Premier's name.





# APPENDIX B

## APPENDIX B: GLOSSARY

Term	Definition
<b>child*</b>	A human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier (Convention on the Rights of the Child of 20 November 1989).
<b>child sexual abuse</b>	Any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards. Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling of breasts, voyeurism, exhibitionism, and exposing the child to or involving the child in pornography. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child to lower the child's inhibitions in preparation for sexual activity with the child.
<b>child sexual abuse in an institutional context*</b>	This includes abuse that: <ul style="list-style-type: none"> <li>• happens on the premises of an institution, where activities of an institution take place, or in connection with the activities of an institution</li> <li>• is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased or in any way contributed to (whether by act or omission), the risk of child sexual abuse or the circumstances or conditions giving rise to that risk</li> <li>• happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.</li> </ul>
<b>Commissioner</b>	A person, appointed by the Governor-General, who oversees the Royal Commission and its work.
<b>exhibits</b>	These comprise evidence tendered during a public hearing.
<b>government*</b>	The government of the Commonwealth or of a state or territory, including any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

<b>institution*</b>	<p>A public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:</p> <ul style="list-style-type: none"> <li>• includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families</li> <li>• does not include the family.</li> </ul>
<b>law*</b>	The law of the Commonwealth or of a state or territory.
<b>legislation</b>	Acts and regulations
<b><i>Letters Patent</i></b>	The official instructions for the Royal Commission.
<b>official (of an institution)*</b>	<p>This includes:</p> <ul style="list-style-type: none"> <li>• any representative of the institution or a related entity</li> <li>• any member, officer, employee, associate, contractor or volunteer of the institution or a related entity</li> <li>• any person, or any member, officer, employee, associate, contractor or volunteer of a body or other entity, who provides services to, or for, the institution or a related entity</li> <li>• any other person who you consider is, or should be treated as if the person were, an official of the institution.</li> </ul>
<b>related matters*</b>	The unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.
<b>submission</b>	A written response from a person or organisation that gives opinions or ideas on a topic.
<b>transcript</b>	A written record of proceedings.
<b>witness</b>	A person who appears and gives evidence at a hearing.

\* indicates the definition is taken from the *Letters Patent*.







# APPENDIX C

# APPENDIX C: PRIVATE SESSION INFORMATION

This is an analysis of information collected from 1,476 private sessions held between 7 May 2013 and 30 April 2014.

## PROFILE OF SURVIVORS

Most people attending private sessions were survivors of child sexual abuse. Others were indirectly affected by the abuse. They included parents, siblings, partners, friends and whistleblowers. Where the participant was reporting abuse suffered by someone else, we collected information about the victim and not the participant.

### Gender

About two in three survivors were male and one in three were female.

### Age at time of private session

The average age of survivors was 55 years. However, as Table 1 shows, there was a considerable spread in the ages of survivors.

Table 1. Survivor's age at time of private session

Age	Number of survivors	% of survivors
Less than 10 years	4	0.3
10-19 years	19	1.3
20-29 years	22	1.5
30-39 years	95	6.4
40-49 years	290	19.6
50-59 years	435	29.5
60-69 years	381	25.8
70 years or more	138	9.3
Unknown	92	6.2
<b>Total</b>	<b>1,476</b>	<b>100</b>

### State of residence at time of private session

Just over three in five survivors (61.7 per cent) were male. As Table 2 shows, almost 70 per cent of survivors normally live in New South Wales, Victoria or Queensland.

Table 2. Survivor's state of residence at time of private session

State	Number of survivors	% of survivors
NSW	475	32.2
Vic	331	22.4
Qld	223	15.1
WA	155	10.5
SA	100	6.8
Tas	33	2.2
ACT	32	2.2
NT	13	0.9
Overseas	107	7.2
Unknown	7	0.5
<b>Total</b>	<b>1,476</b>	<b>100</b>

#### Age at time of first offence

Almost 70 per cent of survivors reported they were over eight years old at the time of the first offence (see Table 3). Based on reports at private sessions, females were likely to be abused at a slightly younger age than males. On average, females were 9.5 years at the time of abuse, compared with 10.3 years for males.<sup>1</sup>

Table 3. Survivor's age at time of first offence

Age	Number of survivors	% of survivors
0–3 years	51	3.5
4–7 years	298	20.2
8–11 years	498	33.7
12–15 years	457	31.0
16 years or more	69	4.7
Unknown	103	7.0
<b>Total</b>	<b>1,476</b>	<b>100</b>

### Decade when abuse occurred

Abuse reported at private sessions reached a peak during the 1960s (see Table 4). This corresponds with the age of survivors and is not an indicator of current prevalence.

Table 4. Decade when first instance of abuse occurred

Decade	Number of survivors	% of survivors
Before 1940	5	0.4
1940-1949	72	4.9
1950-1959	248	16.8
1960-1969	397	26.9
1970-1979	330	22.4
1980-1989	182	12.3
1990-1999	48	3.3
2000-2009	18	1.2
2010 or later	7	0.5
Unknown	168	11.4
<b>Total</b>	<b>1,476</b>	<b>100</b>

## INSTITUTIONAL PROFILE

### Institution type (by activity)

Survivors attending private sessions were most likely to have been abused in what are now historical institutions, for example an industrial school, training school, reformatory, orphanage or children's home, followed by an educational institution.

Table 5. Institution type by activity where abuse occurred

Institution type (by activity)	Number of institutions	% of institutions
Industrial school, training school, reformatory, orphanage, children's home	552	32.1
Educational	513	29.8
Religious (including place of worship, youth group, seminary)	288	16.3
Out-of-home care	130	7.6
Recreation, sports and clubs (including Scouts)	76	4.8
Health and allied	43	2.6
Juvenile justice, detention	31	1.8
Childcare	20	1.2
Supported accommodation	11	0.6
Arts and cultural	4	0.2
Non-residential social support	4	0.2
Other	42	2.4
Unknown	5	0.3
<b>Total</b>	<b>1,719</b>	<b>100</b>

Institution type (by management)

Most of the institutions where survivors reported being abused were faith-based (60.1 per cent). A substantial minority were government-run (18.6 per cent). Please see Table 6.

Table 6. Institution type by management where abuse occurred

Institution type (by management)	Number of institutions	% of institutions
Faith-based	1,033	60.1
Government	319	18.6
Secular	166	9.7
Other	50	2.9
Unknown	151	8.8
<b>Total</b>	<b>1,719</b>	<b>100</b>

## Denomination of faith-based institutions

Where abuse occurred in a faith-based institution, survivors most commonly reported the institution was Catholic (68.1 per cent), then Anglican (12.3 per cent). Of all the institutions where abuse was reported to occur, including government and private, Catholic institutions were still the most common (40.9 per cent). Please see Table 7.

Table 7. Faith by denomination when abuse occurred in a faith-based institution<sup>2</sup>

Denomination	Number of institutions	% of faith-based institutions	% of all institutions
Catholic	703	68.1	40.9
Anglican	127	12.3	7.4
Salvation Army	66	6.4	3.8
Other Protestant	28	2.7	1.6
Presbyterian	23	2.2	1.3
Uniting Church	17	1.6	1.0
Other Christian	13	1.3	0.8
Pentecostal	12	1.2	0.7
Jehovah's Witness	9	0.9	0.5
Seventh Day Adventist	9	0.9	0.5
Jewish	6	0.6	0.3
Lutheran	6	0.6	0.3
Brethren	5	0.5	0.3
Churches of Christ	5	0.5	0.3
Baptist	2	0.2	0.1
Latter-Day Saints	1	0.1	0.1
Oriental Orthodox	1	0.1	0.1
<b>Total</b>	<b>1,033</b>		<b>100</b>

## Location of institution

The institution's location mirrored the survivor's state of residence. Most institutions were in NSW (31.7 per cent), followed by Victoria (22.9 per cent) and Queensland (10.5 per cent).

## PERPETRATOR PROFILE

Most alleged perpetrators were male (86.6 per cent). Survivors reported that perpetrators were most commonly members of the clergy (28.8 per cent), followed by teachers and residential care workers (see Table 8). Foster carers and older children were also reported to be perpetrators.

Table 8. Relationship between alleged perpetrator and survivor

Alleged perpetrator	Number of survivors	% of survivors
Clergy	595	28.8
Teacher	324	15.7
Residential care worker	149	7.2
Foster carer	139	6.7
Older child	137	6.6
Dormitory or house master	103	5.0
Ancillary staff	60	2.9
Church-related worker	60	2.9
Medical practitioner	51	2.5
Corrective services personnel	45	2.2
Scout master or Guide leader	40	1.9
Peer	38	1.8
Sporting coach	34	1.6
Tutor	11	0.5
After-school carer	3	0.1
Preschool carer	3	0.1
Other	249	12.0
Unknown	28	1.4

Note: Survivors could identify multiple relationships per offender. For example, alleged perpetrators could be both members of the clergy and teachers.

## DETAILS OF ABUSE

Survivors attending private sessions were more likely to have experienced multiple episodes of abuse (76.7 per cent). Most reported experiencing sexual behaviour involving contact. Specifically, over three in five survivors reported that they had experienced sexual abuse such as touching genitals and kissing (65.4 per cent). Sexual abuse involving penetration, such as vaginal, anal, oral and digital penetration, was the next most common form (26.3 per cent of survivors). Please see Table 9.

Table 9. Types of sexual abuse

Type of sexual abuse	Number of survivors	% of survivors
Sexual abuse with contact but not involving penetration, such as touching genitals, kissing	966	65.4
Sexual abuse with contact involving penetration	712	48.2
Grooming for the purposes of sexual contact	291	19.7
Violations of privacy	273	18.5
Exposing children to adult sexual behaviour	171	11.6
Exploitation	37	2.5
Other	95	6.4
Unknown	166	11.2

Note: Survivors could report multiple types and episodes of abuse per institution.

## PATTERNS OF DISCLOSURE

### Delayed disclosure of abuse

Most people who attended private sessions had previously disclosed their abuse. A small minority (5 per cent) first disclosed their abuse at the private session.

Survivors who had previously disclosed took an average of 22.2 years to do so, after the onset of abuse. Males were likely to take slightly longer than females to disclose their abuse. This is consistent with previous research. Males took an average of 23.4 years to disclose, and females took an average of 19.7 years. Table 10 shows the considerable spread among survivors. About the same amount of survivors took under one year as those who took from 31 to 40 years (8.5 and 8.7 per cent, respectively).

Table 10. Time from onset of abuse to first disclosure

Time since onset of abuse	Number of survivors	% of survivors
Less than 1 year	126	8.5
1-5 years	102	6.9
6-10 years	70	4.7
11-20 years	114	7.7
21-30 years	95	6.4
31-40 years	129	8.7
41-50 years	88	6.0
51-60 years	38	2.6
60-70 years	14	0.9
Unknown	700	47.4
<b>Total</b>	<b>1,476</b>	<b>100</b>

## Barriers to disclosure

The most common barrier to disclosing for all survivors was shame and embarrassment, with 28.9 per cent of survivors reporting this (see Table 11). Other common barriers were fearing not being believed, feeling there was no-one to disclose to, and fearing retribution. Very few reported barriers relating to a sense of 'affiliation' with the offender, such as believing that they were special or the offender loved them, or fearing retribution against the offender.

Table 11. Barriers to disclosure

Barrier	Number of survivors	% of survivors
Felt shame, embarrassment	427	28.9
Feared not being believed	330	22.4
Had no one to disclose to	319	21.6
Feared retribution	227	15.4
Felt guilty	196	13.3
Didn't want others to know	191	12.9
Feared retribution by offender	151	10.2
Just wanted to forget	113	7.7
Didn't know behaviour was not OK	63	4.3
Regarded as private	59	4.0
Feared retribution by institution	57	3.9
Threatened by offender	57	3.9
Didn't have the language	55	3.7
Believed they were special	31	2.1
Believed the offender loved them	18	1.2
Feared retribution against offender	4	0.3
Other	206	14.0
Unknown	132	8.9

Note: Survivors could report multiple barriers to disclosure.

### Person to whom survivors disclosed abuse

When survivors disclosed their abuse, they most often told someone in authority within the institution (18.7 per cent), followed by a parent (15.4 per cent) and the police (15 per cent). Please see Table 12.

Table 12. Person to whom the survivor disclosed

Survivor disclosed to	Number of survivors	% of survivors
Person in authority inside institution	422	18.7
Parent	347	15.4
Police	338	15.0
Partner	257	11.4
Mental health services provider	210	9.3
Sibling	100	4.4
Adult friend	63	2.8
Welfare or child protection officer	57	2.5
Other family	51	2.3
Medical personnel	41	1.8
Child friend	28	1.2
Other	321	14.2
Unknown	19	0.8

### COMPENSATION

Around two in five who attended a private session had sought compensation for their abuse. They most commonly sought it from the institution directly, although some approached state-based redress schemes, civil proceedings and victims of crime compensation schemes (see Table 13).

Table 13. How compensation was sought

Compensation sought through	Number of survivors	% of survivors
Institution directly	258	41.0
Redress scheme	132	21.0
Civil proceeding	144	22.9
Victims of crime scheme	96	15.2
<b>Total</b>	<b>630</b>	<b>100</b>

Most of those who sought compensation were awarded it (69.8 per cent). A smaller portion had their claims rejected (11.7 per cent). There was broad dissatisfaction with the process and outcome of seeking compensation. Almost nine in 10 survivors were dissatisfied with the outcome.

## SELF-REPORTED IMPACT OF ABUSE

Child sexual abuse has wide-ranging and long-term effects on survivors. Over nine in 10 people who attended private sessions reported impacts on their health. These impacts included depression, anxiety, low self-esteem and a lack of trust in authority (see Table 14). Effects on relationships, such as difficulties with trust and intimacy and a lack of confidence with parenting, were also common. Similarly, educational and economic consequences of leaving school early, being unemployed or struggling to keep jobs were common.

Table 14. Self-reported impact of abuse

Area of impact	Number of survivors	% of survivors
Health	1,379	93.4
Relationships	871	59.0
Education and finances	787	53.3
Sexual behaviour	350	23.7
Criminal offences	181	12.3
Direct consequences	127	8.6







# APPENDIX D

# APPENDIX D: MANDATORY REPORTING

Table 1: Current laws containing mandatory reporting duties

Jurisdiction	Legislation
ACT	<i>Children and Young People Act 2008</i> , s 356
NSW	<i>Children and Young Persons (Care and Protection) Act 1998</i> , ss 23, 27
NT	<i>Care and Protection of Children Act</i> , ss 15, 16, 26
Qld	<i>Public Health Act 2005</i> , ss 158, 191 (doctors and nurses) <i>Education (General Provisions) Act 2006</i> , ss 364–366A (school staff) <i>Child Protection Act 1999</i> , ss 22, 186
SA	<i>Children's Protection Act 1993</i> , ss 6, 10, 11
Tas	<i>Children, Young Persons and Their Families Act 1997</i> , ss 3, 14
Vic	<i>Children, Youth and Families Act 2005</i> , ss 162, 182, 184
WA	<i>Children and Community Services Act 2004</i> , ss 124A–H

Table 2: Major government inquiries and reports

This table presents the major inquiries and reviews that are most relevant to the major legislative changes. Note that amendments were often the result of internal reviews and committee work by governments on child protection matters.

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
Cth	<b>1977, Royal Commission on Human Relationships</b> E Evatt, F Arnott, A Deveson, Canberra, Commonwealth of Australia, <i>Final Report Vol 1</i>	'On balance, and subject to what is said above, we think that there is a value in imposing on certain persons a duty to notify cases of suspected child abuse.' Page 190, para 248	No action.
ACT	<b>1981, Australian Law Reform Commission Report</b> <i>Child Welfare</i>	'The ACT should introduce mandatory reporting of physical abuse and sexual abuse.' Recommendation 106, page xliv	<i>Children's Services Ordinance 1986</i> , s 103, commenced 1997.
ACT	<b>2003, Standing Committee on Community Services and Social Equity</b> <i>The rights, interests and well-being of children and young people Report Number 3</i> , August 2003	'The Committee recommends that the Government ... review the penalty within the Act for the offence of failing to report a suspected case of abuse.' Recommendation 25, page xix, 9.22 (iii)	No action.
ACT	<b>2004, Vardon Report</b> <i>The Territory as Parent: Review of the Safety of Children in Care in the ACT and of ACT Child Protection Management</i> , 14 May 2004	It was not recommended that the mandatory reporting of child sexual abuse be repealed. It was recommended that mandatory reporting not be extended to other forms of abuse.	Not applicable.

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
NSW	<p><b>1997, Wood Royal Commission</b> The Hon Justice J Wood, Royal Commission into the NSW Police Service <i>Final Report (Volumes 4 and 5: The Paedophile Inquiry)</i>, 26 August 1997</p>	<p>‘The mandatory reporting duty should be extended to a wider category of prescribed persons, namely:</p> <ul style="list-style-type: none"> <li>• chief executives of bodies conducting schools;</li> <li>• persons in charge of child care centres;</li> <li>• chief executives or persons in charge of bodies providing welfare, social and sporting activities involving children;</li> <li>• persons in charge of residential care centres and refuges for children;</li> <li>• social workers, welfare workers and youth workers outside schools; and</li> <li>• health workers generally.’</li> </ul> <p>Recommendation 112, pages 1197–98</p>	<p><i>Children and Young Persons (Care and Protection) Act 1998</i> (No. 157), commenced December 2000.</p>
NSW	<p><b>2008, Wood Special Committee of Inquiry</b> The Hon Justice J Wood, <i>Report of the Special Committee of Inquiry into Child Protection Services in New South Wales, Volume 1</i></p>	<p>‘amend ss 23–25 to ensure reports are made of “significant harm” ... amend s 27 by removing the penalty’</p> <p>Recommendations 6.2 (a) and (d), page xiii, 197</p>	<p>Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 (No. 13), Schedule 1.1 [7], commenced January 2010.</p> <p>Focus restored on significant harm concept, and penalty removed from s 27.</p>

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
NT	<b>2007, Little Children are Sacred Report</b> R Wild and P Anderson, <i>Ampe Akelyernemane Meke Mekarle ('Little Children are Sacred'): Report of the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse</i>	<p>There should be 'an expanded program of mandatory reporting education and training of professionals [to] be carried out as soon as possible'.</p> <p>This was influenced by a finding that many professionals and non-professionals were not reporting cases of sexual abuse.</p> <p>Recommendation 57</p>	<i>Care and Protection of Children Amendment Act 2009.</i> <i>Placed a separate, distinct and additional reporting duty on medical practitioners.</i>
NT	<b>2009, Report of the Board of Inquiry</b> Bamblett, Bath and Roseby, <i>Report of the Board of Inquiry into the Child Protection System in the Northern Territory (Growing Them Strong, Together)</i>	<p>No recommendations about expanding or contracting mandatory reporting of child sexual abuse.</p>	Not applicable.
Qld	<b>2003, O'Callaghan and Briggs Report</b> <i>Report of the Board Of Inquiry Into Past Handling Of Complaints Of Sexual Abuse In The Anglican Church Diocese Of Brisbane</i>	<p>This was a board established by the Church, not by the government. It found numerous cases of inadequate responses and systems to respond to (and prevent) child sexual abuse by school employees.</p> <p>However, in response, the Queensland Government set up a ministerial taskforce to act on these findings.</p>	<i>Education (General Provisions) Act 2004, commenced April 2004.</i> Required schoold staff to report suspected sexual abuse of students by school staff members.
Qld	<b>2004, Crime and Misconduct Commission</b> <i>Protecting Children: An Inquiry into Abuse of Children in Foster Care (2004)</i>	<p>'That mandatory reporting of child abuse be extended to registered Queensland nurses by legislating under the <i>Health Act</i> ...</p> <p>That section 76K of the Health Act be amended to make it mandatory for doctors and nurses to notify the DCS about their suspicion of child abuse.'</p> <p>Recommendations 6.13 and 6.15, page 185</p>	Public Health Act amendments, commenced August 2005.

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
Qld	<b>2013, Carmody Inquiry</b> <i>Taking Responsibility: A Roadmap for Queensland Child Protection</i>	<p>'The Department of the Premier and Cabinet and the Department of Communities, Child Safety and Disability Services lead a whole-of-government process to:</p> <ul style="list-style-type: none"> <li>• review and consolidate all existing legislative reporting obligations into the <i>Child Protection Act 1999</i></li> <li>• develop a single 'standard' to govern reporting policies across core Queensland Government agencies ...'</li> </ul> <p>Recommendation 4.2, page xxvii</p>	No action yet.
SA	<b>1986, Furler Report</b> <i>Report of the Government Task Force on Child Sexual Abuse</i>	'That the reporting duty be extended so that it applies to suspected child sexual abuse committed by any person, not just by parents and caregivers.'	<i>Community Welfare Amendment Act 1988</i> (No. 30), commenced September 1988.
SA	<b>2003, Layton Review</b> <i>Our best investment: A state plan to protect and advance the interests of children: Review of Child Protection in South Australia</i>	<p>'That the <i>Children's Protection Act 1993</i> be amended to include as mandated notifiers:</p> <ul style="list-style-type: none"> <li>• all church personnel including ministers of religion (except in confessionals)</li> <li>• all individuals in services providing care to or supervision of children</li> <li>• all volunteers who are working with children (including both volunteers working in supervised and unsupervised settings)</li> <li>• all people who may supervise or be responsible for looking after children as part of a sporting, recreational, religious or voluntary organisation.' <p>Recommendation 54, page 10.11–10.13</p> </li></ul>	<i>Children's Protection (Miscellaneous) Amendment Act 2005</i> (No. 76), commenced December 2006.

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
SA	<b>2008, Mullighan Inquiry</b> <i>Children on Anangu Pitjantjatjara Yankunytjatjara lands</i>	'That section 11 of the Children's Protection Act be amended to provide that it is an offence to prevent, obstruct or interfere with a person discharging or attempting to discharge the obligation of mandatory reporting pursuant to section 11(1) of that Act.' Recommendation 21, pages 181-183, 222-224	<i>Children's Protection (Implementation of Report Recommendations) Amendment Act 2009</i> (No. 65), commenced December 2009.
SA	<b>2013, Debelle Inquiry</b> <i>Royal Commission 2012-2013: Report of Independent Education Inquiry</i>	'That section 11 of the Children's Protection Act 1993 be amended by adding a new subsection 4(a) providing that it is a defence to a charge under subsection (1) to prove that the knowledge of the facts that gave rise to the suspicion was gained only from a police officer acting in the course of his duty ... That consideration be given to whether it is appropriate to relieve a teacher of the duty to report when the only knowledge the teacher has of possible abuse of a child has been obtained from another teacher who has already notified the Child Abuse Report Line.' Recommendations 27 and 28, pages 277-78	Both recommendations currently under consideration through the Children's Protection (Notification) Amendment Bill 2013.
Tas	There do not appear to have been any major government inquiries or reviews into the topic. Developments seem to have followed from internal government operations.		
Vic	<b>1984, Carney Report</b> <i>T Carney, Equity and Social Justice for Children, Families and Communities</i> (final report of the Child Welfare Practice and Legislation Review Committee)	A voluntary reporting system should be continued; mandatory reporting should not be introduced. Volume 2, page 221	No action. Voluntary reporting system remained.

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
Vic	<b>1988, Victorian Law Reform Commission Report</b> <i>Sexual Offences Against Children</i> , Report No. 18	<p>'Mandatory reporting should be introduced in relation to sexual offences against children, but only if there is a commitment to a review of existing service arrangements and the development and maintenance of adequately resourced services.</p> <p>The law should not be proclaimed until guidelines about the law have been disseminated to the mandated people and education programs have been conducted.</p> <p>The proposed mandatory reporting requirement should be limited in the following ways:</p> <ul style="list-style-type: none"> <li>• It should apply only where a mandated person has reasonable grounds to believe that a sexual offence has been committed.</li> <li>• It should apply only in relation to a child who is under 14 years at the time the information came to the attention of the mandated person.</li> <li>• It should only apply where that person has reasonable grounds to believe that the child or another child remains at risk.</li> <li>• The groups to be mandated should be prescribed by regulation. Initially, only medical practitioners, nurses, psychologists, school, kindergarten and pre-school staff, social workers, welfare workers, probation and parole officers and child care workers should be mandated to report.</li> </ul> <p>A mandated report should be made to either CSV or the Police.</p> <p>The maximum penalty for breach should be a fine of up to \$5,000.'</p> <p>Recommendations 18–22, page 7</p>	No action.

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
Vic	<b>1989, Fogarty and Sargeant Review</b> Justice John Fogarty and Delys Sargeant, <i>Protective Services For Children In Victoria</i>	<p>This review did not deal with the issue of child sexual abuse in detail, stating that this ‘would not be appropriate’ (page 82). It stated that its scope did not include the ability ‘to deal in a definite way with the vexed question of mandatory reporting’ (page 86).</p> <p>The review concluded that, because of the extremely dysfunctional and stressed system then existing in Victoria, it would not cope logistically with a system that included mandatory reporting. Accordingly, the Review found that:</p> <ul style="list-style-type: none"> <li>• ‘mandatory reporting, whether generally or related to specific classes of persons, should not be considered for Victoria at present’</li> <li>• ‘the initial focus should be on public and professional education and the encouragement of voluntary reporting’</li> <li>• ‘when the child protection system in Victoria is on a much stronger footing the question whether any form of mandatory reporting should be introduced can be determined in a much more satisfactory atmosphere and in the light of that experience’ (pages 86–87).</li> </ul>	No action.
Vic	<b>1990, Fogarty Review</b> Justice J Fogarty, <i>One Year Later: Review of the Redevelopment of CSV's Protective Services for Children in Victoria</i> , Victorian Family and Children's Services Council	<p>This Review did not deal with the issue of mandatory reporting.</p> <p>The conclusion from the 1989 report was repeated, again stating that consideration of whether to introduce mandatory reporting should remain on hold while the system develops greater stability.</p>	Not applicable.

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
Vic	<b>8 September 1990</b> Note: on this date, Daniel Valerio was murdered	This event influenced consideration by the Victorian Government of mandatory reporting.	Mandatory reporting provisions for child physical abuse and sexual abuse introduced into Parliament via the Children and Young Persons (Further Amendment) Bill on 20 April 1993.  First reporting provisions commenced November 1993.

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
Vic	<p><b>1993, Fogarty Report</b> Justice J Fogarty, <i>Protective Services For Children In Victoria</i></p>	<p>This review was established in part to consider how best to implement mandatory reporting. Its recommendations were therefore about creating effective systems and administration, including reporter education and funding, rather than the legislation itself.</p> <p>For completeness, the review recommended that:</p> <ul style="list-style-type: none"> <li>• an 'extensive campaign of information and education' should be conducted for mandated reporters so they know their legal responsibilities and can comply with them</li> <li>• agreements should be completed between organisations such as hospitals and mandated reporter groups so they each understand their responsibilities and expectations</li> <li>• a public awareness campaign should be conducted</li> <li>• the Department must ensure it is able to provide 'a fully professional response' by ensuring its staff are trained to deal with notifications, provide accurate advice to mandated reporters, and can respond promptly to notifications</li> <li>• specific funds for education and training must be allocated</li> <li>• information about the financial costs involved in administration must be provided and the funding required must be supplied: the required funding 'needs to be available so that no gap develops between the demand and the capacity to service it'.</li> </ul> <p>The resulting extra work for the non-government sector and the Children's Court must also be funded (pages 10–12).</p>	Not applicable.

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
Vic	<p><b>2012, Cummins, Scott and Scales</b></p> <p>P Cummins, D Scott and B Scales B, <i>Report of the Protecting Victoria's Vulnerable Children Inquiry</i></p>	<p>'The Victorian Government should progressively gazette those professions listed in sections 182(1) (f)-(k) that are not yet mandated, beginning with child care workers.'</p> <p>'The Crimes Act 1958 should be amended to create a separate reporting duty where there is a reasonable suspicion a child or young person who is under 18 is being, or has been, physically or sexually abused by an individual within a religious or spiritual organisation. The duty should extend to a minister of religion and a person who holds an office within, is employed by, is a member of, or a volunteer of a religious or spiritual organisation that provides services to, or has regular contact with, children and young people.'</p> <p>Recommendations 44 and 47, pages 349 and 355</p>	No action yet.
WA	<p><b>2002, Gordon Inquiry</b></p> <p>S Gordon, K Hallahan and D Henry, <i>Putting the picture together: Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities</i></p>	<p>'That all medical personnel likely to come into contact (directly or indirectly) with children under 13 years who have a sexually transmitted disease be obliged to report the presence of the disease to DCD ... The Inquiry does not have a view on which legislation should be used to enact this obligation.'</p> <p>'That serious consideration be given to the requirement for medical personnel to report [all] suspected abuse in children under 13 years as part of the consideration of the report on mandatory reporting.'</p> <p>Recommendations 187 and 189, page 458</p>	

Jurisdiction	Inquiry or report	Recommendation	Translation into legislation
WA	<p><b>2007, Ford Review</b></p> <p>P Ford, <i>Review of the Department for Community Development (the Ford Review)</i></p>	<p>'Mandatory reporting should not be enacted.'</p> <p>Recommendation 70, pages 119–122</p>	<p>No action until mandatory reporting of child sexual abuse was introduced through the <i>Children and Community Services Amendment (Reporting Sexual Abuse of Children) Act 2008</i>, commencing January 2009.</p>

# ENDNOTES

## CHAPTER 1

1. M Cunneen SC, *Report of the Special Commission of Inquiry into matters relating to the police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle*, New South Wales, 2014; Family and Community Development Committee, *Betrayal of trust: Inquiry into the handling of child abuse by religious and non-government organisations*, Parliament of Victoria, Melbourne, 2013; Children in State Care and Children on APY Lands, Commission of Inquiry, *Children in state care commission of inquiry: Allegations of sexual abuse and death from criminal conduct, South Australia*, 2008; Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, Parliament of Australia, Canberra, 2004; Community Affairs Reference Committee, *Lost innocents: Righting the record – Report on child migration*, Parliament of Australia, Canberra, 2001; Human Rights and Equal Opportunity Commission, *Bringing them home: National inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*, Sydney, 1997.
2. Adults Surviving Child Abuse, Bravehearts, Broken Rites, Care Leavers Australia Network, Child Migrants Trust, Historic Abuse Network, International Association of Former Child Migrants and their Families.
3. The Commissioners were formally appointed under Western Australian law on 22 January 2013, Queensland law on 24 January 2013, New South Wales law on 25 January 2013, Victorian law on 12 February 2013, Tasmanian law on 4 March 2013 and South Australian law on 7 March 2013.
4. Australia, House of Representatives 2013, *Debates*, vol HR2, pp 1,116–1,117.
5. The definition of ‘child sexual abuse’ is based on a discussion of the meaning of child sexual abuse in R Price-Robertson, *What is child abuse and neglect*, Australian Institute of Family Studies, Melbourne, updated June 2012, <http://www.aifs.gov.au/cfca/pubs/factsheets/a142091/index.html> (viewed 12 May 2014); LM Bromfield, *Chronic child maltreatment in an Australian statutory child protection sample* unpublished doctoral dissertation, Deakin University, Geelong, 2005; A Broadbent & R Bentley, *Child abuse and neglect: Australia 1995–96*, Child Welfare Series no 17, Australian Institute of Health and Welfare, Canberra, 1997; US National Research Council, *Understanding child abuse and neglect*, National Academy Press, Washington DC, 1993.

## CHAPTER 2

1. The Hon. Julia Gillard, Transcript of joint press conference, Sydney, 11 January 2013, <http://pmtranscripts.dpmc.gov.au/browse.php?did=18988> (viewed 12 May 2014).
2. *Letters Patent* (Cth), 11 January 2013.
3. *Royal Commissions Act 1902* (Cth) ss 60B(1), 60B(2).

4. *ibid* ss 6OA–60M, inserted by the *Royal Commissions Amendment Act 2013* (Cth). The Ryan Commission in Ireland used similar processes to gather information privately: *Commission to Inquire into Child Abuse Act 2000* (Ie) ss 4(6), 15.
5. Australia, House of Representatives 2013, *Debates*, vol HR2, pp 1, 116.
6. Royal Commission, *Practice guideline 3: Guide questions for providing a statement or information to the Royal Commission*, Sydney, 28 March 2013.
7. J Cashmore & R Shackel, 'The long-term effects of child sexual abuse', *CFCA Paper*, no 11, 2013, <http://www.aifs.gov.au/cfca/pubs/papers/a143161/index.html> (viewed 12 May 2014).
8. *Royal Commissions Act 1902* (Cth) s 6OG.
9. *ibid* s 6OC(1).
10. *ibid*.
11. *ibid* s 6OH.
12. *ibid* s 6P.
13. *ibid* s 6OJ.
14. *ibid* ss 2(1)(b), 2(3A); *Royal Commissions Act 1923* (NSW) s 8; *Commissions of Inquiry Act 1950* (Qld) s 5(1)(b); *Royal Commissions Act 1917* (SA) s 10(c); *Commissions of Inquiry Act 1995* (Tas) s 22(1)(b); *Evidence (Miscellaneous Provisions) Act 1958* (Vic) s 17(1); *Royal Commissions Act 1968* (WA) ss 8B(1)(b), 9.
15. *Royal Commissions Act 1902* (Cth) s 6D(3); *Royal Commissions Act 1923* (NSW) s 12B(1); *Commissions of Inquiry Act 1950* (Qld) s 16; *Royal Commissions Act 1917* (SA) ss 16A(b)–(c); *Commissions of Inquiry Act 1995* (Tas) s 14(1); *Evidence (Miscellaneous Provisions) Act 1958* (Vic) s 19B(2). See also *Royal Commissions Act 1968* (WA) s 19B.
16. Submissions of the YMCA NSW and current YMCA NSW staff, Case study 2, SUBM.1002.004.0001, paras 328–342.
17. Exhibit 2-0050, 'Letter from David Walsh to Phillip Hare re imposition of additional conditions on provider approval', Case study 2, YMCA.8000.005.0007\_R.
18. Exhibit 2-0051, 'Letter from David Walsh to Phillip Hare re notice of reassessment of fitness and propriety', Case study 2, YMCA.8000.005.0010\_R.
19. Exhibit 10-0043, 'Statement of Commissioner Raymond James Condon', Case study 10, STAT.0101.005.0001 at 0002–0003.
20. Transcript of RJ McDonald, Case study 11, 7 May 2014, WA2254:36–37.
21. *ibid* WA2254:40; WA2254:44–45.
22. *ibid* WA2255:11–26.

23. Transcript of RJ McDonald, Case study 11, 6 May 2014, WA2228:1-28.
24. J Brophy, *Survivors of abuse will receive ongoing counselling as long as needed – Unjust past settlements will be re-examined*, media release, Christian Brothers Oceania Province, Nudgee, 7 May 2014.
25. The full title of this issues paper is *Preventing sexual abuse of children in out of home care*.
26. Royal Commission, *Practice guideline 1* (12 August 2013) para 32.
27. JRP Ogloff et al., 'Child sexual abuse and subsequent offending and victimisation: A 45 year follow-up study', *Trends & issues in crime and criminal justice*, no 440, Australian Institute of Criminology, Canberra, 2012.
28. Our media guidelines for private sessions and public hearings can be found here: <http://www.childabuseroyalcommission.gov.au/media-centre> (viewed 12 May 2014).
29. *Royal Commissions Act 1902* (Cth) ss 2(1), 2(3); *Royal Commissions Act 1923* (NSW) ss 8, 11(1); *Commissions of Inquiry Act 1950* (Qld) s 5; *Royal Commissions Act 1917* (SA) ss 10(b), 10(e); *Commissions of Inquiry Act 1995* (Tas) ss 22(1), 25; *Evidence (Miscellaneous Provisions) Act 1958* (Vic) ss 17-18; *Royal Commissions Act 1968* (WA) ss 9, 11.
30. *Royal Commissions Act 1902* (Cth) s 6B; *Royal Commissions Act 1923* (NSW) ss 16, 18A; *Commissions of Inquiry Act 1950* (Qld) ss 8, 9; *Royal Commissions Act 1917* (SA) ss 11(2)-(3), 11A(1)(b); *Commissions of Inquiry Act 1995* (Tas) s 27; *Royal Commissions Act 1968* (WA) ss 14(1), 15E(1), 16(1).
31. *Royal Commissions Act 1902* (Cth) ss 2(1)(b), 2(2), 2(3A), 6AA; *Royal Commissions Act 1923* (NSW) ss 8, 17(1); *Commissions of Inquiry Act 1950* (Qld) ss 5(1)(b), 5(2A); *Royal Commissions Act 1917* (SA) ss 10(c), 7; *Commissions of Inquiry Act 1995* (Tas) ss 22(1)(b), 20(1); *Evidence (Miscellaneous Provisions) Act 1958* (Vic) ss 17, 19D(1); *Royal Commissions Act 1968* (WA) ss 9, 13(4)(b).
32. *Royal Commissions Act 1902* (Cth) s 6F(1); *Royal Commissions Act 1923* (NSW) s 12(1); *Commissions of Inquiry Act 1950* (Qld) s 19; *Royal Commissions Act 1917* (SA) s 10(d); *Commissions of Inquiry Act 1995* (Tas) s 34(2); *Evidence (Miscellaneous Provisions) Act 1958* (Vic) s 19E(1); *Royal Commissions Act 1968* (WA) s 21.
33. *Royal Commissions Act 1902* (Cth) s 4(1A); *Commissions of Inquiry Act 1950* (Qld) s 19A; *Commissions of Inquiry Act 1995* (Tas) s 24; *Evidence (Miscellaneous Provisions) Act 1958* (Vic), s 19E(2); *Royal Commissions Act 1968* (WA) s 18(2). See also *Royal Commissions Act 1923* (NSW) s 12(2); *Royal Commissions Act 1917* (SA) s 10(a).
34. *Royal Commissions Act 1902* (Cth) ss 6A(1)-(2); *Royal Commissions Act 1923* (NSW) s 17(1); *Commissions of Inquiry Act 1950* (Qld) s 14(1A); *Commissions of Inquiry Act 1995* (Tas) s 26; *Evidence (Miscellaneous Provisions) Act 1958* (Vic) s 19C(1); *Royal Commissions Act 1968* (WA) ss 13(4)(a), 14(2). The privilege against self-incrimination has not been removed by the *Royal Commissions Act 1917* (SA), so a person can refuse to provide information to the Royal Commission established by the South Australian *Letters Patent* on the grounds that it might incriminate them.

35. *Royal Commissions Act 1902* (Cth) ss 3(1), 3(2), 3(4), 6(1), 6AB(1); *Royal Commissions Act 1923* (NSW) ss 19–20; *Commissions of Inquiry Act 1950* (Qld) s 5(2); *Royal Commissions Act 1917* (SA) s 11(f); *Commissions of Inquiry Act 1995* (Tas) ss 27(1), 28(a), 31–32; *Evidence (Miscellaneous Provisions) Act 1958* (Vic) s 19; *Royal Commissions Act 1968* (WA) ss 12A–14, 15E.
36. *Royal Commissions Act 1902* (Cth) s 6H(1); *Royal Commissions Act 1923* (NSW) s 21; *Royal Commissions Act 1917* (SA) s 11(f); *Royal Commissions Act 1968* (WA) s 24.
37. *Royal Commissions Act 1902* (Cth) s 6K(1); *Royal Commissions Act 1923* (NSW) ss 23–23A; *Royal Commissions Act 1968* (WA) s 27.
38. *Royal Commissions Act 1902* (Cth) ss 6I, 6L; *Royal Commissions Act 1923* (NSW) ss 22, 23A; *Commissions of Inquiry Act 1995* (Tas) s 31(1); *Royal Commissions Act 1968* (WA) ss 25, 26, 28.
39. *Royal Commissions Act 1902* (Cth) s 6OB.
40. *Ibid* s 6D(3); *Royal Commissions Act 1923* (NSW) s 12B(1); *Commissions of Inquiry Act 1950* (Qld) s 16; *Royal Commissions Act 1917* (SA) ss 16A(b)–(c); *Commissions of Inquiry Act 1995* (Tas) s 14(1); *Evidence (Miscellaneous Provisions) Act 1958* (Vic) s 19B(2). See also *Royal Commissions Act 1968* (WA) s 19B.
41. *Royal Commissions Act 1902* (Cth) s 6OH.
42. *ibid* s 6OJ.
43. ISO 16175, *Information and documentation – Principles and functional requirements for records in electronic office environments*.
44. *Territory Records Act 2002* (ACT); *State Records Act 1998* (NSW); *Information Act 2002* (NT); *Public Records Act 2002* (Qld); *State Records Act 1997* (SA); *Public Records Act 1973* (Vic); *State Records Act 2000* (WA).
45. *Royal Commissions Act 1902* (Cth) s 6P.
46. *Children and Young Persons (Care and Protection) Act 1998* (NSW) ss 23, 27; *Care and Protection of Children Act 2007* (NT) s 26.
47. *Freedom of Information Act 1982* (Cth) s 4; *Privacy Act 1988* (Cth) s 7. Similarly, corresponding state freedom of information and privacy legislation does not apply to the state royal commissions.
48. *Archives Act 1983* (Cth) s 22.
49. *ibid*.
50. *Royal Commissions Act 1902* (Cth) s 60M.

## CHAPTER 3

1. Australian Institute of Family Studies, *Statutory definitions of child sexual abuse*, updated June 2013, <http://www.aifs.gov.au/institute/pubs/carc/6.html> (viewed 12 May 2014).
2. D Scott, *The prevalence of child abuse and neglect*, Australian Institute of Family Studies, updated March 2013, <http://www.aifs.gov.au/cfca/pubs/factsheets/a144254/> (viewed 12 May 2014).
3. R Price-Robertson, *What is child abuse and neglect?* Australian Institute of Family Studies, updated June 2012, <http://www.aifs.gov.au/cfca/pubs/factsheets/a142091/> (viewed 12 May 2014).
4. The definition of 'child sexual abuse' is based on a discussion of the meaning of child sexual abuse in Price-Robertson, *ibid*; LM Bromfield, *Chronic child maltreatment in an Australian statutory child protection sample* unpublished doctoral dissertation, Deakin University, Geelong, 2005; A Broadbent & R Bentley, *Child abuse and neglect: Australia 1995-96*, Child Welfare Series, no 17, Australian Institute of Health and Welfare, Canberra, 1997; US National Research Council, *Understanding child abuse and neglect*, National Academy Press, Washington DC, 1993.
5. Scott, above note 2; C Tarczon & A Quadara, 'The nature and extent of sexual assault and abuse in Australia', *ACSSA resource sheet*, no 5, Australian Institute of Family Studies, December 2012, <http://www.aifs.gov.au/acssa/pubs/sheets/rs5> (viewed 12 May 2014).
6. A Quadara, 'Responding to young people's disclosure of sexual assault: A resource for schools', *ACSSA Wrap*, no 6, Australian Institute of Family Studies, Melbourne, 2008, p 9, <http://www.aifs.gov.au/acssa/pubs/wrap/w6.html> (viewed 12 May 2014). See also SE Ullman, 'Social Reactions to Child Sexual Abuse Disclosures: A Critical Review', *Journal of Child Sexual Abuse*, vol 12, no 1, 2002, pp 89-121.
7. Australian Bureau of Statistics, *Personal safety, Australia, 2012*, cat no 4906.0, ABS, Canberra, 2012; Australian Bureau of Statistics, *Personal safety, Australia, 2005 (Reissue)*, cat no. 4906.0, ABS, Canberra, 2005.
8. The survey defined 'sexual abuse' as '[a]ny act by an adult involving a child (before the age of 15 years) in sexual activity beyond their understanding or contrary to currently accepted community standards'.
9. M Stoltenborgh et al., 'A global perspective on child sexual abuse: Meta-analysis of prevalence around the world', *Child Maltreatment*, vol 16, no 2, pp 79-101.
10. Australian Bureau of Statistics, 2012, above note 7.
11. Scott, above note 2.
12. Australian Bureau of Statistics, 2012, above note 7.
13. A Cossins, *Alternative models for prosecuting child sex offences in Australia*, Sydney, Australia, 2010.

14. K Daly & B Bouhours, 'Rape and attrition in the legal process: A comparative analysis of five countries', *Crime and Justice*, vol 39, no 1, 2010, pp 565-650.
15. This includes data obtained through private sessions, public hearings and during the initial assessment and inquiries stage to identify whether information given to the Royal Commission falls within our terms of reference.
16. Legislation at this time essentially positioned the children as being in need of control rather than care. For example, the objective of *The Queen's Asylum Act 1861* (Tas) was 'to provide for the better Control and Guardianship of the Children in the Queen's Asylum'.
17. An example is the Benevolent Asylum, a refuge for older men experiencing homelessness, deserted women and children, and people with mental disability. It was established by The Benevolent Society in 1821.
18. Societies for the Prevention of Cruelty to Children, an international child rescue organisation, established Australian branches between 1890 and 1906 to investigate child abuse and neglect. S Swain & M Hillel, *Child, nation, race and empire: Child rescue discourse, England, Canada and Australia, 1850-1915*, Manchester University Press, Manchester, 2010.
19. Inquiries that recommended boarding out included: Tasmania Royal Commission on Charitable Institutions (1871); Victoria Royal Commission on Sanitary Conditions in the Industrial Schools (1871); Victoria Royal Commission on Penal and Prison Discipline (1871-72); New South Wales Public Charities Commission (1873-74).
20. For a description of life in Victoria's boarding out system, see W Jacobsen, *Dussa and the maiden's prayer*, Victoria Press, Melbourne, 1994.
21. Human Rights and Equal Opportunity Commission, *Bringing them home: National inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*, Sydney, 1997, <https://www.humanrights.gov.au/publications/bringing-them-home-report-1997> (viewed 12 May 2014).
22. Percentage of sexual assaults not reported: in an institution placement, 91.5% of males and 88.3% of females; in a foster family placement, 90% of males and 70.4% of females. Human Rights and Equal Opportunity Commission, *ibid* p 141.
23. We have commissioned research into past definitions of child neglect including destitution, or where a parent or responsible person was unfit to retain care.
24. Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, Parliament House, Canberra, 2004, p 29, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Completed\\_inquiries/2004-07/inst\\_care/report/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/2004-07/inst_care/report/index) (viewed 12 May 2014).
25. This is the number of Aboriginal and Torres Strait Islander children forcibly removed between 1910 and 1970. Australia, House of Representatives 2008, *Debates*, No HR1, pp 167-173.

26. Human Rights and Equal Opportunity Commission, above note 21.
27. Senate Community Affairs References Committee, *Lost Innocents: Righting the record*, Parliament House, Canberra, 2001, p 69, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Completed\\_inquiries/1999-02/child\\_migrat/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/1999-02/child_migrat/index) (viewed 12 May 2014).
28. A Lamont & L Bromfield, 'History of child protection services', NCPC Resource Sheet, Australian Institute of Family Studies, Melbourne, October 2010, pp 2-3, <http://www.aifs.gov.au/nch/pubs/sheets/rs22/index.html> (viewed 12 May 2014).
29. Victoria continued having police and the Child Protection Society (CPS) perform child protection investigations. In the 1980s, the CPS could not get enough funding to meet demand and in 1985 the state government took over providing child protection services. This model, using both child protection and police, was abolished in 1994.
30. *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).
31. Lamont & Bromfield, above note 28, p 4; D Higgins & I Katz, 'Enhancing service systems for protecting children: Promoting child wellbeing and child protection reform in Australia', *Family Matters*, vol 80, 2008, pp 43-50, <http://www.aifs.gov.au/institute/pubs/fm2008/fm80.html> (viewed 12 May 2014).
32. AM Tomison, 'A history of child protection: Back to the future?', *Family Matters*, vol 60, 2001, pp 46-57, <http://www.aifs.gov.au/institute/pubs/fm2001/fm60.html> (viewed 12 May 2014).
33. Lamont & Bromfield, above note 28, p 6.
34. Council of Australian Governments, *Protecting children is everyone's business: National framework for protecting Australia's children 2009-2020*, Commonwealth of Australia, Canberra, 2009, pp 7-8, <https://www.coag.gov.au/node/224> (viewed 12 May 2014); C Hunter, 'Defining the public health model for the child welfare services context', *NCPC resource sheet*, Australian Institute of Family Studies, Melbourne, September 2011, <http://www.aifs.gov.au/nch/pubs/sheets/rs11/> (viewed 12 May 2014); Allen Consulting Group, *Inverting the pyramid: Enhancing systems for protecting children*, Melbourne, 2008, <http://www.acilallen.com.au/projects/15/community-services/19/inverting-the-pyramid-enhancing-systems-for-protecting-children> (viewed 12 May 2014); L Bromfield & P Holzer, *A national approach for child protection: Project report*, Australian Institute of Families, Melbourne, 2008; S O'Donnell & F Stanley, 'Child abuse and neglect - is it time for a public health approach?', *Australian and New Zealand Journal of Public Health*, vol 34, no 4, 2008, pp 325-330.
35. For an overview of the roles of Australian commissioners for children and child guardians, see NSW Commission for Children and Young People, *Role of Australian commissioners for children and child guardians*, <http://www.kids.nsw.gov.au/About-us/Commissioner/Australian-commissioners-and-guardians> (viewed 12 May 2014).

36. *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990), art 3(1).
37. *ibid*, art 30.
38. *ibid*, art 9(2).
39. For an analysis of the legal threshold for when the state must intervene to protect children, including legal definitions, see D Scott, 'Australian legal definitions: When is a child in need of protection?', Australian Institute of Family Studies, updated July 2013, <http://www.aifs.gov.au/cfca/pubs/factsheets/a142089/index.html> (viewed 12 May 2014).
40. For an analysis of the different child protection law offences and penalties, see Australian Law Reform Commission & NSW Law Reform Commission, 'Family violence – A national legal response ALRC Final Report 114, NSW Final Report 128, Canberra, 2010, pp 936–937, 941–942, <http://www.alrc.gov.au/publications/family-violence-national-legal-response-alrc-report-114> (viewed 12 May 2014).
41. Council of Australian Governments, above note 34, pp 12–13.
42. *ibid*, p 11.
43. *ibid*, p 31.
44. *ibid*, p 9.
45. Transcript of S Smallbone, Case study 2, 1 November 2013, 1499:8–14.
46. *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008), preambular para q.
47. Commissioner for Children and Young People Western Australia, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse *Issues Paper No 4: Preventing sexual abuse of children in out of home care*, released 11 September 2013.
48. See, for example, People with Disability Australia Inc., Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 3: Child safe institutions*, released 8 August 2013. See also Victorian Government, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse on *Issues Paper No 4: Preventing sexual abuse of children in out-of-home care*, released 11 September 2013.
49. People with Disability Australia Inc., *ibid*.
50. *ibid*.
51. *ibid*.
52. *ibid*.
53. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse on *Issues Paper No 4: Preventing sexual*

*abuse of children in out-of-home care*, released 11 September 2013: NSW Ombudsman; NSW Children's Guardian; Victorian Government.

54. Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians*, June 2011, cat no. 3238.0.55.001, updated August 2013, ABS, Canberra <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3238.0.55.001> (viewed 12 May 2014).
55. Victorian Aboriginal Child Care Agency, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 3: Child safe institutions*, released 8 August 2013.
56. *ibid.*
57. See Child Wise, *Yarning up about child sexual abuse: A guide for Aboriginal and Torres Strait Islander parents and carers*, undated, <http://www.childwise.net/page/37/online-publications> (viewed 12 May 2014).
58. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse on *Issues Paper No 4: Preventing sexual abuse of children in out-of-home care*, released 11 September 2013: Victorian Aboriginal Child Care Agency; Secretariat of National Aboriginal and Islander Child Care; Victorian Government; Aboriginal Child, Family and Community Care State Secretariat.
59. *Children and Young People Act 2008* (ACT) s 10; *Adoption Act 1993* (ACT) s 6; *Children and Young Persons (Care and Protection) Act 1998* (NSW) s 13; *Adoption Act 2000* (NSW) s 34; *Care and Protection of Children Act* (NT) s 12; *Adoption of Children Act 1994* (NT) s 11; *Child Protection Act 1999* (Qld) s 83; *Children's Protection Act 1993* (SA) s 4(5); *Adoption Act 1988* (SA) s 11; *Children, Young Persons and Their Families Act 1997* (Tas) s 9; *Children, Youth and Families Act 2005* (Vic) s 13; *Children and Community Services Act 2004* (WA) s 12; *Adoption Act 1999* (WA) sch 2A.
60. Victorian Government, above note 53.
61. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse on *Issues Paper No 4: Preventing sexual abuse of children in out-of-home care*, released 11 September 2013: Aboriginal Child, Family and Community Care State Secretariat; Victorian Aboriginal Child Care Agency; Secretariat of National Aboriginal and Islander Child Care; Australian Psychological Society.
62. The Royal Australian & New Zealand College of Psychiatrists, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 4: Preventing sexual abuse of children in out-of-home care*, released 11 September 2013.
63. *ibid.*
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65. The Royal Australian & New Zealand College of Psychiatrists, above note 62.

66. W O'Brien, *Australia's response to sexualised or sexually abusive behaviours in children and young people*, Australian Crime Commission, Canberra, 2010, pp 14-15, <https://www.crimecommission.gov.au/sites/default/files/NIITF-PSB-REPORT-2010.pdf> (viewed 12 May 2014).
67. Australian Association of Social Workers, above note 64.
68. M Irenyi et al., 'Child maltreatment in organisations: Risk factors and strategies for prevention', *Child Abuse Prevention Issues*, no 25, 2006, p 6, <http://www.aifs.gov.au/nch/pubs/issues/issues25/issues25.pdf> (viewed 12 May 2014).
69. Australian Association of Social Workers, above note 64.
70. *ibid.*
71. Irenyi et al., above note 68.
72. *ibid.*
73. Commissioner for Children and Young People Western Australia, above note 47.
74. National Association for Prevention of Child Abuse and Neglect, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 3: Child safe institutions*, released 8 August 2013.
75. CREATE Foundation, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 4: Preventing sexual abuse of children in out-of-home care*, released 11 September 2013.
76. Commissioner for Children and Young People Western Australia, above note 73.
77. *ibid.*
78. CREATE Foundation, above note 75.
79. Commissioner for Children and Young People Western Australia, above note 47; NSW Office of Children's Guardian, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 4: Preventing sexual abuse of children in out-of-home care*, released 11 September 2013.
80. Human Rights and Equal Opportunity Commission, *A last resort? National inquiry into children in immigration detention*, Sydney, 2004, p 334, [https://www.humanrights.gov.au/sites/default/files/document/publication/alr\\_complete.pdf](https://www.humanrights.gov.au/sites/default/files/document/publication/alr_complete.pdf) (viewed 12 May 2014).
81. *ibid.*, p 335.
82. Australian Federal Police, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 3: Child Safe Institutions*, released 8 August 2013.
83. A child is defined as a person who is less than 17 years old, see: *Youth Justice Act 1992* (Qld) Sch 4.

84. Micah Projects, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 3: Child Safe Institutions*, released 8 August 2013; Queensland Commissioner for Children and Young People and the Child Guardian, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 3: Child Safe Institutions*, released 8 August 2013.
85. *Youth Justice Act 1992* (Qld) ss 276A–276E.
86. D Allnock & P Hynes, *Therapeutic services for sexually abused children and young people: Scoping the evidence base*, National Society for the Prevention of Cruelty to Children, London, 2012, pp 13–15, [http://www.nspcc.org.uk/Inform/resourcesforprofessionals/sexualabuse/evidence-scoping\\_wda88611.html](http://www.nspcc.org.uk/Inform/resourcesforprofessionals/sexualabuse/evidence-scoping_wda88611.html) (viewed 12 May 2014).
87. *ibid*, p 12.
88. J Cashmore & R Shackel, 'The long-term effects of child sexual abuse', *CFCA paper*, no 11, Australian Institute of Family Studies, 2013, pp 7–12, [www.aifs.gov.au/cfca/pubs/papers/a143161/cfca11.pdf](http://www.aifs.gov.au/cfca/pubs/papers/a143161/cfca11.pdf) (viewed 12 May 2014).
89. M Cutajar et al., 'Psychopathology in a large cohort of sexually abused children followed up to 43 years', *Child Abuse & Neglect*, vol 34, no 11, 2010, pp 813–822; L Wall & A Quadara, 'Acknowledging complexity in the impacts of sexual victimisation trauma', *ACSSA Issues*, vol 16, Australian Institute of Family Studies, 2014, pp 7–10, <http://www.aifs.gov.au/acssa/pubs/issue/i16/issues16.pdf> (viewed 12 May 2014).
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## CHAPTER 5

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32. *Crimes Act 1900* (NSW) s 316(1) (providing: 'If a person has committed a serious indictable offence and another person who knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for it fails without reasonable excuse to bring that information to the attention of a member of the Police Force or other appropriate authority, that other person is liable to imprisonment for 2 years').
33. *A v Hayden* (1984) 156 CLR 532; *Sykes v DPP* [1962] AC 528. However, in most states and territories this offence has been abolished, whether in common law states or in those jurisdictions with a criminal code. Several cases demonstrate the capacity for this offence to be made out for acts or omissions where the common law offence had either not yet been abolished, or where the distinction between felonies and misdemeanors had not been withdrawn. See, for example, *R v Wozniak* (1989) 16 NSWLR 185; *R v Lovegrove* (1983) 33 SASR 332; *R v Crimmins* [1959] VR 270.
34. See generally D Butler et al., 'Teachers' duties to report suspected child abuse and tortious liability', *Torts Law Journal*, vol 17, 2009, pp 1-23.
35. See B Mathews et al., 'Teachers' policy-based duties to report child sexual abuse: a comparative study', *Australia & New Zealand Journal of Law & Education*, vol 13, no 2, 2008, pp 23-37.
36. Australian Childhood Foundation, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 3: Child safe institutions*, 17 October 2013.
37. Irenyi et al., above note 17, p 19.
38. Hunter, above note 8, p 2.

39. Exhibit 2-0041, Case study 2, EXP.0001.001.0001 at 0008.
40. *Letters Patent* (Cth), 11 January 2013, (b), (c), (g).
41. Exhibit 4-0043, 'Statement of "DK"', Case study 4, STAT.0075.001.0001\_R\_M at 0010\_R\_M, para 39.
42. Transcript of H Gitsham, Case study 9, 17 March 2014, SA776:9-12, 18.
43. Exhibit 2-0041, 'Report of Professor Stephen Smallbone', Case study 2, EXP.0001.001.0001\_R at 0018\_R, paras 92-96.
44. Family and Community Development Committee, *Betrayal of Trust: Inquiry into the handling of child abuse by religious and other non-government organisations*, vol 1, Parliament of Victoria, Melbourne, 2013, p 313.
45. Data relates only to complainants who sought redress through *Towards Healing*. It does not include cases where complainants sought redress through other avenues, such as a civil or criminal complaint or other means with the relevant Catholic Church authority. In addition, inconsistencies in the record-keeping of individual professional standards offices also means the data is incomplete.
46. Francis Sullivan, 'Taking notice and taking action,' *Truth Justice and Healing Council Blog*, 23 December 2013, <http://www.tjhcouncil.org.au/media/60262/Blog-34-Taking-notice-and-taking-action.pdf> (viewed 12 May 2014).
47. Exhibit 7-0004, 'Statement of "OA"', Case study 7, STAT.0160.001.0001\_R at 0007\_R, paras 36-37, 41.
48. Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 1: The response of institutions to the conduct of Steven Larkins*, Sydney, 2014, pp 5, 6, 16, 21.
49. Surf Life Saving Australia, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 1: Working with Children Check*, 14 August 2013.
50. D Hart, *Archbishop Hart to revisit Melbourne Response compensation cap*, media release, Catholic Archdiocese of Melbourne, 4 April 2014.
51. *ibid.*
52. knowmore, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No. 5: Civil litigation*, released 6 December 2013.
53. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No. 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; Care Leavers Australia Network; Rev Graham Nathan Guy; knowmore; Law Council of Australia; Mark Cohen; NSW Bar Association; Ryan Carlisle Thomas; The Salvation Army Australia; Victorian Aboriginal and Legal Services & Human Rights Law Centre.

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54. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Anglican Church; Alliance of Forgotten Australians; Australian Lawyers Alliance; Bravehearts; Care Leavers Australia Network; Geraldton Community Legal Centre; Rev Graham Nathan Guy; Kate Mannix; Kingsford Legal Centre; knowmore; Law Council of Australia; Micah Projects; NSW Bar Association; Ryan Carlisle Thomas; The Salvation Army Australia.
55. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; Rev Graham Nathan Guy; Law Council of Australia; Mark Cohen; NSW Bar Association; The Salvation Army Australia.
56. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Centre for Excellence in Child and Family Welfare; Kate Mannix; Legal Aid NSW; Ryan Carlisle Thomas; Victorian Aboriginal and Legal Services & Human Rights Law Centre; Victorian Commission for Children and Young People.
57. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; Centre for Excellence in Child and Family Welfare; knowmore; Legal Aid NSW; The Salvation Army Australia; Victorian Aboriginal and Legal Services & Human Rights Law Centre; Victorian Commission for Children and Young People.
58. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; Centre for Excellence in Child and Welfare; Rev Graham Nathan Guy; knowmore; NSW Bar Association; Victorian Commission for Children and Young People.
59. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; Care Leavers Australia Network; Kate Mannix; knowmore; Ryan Carlisle Thomas.
60. A number of submissions referred to the Australian case *New South Wales v Lepore; Samin v Queensland; Rich v Queensland* (2003) 212 CLR 511. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; knowmore; Law Council of Australia; NSW Bar Association; Ryan Carlisle Thomas; The Salvation Army Australia; Dr Jane Wangmann.
61. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; Bravehearts; knowmore; Law Council of Australia; Micah Projects; Ryan Carlisle Thomas; Victorian Aboriginal Legal Service & Human Rights

Law; Dr Jane Wangmann.

62. The term 'vicarious liability' refers to the legal liability of one person for the conduct of another where there is a legal relationship between them, such as employer/employee.
63. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; Bravehearts; Care Leavers Australia Network; Rev Graham Nathan Guy; knowmore; Micah Projects; Ryan Carlisle Thomas; Victorian Commission for Children and Young People.
64. The term 'non-delegable duty' refers to a legal responsibility that cannot be assigned to another person.
65. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: ACT Children and Young People; Australian Lawyers Alliance; Care Leavers Australia Network; Centre for Excellence in Child and Family Welfare; knowmore; Ryan Carlisle Thomas; Victorian Commission for Children and Young People; Dr Jane Wangmann.
66. Family and Community Development Committee, *Betrayal of Trust: Inquiry into the handling of child abuse by religious and other non-government organisations*, vol 2, Parliament of Victoria, Melbourne, 2013, p 552.
67. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; Centre for Excellence in Child and Family Welfare; Law Council of Australia; Legal Aid NSW; NSW Bar Association; The Salvation Army Australia; Victorian Aboriginal and Legal Services & Human Rights Law Centre; Victorian Commission for Children and Young People.
68. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Alliance for Forgotten Australians; Australian Lawyers Alliance; Barnardos Australia; Bravehearts; Care Leavers Australia Network; Centre for Excellence in Child and Family Welfare; Dr Ben Mathews; Geraldton Community Legal Centre; Rev Graham Nathan Guy; Janice MacKenzie; knowmore; Legal Aid NSW; Micah Projects; Ryan Carlisle Thomas; Victorian Aboriginal Legal Service & Human Rights Law Centre; Wirringa Baiya Aboriginal Women's Legal Centre.
69. An example is Bravehearts' submission which states: 'Even if a survivor is aware of the possibility of legal action, they may decide that to take such action would revive traumatic memories and may even be destructive and therefore delay proceeding with the matter.' See Bravehearts, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013.
70. Bravehearts, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013.

71. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; Barnardos Australia; Bravehearts; Care Leavers Australia Network; Centre for Excellence in Child and Family Welfare; Mark Cohen; Rev Graham Nathan Guy; knowmore; Legal Aid NSW; Janice MacKenzie, Dr Ben Mathews; Micah Projects; NSW Bar Association; Ryan Carlisle Thomas; Victorian Aboriginal and Legal Services & Human Rights Law Centre; Victorian Commission for Children and Young People; Wirringa Baiya Aboriginal Women's Legal Centre.
72. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: knowmore; Law Council of Australia; The Salvation Army Australia.
73. Anglican Church, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013.
74. Family and Community Development Committee, above note 66, p 543.
75. Victorian Government, *Response to the report of Family and Community Development Committee inquiry into the handling of child abuse by religious and other non-government organisations 'Betrayal of trust'*, 8 May 2014, p 8, <http://www.parliament.vic.gov.au/fcdc/article/1788> (viewed 14 May 2014).
76. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Alliance for Forgotten Australians; Anglican Church; Brian Cherrie; Kingsford Legal Centre; knowmore.
77. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Alliance for Forgotten Australians; Australian Lawyers Alliance; Centre for Excellence in Child and Family Welfare; Mark Cohen; Law Council of Australia; Legal Aid NSW; Janice MacKenzie; NSW Bar Association; Victorian Aboriginal and Legal Services & Human Rights Law Centre; Wirringa Baiya Aboriginal Women's Legal Centre.
78. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: ACT Children and Young People; Australian Lawyers Alliance; Bravehearts; Care Leavers Australia Network; Centre for Excellence in Child and Family Welfare; knowmore; Law Council of Australia; Victorian Aboriginal and Legal Services & Human Rights Law Centre; Wirringa Baiya Aboriginal Women's Legal Centre.
79. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Bravehearts; Dr Ben Mathews; Shine Lawyers.
80. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; Barnardos Australia; Care Leavers Australia Network;

Centre for Excellence in Child and Family Welfare; knowmore; Law Council of Australia; Kevin Linderberg; Legal Aid NSW; NSW Bar Association; Ryan Carlisle Thomas; The Salvation Army Australia; Victorian Aboriginal and Legal Services & Human Rights Law Centre; Victorian Branch of the Records and Information Management Professionals Association of Australasia; Wirringa Baiya Aboriginal Women's Legal Centre.

81. Wirringa Baiya Aboriginal Women's Legal Centre, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013.
82. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Anglican Church; Australian Psychological Society; Barnardos Australia; Bravehearts; Centre for Excellence in Child and Family Welfare; Geraldton Community Legal Centre; Kingsford Legal Centre; knowmore; Kevin Linderberg; Dr Ben Mathews; Micah Projects; The Salvation Army Australia; Victorian Aboriginal and Legal Services & Human Rights Law Centre; Dr Jane Wangmann; Wirringa Baiya Aboriginal Women's Legal Centre. Other recommendations include setting up an independent reparations tribunal: Janice MacKenzie; Ryan Carlisle Thomas.
83. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Australian Lawyers Alliance; NSW Bar Association.
84. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: ACT Children and Young People; Barnardos Australia; Bravehearts; Centre for Excellence in Child and Family Welfare; Geraldton Community Legal Centre; Janice MacKenzie; Micah Projects; The Salvation Army Australia; Victorian Aboriginal Legal Service & Human Rights Law Centre.
85. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Anglican Church; Australian Lawyers Alliance; Geraldton Community Legal Centre; Janice MacKenzie; Legal Aid NSW; NSW Bar Association; Wirringa Baiya Aboriginal Women's Legal Centre.
86. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Alliance for Forgotten Australians; Anglican Church; Australian Lawyers Alliance; Bravehearts; Care Leavers Australia Network; Brian Cherrie; Micah Projects; Ryan Carlisle Thomas; The Salvation Army Australia; Victorian Aboriginal Legal Services & Human Rights Law Centre.
87. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013: Anglican Church; Rev Graham Nathan Guy; Legal Aid NSW; Victorian Aboriginal and Legal Services & Human Rights Law Centre; Wirringa Baiya Aboriginal Women's Legal Centre.

88. Care Leavers Australia Network, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 5: Civil litigation*, released 6 December 2013.
89. Law Commission of Canada, *Restoring dignity: Responding to child abuse in Canadian institutions*, Minister of Public Works and Government Services, Quebec, 2000.
90. This refers to the Commission of Inquiry into Abuse of Children in Queensland Institutions that reported in August 1999. Ms Leneen Forde AC was the Chair of the Commission.
91. This refers to the South Australian Children in State Care Commission of Inquiry that reported in March 2008. The Hon. Ted Mullighan QC was Commissioner.
92. This refers to the WA special inquiry that examined the conduct and response of relevant public officials and government agencies relating to allegations of sexual abuse at St Andrew's Hostel in Katanning, which reported in August 2012. The Hon. Peter Blaxell was the Special Inquirer.
93. Community Affairs References Committee, *Forgotten Australians: Report on Australians who experienced institutional or out-of-home care as children*, Parliament House, Canberra, 2004, pp 227-228.
94. Defence Abuse Response Taskforce, *Fifth interim report to the Attorney-General and Minister for Defence*, Canberra, March 2014, p 6, <http://www.defenceabusetaaskforce.gov.au/reports/Documents/dart-fifth-interim-report.pdf> (viewed 12 May 2014).

## CHAPTER 6

1. Australia, House of Representatives 2013, *Debates*, vol HR2, pp 1,116-1,117.
2. See the following submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse on *Issues Paper No 4: Preventing sexual abuse of children in out-of-home care*, released 11 September 2013: NSW Ombudsman; NSW Children's Guardian; Victorian Government.
3. See, for example, People with Disability Australia Inc., Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper No 3: Child safe institutions*, released 8 August 2013. See also Victorian Government, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse on *Issues Paper No 4: Preventing sexual abuse of children in out-of-home care*, released 11 September 2013.
4. JRP Ogloff et al., 'Child sexual abuse and subsequent offending and victimisation: A 45 year follow-up study', *Trends & issues in crime and criminal justice*, no 440, Australian Institute of Criminology, Canberra, 2012. This study shows that victims of child sexual abuse are five times more likely to be convicted of a crime than the general population.

## APPENDIX C

1. Unless otherwise indicated, differences are significant at  $p < 0.05$ .
2. The religious affiliation breakdown is in line with the Australian Bureau of Statistics' *Australian Standard Classification of Religious Groups*, second edition, 2011. Please see <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/1266.0main+features102011>.





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ISBN 978-1-925118-26-1  
Published June 2014