



Submission from the
Truth Justice and Healing Council

Royal Commission into Institutional Responses to Child Sexual Abuse

Issues Paper No. 9 | Addressing the risk of child sexual abuse in
primary and secondary schools

18 September 2015



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Justice Peter McClellan AM
Chair
Royal Commission into
Institutional Responses to Child Sexual Abuse

Via email: solicitor@childabuseroyalcommission.gov.au

Dear Justice McClellan,

As you know, the Truth Justice and Healing Council (the Council) has been appointed by the Catholic Church in Australia to oversee the Church's response to the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission).

We now provide the Council's submission in response to the Royal Commission's ninth Issues Paper, on addressing the risk of child sexual abuse in primary and secondary schools.

Yours sincerely

Neville Owen
Chair
Truth Justice and Healing Council

18 September 2015



Our Commitment

The leaders of the Catholic Church in Australia recognise and acknowledge the devastating harm caused to people by the crime of child sexual abuse. We take this opportunity to state:

- Sexual abuse of a child by a priest or religious is a crime under Australian law and under canon law.
- Sexual abuse of a child by any Church personnel, whenever it occurred, was then and is now indefensible.
- That such abuse has occurred at all, and the extent to which it has occurred, are facts of which the whole Church in Australia is deeply ashamed.
- The Church fully and unreservedly acknowledges the devastating, deep and ongoing impact of sexual abuse on the lives of the victims and their families.
- The Church acknowledges that many victims were not believed when they should have been.
- The Church is also ashamed to acknowledge that, in some cases, those in positions of authority concealed or covered up what they knew of the facts, moved perpetrators to another place, thereby enabling them to offend again, or failed to report matters to the police when they should have. That behaviour too is indefensible.
- Too often in the past it is clear some Church leaders gave too high a priority to protecting the reputation of the Church, its priests, religious and other personnel, over the protection of children and their families, and over compassion and concern for those who suffered at the hands of Church personnel. That too was and is inexcusable.
- In such ways, Church leaders betrayed the trust of their own people and the expectations of the wider community.
- For all these things the Church is deeply sorry. It apologises to all those who have been harmed and betrayed. It humbly asks for forgiveness.

The leaders of the Catholic Church in Australia commit ourselves to endeavour to repair the wrongs of the past, to listen to and hear victims, to put their needs first, and to do everything we can to ensure a safer future for children.

Authorising Church Bodies

The following Catholic Church bodies have authorised the Truth Justice and Healing Council to represent them at the Royal Commission:

Dioceses

Archdiocese of Adelaide	Diocese of Broome	Diocese of Sandhurst
Archdiocese of Brisbane	Diocese of Bunbury	Diocese of Toowoomba
Archdiocese of Canberra-Goulburn	Diocese of Cairns	Diocese of Townsville
Archdiocese of Hobart	Diocese of Darwin	Diocese of Wagga Wagga
Archdiocese of Melbourne	Diocese of Geraldton	Diocese of Wilcannia-Forbes
Archdiocese of Perth	Diocese of Lismore	Diocese of Wollongong
Archdiocese of Sydney	Diocese of Maitland-Newcastle	Eparchy of Ss Peter & Paul Melbourne
Diocese of Armidale	Diocese of Parramatta	Maronite Catholic Diocese of St Maroun
Diocese of Ballarat	Diocese of Port Pirie	Military Ordinariate of Australia
Diocese of Bathurst	Diocese of Rockhampton	Personal Ordinariate of Our Lady of the Southern Cross
Diocese of Broken Bay	Diocese of Sale	

Religious Institutes

Adorers of the Blood of Christ	Institute of Sisters of Mercy Australia & Papua New Guinea	Sisters of Jesus Good Shepherd "Pastorelle"
Augustinian Recollect Sisters	Loreto Sisters	Sisters of Mercy Brisbane
Augustinian Sisters, Servants of Jesus & Mary	Marist Brothers	Sisters of Mercy North Sydney
Australian Ursulines	Marist Fathers Australian Province	Sisters of Mercy Parramatta
Benedictine Community of New Norcia	Marist Sisters – Congregation of Mary	Sisters of Nazareth
Blessed Sacrament Fathers	Ministers of the Infirm (Camillians)	Sisters of Our Lady of Sion
Brigidine Sisters	Missionaries of God's Love	Sisters of St Joseph
Canons Regular of Premontre (Norbertines)	Missionaries of the Sacred Heart	Sisters of St Joseph of the Apparition
Canossian Daughters of Charity	Missionary Franciscan Sisters of the Immaculate Conception	Sisters of St Joseph of the Sacred Heart
Capuchin Friars	Missionary Sisters of Mary, Queen of the World	Sisters of St Joseph, Perthville
Christian Brothers	Missionary Sisters of St Peter Claver	Sisters of St Paul de Chartres
Cistercian Monks	Missionary Sisters of Service	Sisters of the Good Samaritan
Columban Fathers	Missionary Sisters of the Sacred Heart	Sisters of the Good Shepherd
Congregation of the Mission – Vincentians	Missionary Sisters of the Society of Mary	Sisters of the Holy Family of Nazareth
Congregation of the Most Holy Redeemer – Redemptorists	Missionary Society of St Paul	Sisters of the Little Company of Mary
Congregation of the Passion – Passionists	Oblates of Mary Immaculate	Sisters of the Resurrection
Congregation of the Sisters of Our Lady Help of Christians	Order of Brothers of the Most Blessed Virgin Mary of Mount Carmel (Carmelites)	Society of African Missions
Daughters of Charity	Order of Friars Minor Conventual	Society of the Catholic Apostolate (Pallottines)
Daughters of Mary Help of Christians	Order of Saint Augustine	Society of Jesus
Daughters of Our Lady of the Sacred Heart	Order of the Friar Servants of Mary (Servite Friars)	Society of St Paul
Daughters of St Paul	Our Lady of the Missions	Society of the Divine Word Australian Province
De La Salle Brothers	Patrician Brothers	Society of the Sacred Heart
Discalced Carmelite Friars	Pious Society of St Charles – Scalabrinians	Sylvestrine-Benedictine Monks
Dominican Friars	Poor Clare Colettines	Ursuline Missionaries of the Sacred Heart
Dominican Sisters of Eastern Australia & The Solomons	Presentation Sisters – Lismore	Verbum Dei Missionary Fraternity
Dominican Sisters of North Adelaide	Presentation Sisters – Queensland Congregation	
Dominican Sisters of Western Australia	Presentation Sisters – Tasmania	
Faithful Companions of Jesus	Presentation Sisters – Victoria	
Family Care Sisters	Presentation Sisters – Wagga Wagga Congregation	
Franciscan Friars	Presentation Sisters – WA	
Franciscan Missionaries of Mary	Religious of the Cenacle	
Franciscan Missionaries of the Divine Motherhood	Salesians of Don Bosco	
Franciscans of the Immaculate	Salvatorian Fathers – Society of the Divine Saviour	
Holy Cross – Congregation of Dominican Sisters	Secular Institute of the Schoenstatt Sisters of Mary	
Holy Spirit Missionary Sisters	Servants of the Blessed Sacrament	
Hospitaller Order of St John of God	Sisters of Charity of Australia	

Other Entities

Australian Catholic Bishops Conference
Catholic Religious Australia
Catholic Church Insurance Limited
National Committee for Professional Standards
Professional Standards Office Tasmania
Professional Standards Office NSW/ACT
Professional Standards Office NT
Professional Standards Office Qld
Edmund Rice Education Australia
Good Samaritan Education
Kildare Ministries
Loreto Mandeville Hall Toorak
Trustees of Mary Aikenhead Ministries



The Truth Justice and Healing Council

The Catholic Church in Australia (the Church) welcomes the establishment of the Royal Commission into Institutional Responses to Child Sexual Abuse as an opportunity to acknowledge the truth about child sexual abuse within the Church, and to have these issues investigated and considered, objectively and publicly. It is an opportunity to bear witness to the suffering of the many victims of this abuse.

The Church is committed to cooperating with the Royal Commission, without reservation or qualification.

In February 2013 the Australian Catholic Bishops Conference (ACBC) and Catholic Religious Australia (CRA)¹ jointly established the Truth Justice and Healing Council (the Council) to coordinate and oversee the Church's overall response to and appearance at hearings of the Royal Commission.

The Council is a body of 12 people, with expertise spanning such fields as child sexual abuse, trauma, mental illness, suicide, psycho-sexual disorders, education, public administration, law and governance. The majority of Council members are lay, two of its members are bishops, and one of its members is a Brigidine sister. Three of the Council members are either themselves victims of abuse or have immediate family members who are victims. The Council provides independent advice to the ACBC and CRA, through a Supervisory Group, which is comprised of the Permanent Committee of the ACBC, and representatives of CRA. The Supervisory Group may accept or reject the advice.

The Supervisory Group endorses this Submission. The members of the Supervisory Group are listed on the TJHC website [here](#).²

The Council is chaired by the Hon Neville Owen, former judge of the Supreme Court of Western Australia and former HIH Royal Commissioner. Mr Owen's appointment follows the death of the Council's inaugural Chair, the Hon Barry O'Keefe in April 2014.

The other members of the Council are:

- Ms Elizabeth Proust AO, Deputy Chair, former Secretary to the Victorian Department of Premier and Cabinet, Chairman of the Bank of Melbourne and Nestlé Australia and member of other boards
- Archbishop Mark Coleridge, Archbishop of Brisbane
- Professor Maria Harries AM, Adjunct Professor at Curtin University and Research Fellow in Social Work and Social Policy at the University of Western Australia
- Mr Jack Heath, CEO of SANE Australia
- Associate Professor Rosemary Sheehan AM, Department of Social Work, Faculty of Medicine, Nursing and Health Sciences, Monash University

¹ CRA is the peak body, previously known as the Australian Conference of Leaders of Religious Institutes, for leaders of religious institutes and societies of apostolic life resident in Australia.

² <http://www.tjhcouncil.org.au/about-us/members-of-supervisory-group.aspx>

- Hon Greg Crafter AO, former South Australian Minister of Education
- Sr Maree Marsh, former Congregational Leader of the Brigidine Sisters and psychologist with Anti-Slavery Australia at the University of Technology Sydney, Faculty of Law
- Bishop Bill Wright, Bishop of the Diocese of Maitland-Newcastle
- Professor Greg Craven, Vice-Chancellor of the Australian Catholic University
- Mr Stephen Elder, former Member of the Victorian Legislative Assembly and Parliamentary Secretary for Education and currently Executive Director of Catholic Education for the Archdiocese of Melbourne
- Dr Marian Sullivan, child and adolescent psychiatrist.

The CEO of the Council, Mr Francis Sullivan, has worked in government and private practice and has held positions as Secretary-General of the Australian Medical Association, Chief Executive of Catholic Health Australia and consultant to the Pontifical Council for the Pastoral Care of Health Care Workers at the Vatican. He is an Adjunct Professor at the Australian Catholic University.

The Council oversees the Church's engagement with the Royal Commission, including by:

- speaking for the Church in matters related to the Royal Commission and child sexual abuse
- coordinating the Church's legal representation at, and the Church's participation in, the Royal Commission.

The Council's role extends to:

- initiating research into best practice procedures, policies and structures to protect children
- assisting in identifying any systemic institutional failures that have impeded the protection of children
- providing information to the Royal Commission concerning the various procedures, policies and structures that have been successively put in place by Church organisations over the past 25 years to deal with complaints and instances of child sexual abuse and any improvements which might be made to them to provide greater protection for children
- seeking to promote lasting healing for the victims and survivors of abuse.

To date, 32 dioceses and 97 religious institutes (commonly referred to as congregations and orders) have given an authorisation to the ACBC or CRA, authorising those bodies to represent and act for them in the engagement of the Church with the Royal Commission.

The ACBC and CRA have in turn delegated that authority to the Council. The Council therefore seeks to appear at the Royal Commission for all the authorising bodies, and will speak with one voice for all of them.

Pursuant to these arrangements, the Council acts for all archdioceses and dioceses in Australia, with the exception of three of the Eastern Rite Eparchies, and for all the major religious institutes. The Council also acts for a number of other Catholic organisations including Catholic Church Insurance Limited (CCI).

For practical purposes, the Council will ordinarily speak for the whole Church: its dioceses, its religious institutes, its priests and religious, in the Royal Commission.

The Catholic Church in Australia today is an extensive and diverse religious organisation committed to worship, prayer and pastoral care. It is involved in providing pastoral, educational, health, human and social services across Australia.³

Notwithstanding that all the dioceses and religious institutes are autonomous and independent, each from the other, with no one central or controlling authority, and with each free to govern its affairs separately and independently, all are united in their support for the principles stated in the Commitment at the head of this Submission.

Those principles are also fully shared by all the innocent and high-minded priests and religious whose long years of devoted and selfless service have been admirable and who are heartbroken by the revelations of sexual abuse which have emerged in recent decades.

The Council's aim is to do everything in its power to ensure that the Royal Commission has available to it from the Church all the material that it needs for the work it seeks to do, so as to ensure that a light is shone on dark places and times and events, and to ensure that nothing is concealed or covered up in respect of what Church personnel did or failed to do.

The Council seeks to fulfil that role, on behalf of the Church, in a spirit of honesty, openness and genuine humility.

³ See Annexure B, TJHC Submission to Royal Commission Issues Paper No 2: Towards Healing, 30 September 2013
http://tjhcouncil.org.au/media/39435/30549468_2_TJHC-Towards-Healing-submission-30-Sep-2013.pdf

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Executive Summary

Topic A: General questions

- 1 Eliminating the possibility of child sexual abuse in school settings is the ultimate aim of all Australian Catholic school authorities. To achieve that aim, every attempt is being made to create systems and processes that reduce the risks to children and young people.
- 2 Ideally the approach to these systems and processes should be consistent and apply equally to government and non-government schools nationally.
- 3 Current stringent regulatory requirements mean that schools have a sound basis upon which to develop processes, practices and procedures, however compliance must constantly be linked to the right of children to a secure and safe environment. It is therefore important that resources are diverted to proper education and training, rather than creating an unnecessarily punitive system.
- 4 The National Safe Schools Framework (NSSF) provides a set of guiding principles and useful practical resources for school communities to use to develop and foster a culture and philosophy of providing a safe environment for all students. School registration and accreditation processes provide an opportunity to review and apply the NSSF elements at an individual school level, to ensure schools are maintaining a safe and supportive environment for students.

Topic B: Governance and leadership

- 5 The ideal way for school governance arrangements to be strengthened to better respond to child protection issues would be through harmonised legislation nationally. The resulting consistent requirements for schools could be integrated into school review and improvement processes and could include transparent standards and practices for reporting to the school community.
- 6 There needs to be an integrated and collaborative approach to building safe and respectful school communities. Greater collaboration will promote ownership and understanding and will increase the impact of any outcome. It will also encourage more active child, parent and family voices.

Topic C: Protection and support services for children and specific student populations

- 7 In addressing safety and protection of all children in a school community, a whole-of-school approach that encompasses governance, school culture, policies and practices, training, learning, support and intervention services and community partnerships provides the best opportunity to meet the needs of the full diversity of students.
- 8 The elements of the NSSF support proactive initiatives to build safe and supportive communities as well as to respond effectively to situations that are unsafe for children and young people and require further intervention. As school systems develop accountability mechanisms to increase the effectiveness and implementation of frameworks, the NSSF or an equivalent standard could be a useful tool through which to demonstrate legislative compliance.
- 9 Schools need systems to facilitate an understanding of the student cohort and the identification of particular vulnerabilities or needs within the student population. It is desirable to seek feedback from students

concerning the school's performance in creating a safe school environment. Such data can be used to plan, implement and review processes and programs to protect and support students.

- 10 The wellbeing of students is a first order responsibility of schools and it is important to support efforts of schools and school systems to ensure sufficient attention is paid to this dimension. A professional and caring response can influence further positive communication from a vulnerable child. Staff training which involves skills in communication and reporting procedures can be critical in a positive intervention and support for a sexual abuse victim and their family. School counselling and psychological services play a valuable role in supporting students who have been affected by abuse, both by providing direct support and in assisting families to access external services. In this it is essential that schools do not attempt to be 'one stop shops' for all issues but rather see themselves in a community context.
- 11 Children and families impacted by child abuse must be able to readily access support services. The resources available to schools to support activities aimed at the safety and wellbeing of children vary between schools and are dependent on the size, type and location of the school and the availability of services.
- 12 The boarding school environment necessitates an additional level of care. Adoption of the National Boarding Standard may result in greater consistency in the way that boarding facilities operate. Boarding facilities must take into account the obligation to meet the cultural support needs of Aboriginal and Torres Strait Islander students.
- 13 Rural areas often have less access to support services and training, and professional learning can be more costly and difficult to access. Furthermore it is more difficult to attract and retain staff with the required knowledge and skills, and cultural expertise in rural areas. Geographical isolation should not prevent a universal approach to child protection policies, training and operational guidelines.

Topic D: Registration of non-government schools, not-for-profit and corporate entities

- 14 The registration of all schools, government and non-government, should be conditional on compliant child-safe principles, policies and procedures. This is already the case in a number of jurisdictions. The adequacy of a school's approach can be assessed through the cyclical registration and accreditation process and through active supervision by the respective state authorities.
- 15 Most non-government primary and secondary schools in Australia are not for profit organisations and therefore are bound to comply with the requirements of the Australian Charities and Not-for-profit Commission (ACNC). The 'responsible person' of each of the schools (the ACNC definition, not the Education Act definition) therefore needs to comply with the ACNC governance standards. Since the ACNC has no jurisdiction in relation to government schools, national oversight/regulation in this area by the ACNC would not be appropriate.
- 16 Duplication of accountability should be avoided wherever possible. Over-regulation will not improve prevention or solve the problems of identifying, reporting or responding to child sexual abuse.

Topic E: Education, training, professional support and primary prevention

- 17 In the Catholic education sector, most Catholic schools carry out student protection training annually. Additional training is provided to specific staff nominated as Student Protection Contacts (or equivalent) to enable them to provide support and guidance to other staff and assist them fulfil their obligations.

- 18 Teachers are in a privileged position of having daily contact with children and young people. In many instances they are seen as supportive adults by students. They build relationships with students over time and therefore are better placed than most to know when something is not right. Teachers therefore need to be supported to develop knowledge about child abuse and neglect, how to identify behaviours indicative of child sexual abuse, how to appropriately respond to risks or incidents of child sexual abuse and understand the dynamics of children displaying problem sexual behaviour.
- 19 The fundamental issues of understanding, identifying and responding to child abuse and harm are the same across Australia. However, there is no consistent approach to university and pre-service teacher training in child protection. A harmonised, national approach requiring child protection training as a minimum requirement for entering the profession would be more efficient and effective.
- 20 Training should not be exclusive to teachers. School officers and support staff play an equally important role in identifying and responding to abuse and harm. Training must thus be accessible to all staff members.
- 21 If schools remain individually responsible for creating and delivering child protection education, greater support needs to be given to teachers delivering the curriculum. Continued professional development and opportunities for debriefing are necessary for these staff members.
- 22 In the delivery of child protection education, as with any educational program, the diversity of the target group should be acknowledged. Whilst there needs to be a consistency in message, the delivery of the message must take into account the needs of the student population.

Topic F: Reporting, information sharing, complaints and investigations

- 23 In Catholic schools across Australia teachers and other staff are trained to report child sexual abuse. However, since there has been no overall evaluation of the training nor an assessment of the ability of staff to understand and apply the training in the school setting, unanswered questions remain as to whether the training assists in equipping school staff in understanding and carrying out their role reporting child sexual abuse.
- 24 Mandatory reporting and reportable conduct schemes are critical to dealing with the complexities of child protection, however there can be a high degree of hesitancy to report and/or to act decisively. Legislative compliance removes the element of choice in relation to reporting real or suspected child sexual abuse.
- 25 The current multiple reporting obligations are quite complex and require a substantial level of understanding by those responsible for managing a school's mandatory reporting obligations.
- 26 Investigations into allegations of child sexual abuse must be child-focused. The process must be clearly explained, the child's views and needs taken into consideration, and ongoing support facilitated. In such cases there needs to be a standard of investigation that is professionally competent and objective as well as reflective of the potential seriousness of the matter. Natural justice and adequate assistance such as counselling should be offered to all involved.
- 27 The ability of schools and government agencies to share relevant information is inconsistent in Australia and requires review. Privacy considerations need to be weighed against what is in the best interests of children.

Recommendations

1. To ensure child protection compliance requirements are child-focussed, clear and able to be fulfilled, legislation for schools should be harmonised. Mandatory reporting laws would also be better refined for school environments by harmonisation. Harmonisation and the resulting consistency would significantly enhance the ability of schools and school systems to give effect to these requirements at a practical level.
2. As recently recommended by the Royal Commission, a national Working With Children Check should be implemented as a priority.
3. Legislative change should also be made to school registration and teacher accreditation in primary and secondary schools to harmonise requirements and ensure an emphasis in these processes on child safety.
4. National standards through the National Safe Schools Framework should be uniformly adopted. Compliance could be monitored by means of the Australian Government Compliance Annual Certificate requirements.
5. Compliance structures need to be based on a nationally-consistent message to all communities in Australia about the role of schools in responding to child protection concerns and standardisation of child protection training across all schools.
6. There is a need for consistency in legislation for government and non-government schools. All schools should be subject to the same stringent requirements for policies and procedures to keep students safe and to act protectively (including reporting to appropriate authorities) when a child is harmed or at risk of harm.
7. Consideration should be given to establishing national protocols to define more clearly how schools and police are to work together during investigation processes especially where the investigation relates to an allegation of abuse within the school.
8. Adoption of the National Boarding Standards may result in greater consistency in the operation of boarding facilities, although little comment can be made at this early stage as to whether these standards alone would provide for stronger protection against child sexual abuse.
9. There is a need to develop a mechanism to identify reliably from both a system and a school perspective what constitutes a safe school.
10. The capacity for sharing of critical information by relevant agencies should be further developed.

Foreword

- 1 The Truth Justice and Healing Council welcomes this opportunity to engage with the Royal Commission into Institutional Responses to Child Sexual Abuse on behalf of the Catholic Church in Australia, and in particular on behalf of the Catholic education sector.
- 2 Nationally, there are over 1700 Catholic schools, enrolling more than 750,000 children and young people (approximately one in five Australian school students). Catholic school communities are geographically, economically and socially diverse. They are located in all states and territories, in metropolitan through to very remote communities, and they educate students from all socioeconomic backgrounds.
- 3 Responsibility for the direct management of Catholic schools in Australia rests with a range of bodies, including Catholic education commissions, diocesan Catholic education and schools offices, religious institutes and public juridic persons (together, Catholic school authorities). This submission made by the Council on behalf of the Church is informed by input from Catholic school authorities and stakeholders, including specifically:
 - the National Catholic Education Commission (NCEC), which coordinated input from archdioceses, dioceses and religious institutes, via the Catholic education commissions and offices nationally, and from some schools operated by religious institutes
 - the Queensland Catholic Education Commission
 - schools administered by public juridic persons, from whom co-ordinated input was received, and
 - Catholic School Parents Australia, the peak national body representing the parents and guardians of children and young people who attend Australian Catholic schools.
- 4 The different state and territory education systems of Australia share many features in common, however there is no consistent legislative or regulatory framework that applies to all jurisdictions. The resultant regulatory situation is highly complex and often confusing.
- 5 Responding to the Royal Commission's Issues Paper No 9 on behalf of all Catholic primary and secondary schools involves integrating elements which, though not disparate in essence, in practice vary considerably. However, despite differences which are apparent at state and territory level, in the matter of child protection, Catholic schools throughout Australia are united in their adherence to the following principles:
 - Children and young people must be aware of their right to be safe and know how to raise concerns about their safety.
 - Parents must be confident that their child is safe at school.
 - Schools must be places where children feel safe and in reality are safe.

Topic A: General questions

1.1 How effective are the policies, procedures and practices schools have adopted to minimise, or prevent, report and respond to risks and instances of child sexual abuse?

- 1 Generally speaking, Catholic school authorities believe that the policies and procedures that are in place to minimise or prevent, report and respond to risks and instances of child sexual abuse are effective.
- 2 Since the 1990s, state and territory governments have heightened their focus on the development of legislative frameworks to increase the capacity for schools and other institutions to respond consistently and appropriately to the risks of child sexual abuse.⁴ Some states and territories have multiple pieces of legislation resulting in a complex legislative and policy environment.⁵ Furthermore, all Australian jurisdictions have state- and territory-specific requirements for teacher and school registration.
- 3 On a federal level, the COAG-developed *National Framework for Protecting Australia's Children 2009-2020* (National Framework) places children's interests at the centre of all policy and legislative development.⁶ Unlike the state and territory child protection mandate, the National Framework focuses on providing a shared, national agenda for child protection in Australia. It specifies, for example, the need to work to harmonise state and territory policy and procedures as well as the development of a uniform approach to working with children checks, the latter as recently recommended by the Royal Commission.⁷ The Council strongly supports both of these approaches.
- 4 Eliminating the possibility of child sexual abuse in school settings is paramount for all Catholic school authorities. While the range of factors involved makes this task complex, every attempt is being made to create systems and processes that reduce the risks to children and young people. While legislation has changed significantly over time, the development and implementation of school policies and procedures relating to child protection has also changed. Ideally, the approach to these policies and processes should be consistent nationally and apply equally to government and non-government schools.
- 5 Individual schools have, through their annual report, an opportunity to inform their communities that each is meeting the obligation to keep children safe.⁸ This report is an ideal vehicle for disseminating information on child-protection policies and procedures.

⁴ The principal child protection legislation in each state and territory are: *Children and Young People Act 2008* (ACT), *Children and Young Persons (Care and Protection) Act 1998* (NSW) and Part3A of *Ombudsman Act 1974*, *Care and Protection of Children Act 2007* (NT), *Children's Protection Act 1993* (SA), *Children, Young Persons and their Families Act 1997* (Tas), *Children, Youth and Families Act 2005* (Vic) and *Children and Community Services Act 2004* (WA).

⁵ For example, four major pieces of legislation prescribe what is required of schools in Queensland: *The Child Protection Act 1999*; the *Education (General Provisions) Act 2006*; the *Education (Non-State Schools Accreditation) Regulation 2001*; and the *Working with Children (Risk Management and Screening) Act 2000*.

⁶ COAG: Council of Australian Governments

⁷ Royal Commission into Institutional Responses to Child Sexual Abuse (17 August 2015) *Working With Children Check Report* <http://www.childabuseroyalcommission.gov.au/getattachment/db91b479-ff88-46dc-a1bd-8425ea5a0944/Working-with-Children-Checks-Report> (accessed 10 September 2015).

⁸ In some states annual report content is more strictly mandated. In NSW, for example, the report must contain (among other matters) a summary of professional learning undertaken by teachers (as defined by the *Teacher Accreditation Act 2004*) during the year as well as information about school policies, specifically a summary of policies for student welfare, anti-bullying, discipline, and complaints and grievances, with information on changes made to these policies during the reporting year and how these policies are disclosed publicly, see <http://rego.boardofstudies.nsw.edu.au/go/indiv/registration-requirements/educational-and-financial-reporting/annual-school-reports/> (accessed 9 September 2015).

Legislative Framework

- 6 While legislation at all levels provides a framework for the development of policies, procedures and practices there are both internal and external means of ensuring compliance.
- 7 The existing stringent regulatory requirements provide schools with a basis upon which to develop their child protection processes, practices and procedures. Schools are in a position to implement strategies to safeguard children. Collectively, the legislation in place covers the requirements for policies procedures/processes around reporting abuse and significant harm, training staff, providing information to parents and students, managing complaints about failure to follow student protection processes and risk management strategies addressing employment screening, recruitment, training and management of volunteers and protection of students in the school environment. This provides schools with a framework to minimise or prevent, report and respond to risks and instances of child sexual abuse.
- 8 The effectiveness of any legislative framework is dependent on those working within it understanding its requirements. Effective child protection legislation requires that mandatory reporters and others are aware of, and trained in its requirements, and further that they have confidence in their ability to properly respond to child protection matters as they arise.
- 9 Harmonising and streamlining the complex legislative and regulatory frameworks that currently exist in the states and territories would help to ensure these important obligations and responsibilities are clear and able to be fulfilled with confidence.

Example – Oversight

In NSW in 1999 the jurisdiction of the Ombudsman was extended to include matters pertaining to child protection. The Ombudsman was required to scrutinise the systems for preventing child abuse and for handling and responding to allegations of child abuse. This included power to conduct investigations into the handling of internal investigations of allegations of sexual abuse as well as the obligation to report risk of harm to NSW Family and Community Services. In addition to developing standards, policies and procedures, the office of the Ombudsman provides assistance and training. This system is not mirrored elsewhere in Australia.

System-developed Compliance

- 10 An example of a jurisdiction developing its own compliance procedures is the introduction across NSW Catholic dioceses of Self-Administered Legal Training (SALT) for all staff. This mandatory online training includes modules on Child Protection, Mandatory Reporting, the NSW Ombudsman's role and the Working with Children Check (NSW). Staff in the ACT also have access to an online training module dealing with pertinent ACT legislation. Teachers in Victoria also complete online training via the Department of Education and Early Childhood.

Mandatory Reporting

- 11 Mandatory reporting, and the requirement for teaching staff to update their professional learning in this area annually, have been effective in raising awareness of the fundamental child protection issues and required action.
- 12 Mandatory reporting policies alone however are not sufficient. Good processes and the education of students and the broader community are core to the protection and safety of children and young people.

Efficacy

- 13 The efficacy of policies, procedures and practices specifically designed to minimise or prevent, report and respond to risks and instances of child sexual abuse is difficult to measure with any reliability. There is very little Australian research in this area. It is clear that this is an area in which research is both necessary and desirable.
- 14 One quantifiable impact of the implementation of specific child protection policies and procedures, such as mandatory reporting, has been to increase significantly the number of reports made to police and supervisory bodies. It is also important, on the other hand, to acknowledge the role of increased community protection awareness and other child abuse prevention initiatives in influencing reporting.
- 15 Many child safe programs implemented by schools are evidence-based in their development.⁹ There is, however, only limited data available concerning the ultimate efficacy of these specific programs, due to the fact that they are relatively recent in their development and implementation and as a consequence have not yet been subject to any systematic evaluation.

1.2. How can compliance with legislative obligations and child protection policy requirements by schools and their staff be encouraged? Should there be penalties for non-compliance, and if so, in what form?

Compliance

- 1 If the primary approach to meeting child protection obligations is based solely on compliance with legislative requirements, the basic reason for the legislation, namely the safety of children, is in danger of being overlooked. Compliance requirements must constantly be linked to the rights of children to a secure and safe environment.
- 2 Legislative requirements for both government and non-government schools in the area of child protection are complex, involving a number of (at times) contradictory obligations.¹⁰ These need to be standardised into

⁹ An example is the Daniel Morcombe Child Safety Curriculum, see: <http://education.qld.gov.au/parents/school-life/child-safety-curriculum.html>

¹⁰ In Queensland, for example, reporting requirements feature in three separate Acts:

- The *Education (General Provisions) Act 2000* requires the reporting to police of reasonable suspicions of sexual abuse or likely sexual abuse of a student under 18.
- The *Child Protection Act 1999* requires the reporting of reasonable suspicion that a child has suffered, is suffering or is at unacceptable risk of suffering significant harm caused by physical or sexual abuse and may not have a parent able and willing to protect them from harm.
- The *Working with Children (Risk Management and Screening) Act 2000*, which mandates that organisations who deliver services to children (including schools) must have a Child and Youth Risk Management Strategy, which in turn must contain 'policies and procedures for handling disclosures and suspicions of harm'.

In addition, in order to meet accreditation requirements prescribed by the *Education (Accreditation of Non-State Schools) Act and Regulation*, non-government schools in Queensland must demonstrate that they have written procedures to address the mandatory reporting requirements of the *Education (General Provisions) Act 2000* and the *Child Protection Act 1999*.

clear, simple requirements which are child-focussed. From a practical perspective, developing and successfully implementing policies and procedures that comply with each one of a multiplicity of requirements is unnecessarily complex and can create confusion for staff in understanding their obligations. Such confusion and fear of non-compliance can lead to reactive approaches that may not respond to a child's safety needs.

3 Given the above, compliance can be encouraged by:

- ensuring comprehensive education and training of staff and the community about child abuse and its effect on children's health, well-being, development and education, and the importance of keeping children safe
- maintaining a mind-set which envisages 'child-safe' schools
- regular professional engagement between schools and responsible government agencies
- ensuring there is effective leadership in the area of compliance
- undertaking effective dialogue with children, staff and other stakeholders, to establish a contemporary culture which welcomes disclosures and complaints as a means of keeping children safe, while ensuring fair processes for employees
- regular and on-going targeted competency-based professional training in the schools' policies and in legislative obligations
- training of staff in the implementation of procedures to ensure that receiving allegations and managing investigations are conducted competently and in keeping with the principles of natural justice
- regular audit of school policies, procedures and protocols to ensure they are up-to-date, are exemplars of good practice and are followed consistently, and
- maintaining strict protocols in relation to confidentiality and mandatory reporting.

Penalties

4 Legislative penalties for non-compliance already exist under the legislation mentioned above as well as under work health and safety and criminal legislation. On this point it is important to note:

- An increase in penalties is not likely to increase compliance by organisations and their staff. Increasing penalties for non-compliance has the potential to shift schools further towards a framework that is focused on administrative compliance rather than student safety.
- Oversight and support should come before the imposition of penalties. The oversight of an entity such as the NSW Ombudsman would appear to be more effective than a penalty, as oversight provides scrutiny and pathways for dialogue on best practice and continual improvement.
- Non-compliance with the mandatory reporting regime is more likely to result from lack of education and training, the reporter's fears of damaging relationships or that their suspicion may not be warranted than an intention to breach the law. It is therefore important that resources are diverted to proper education and training, rather than the creation of a punitive system.

5 Having said that however, the existence and imposition of penalties does increase the awareness of the need to comply. The Council is aware that teachers' registration bodies (particularly in WA) have imposed penalties on schools and individuals, for non-registration of teachers and failure to report teachers who have been suspended. These actions have increased awareness of the need to comply and have led to discussion of compliance requirements at school and system level. The absence of an effective penalty system can give the impression of low accountability or low importance.¹¹

1.3 What are the particular strengths, protective factors, risks or vulnerabilities and challenges faced by schools within different education systems in preventing, identifying, reporting and responding to child sexual abuse? Is there any rationale for having different legislative obligations and policy requirements relating to child protection for government and non-government schools?

Strengths

- 1 The current strengths of Catholic schools include:
 - clear policy and procedures and mandatory training requirements (with regular revision)
 - appropriately resourced human resources available to provide expert, independent advice to school staff, such as trained Student Protection Officers (and equivalent roles nationally)
 - being at the forefront of student safety and vigilance around the protection of children
 - school environments that focus on safety, respect and openness of all communication rather than emphasising the detection of child sexual abuse
 - unreserved commitment by school leadership coupled with compulsory, regular professional learning for all staff with an emphasis on safety
 - clarity regarding the responsibility of all staff to take action when they have concerns and the action to be taken if abuse is suspected or possible
 - a restorative approach to wellbeing on the part of staff, students, and the broader community, coupled with staff and parent education about restorative rather than punitive practices, which is considered to be important in protecting children and young people as it is more likely to create an environment where children and young people feel safe and respected and are more likely to disclose
 - access to school counsellors with child protection backgrounds as the designated staff to manage any issues relating to mental health or protection of students
 - a collaborative, team approach that is respectful of privacy and confidentiality but also involves regular sharing of concerns about student wellbeing

¹¹ Note that following the recommendations of the Wood Special Commission of Inquiry in Child Protection in NSW, in 2010 the NSW Parliament removed the penalty provision for failure to report in the *Child and Young Persons (Care and Protection) Act 1998 (NSW)* as it was non-effective and arguably counterproductive.

- within an established, confidential counselling service, awareness by counsellors that within an established, confidential counselling service with independent access for students and parents, the students are the primary clients, and
 - access to counsellors as a right for all students that is not dependent on parental permission or staff referral.
- 2 A key strength for schools in preventing, identifying, reporting and responding to child sexual abuse is the amount of contact schools have with students. The resulting knowledge and relationship that is developed is a key protective factor in a child's development. Such professional relationships must be clearly defined through, for example, codes of conduct, in order to maintain appropriate professional boundaries.
 - 3 On the other hand, the development of long-standing relationships with students and families can make the reporting of child protection concerns more difficult, particularly where the concerns originate from within the child's family. This manifests itself in terms of maintaining an objective view and in preserving a working relationship beyond the reporting and investigation of a concern.
 - 4 While it should be acknowledged that the different education systems across all the jurisdictions in Australia have particular strengths as well as vulnerabilities, the rationale under which they operate in relation to child protection, namely that the safety of the child is the paramount concern, is constant.
 - 5 Particular strengths, such as the oversight of NSW schools by the Ombudsman, should be closely examined to determine if such systems are suitable for adoption across all Australian jurisdictions. Strengths of other jurisdictions, such as the implementation of particular educational programs for students in certain states should be extended to other systems, to allow increased and nationally consistent support to all students.
 - 6 Greater benefits in addressing child safety across school systems may be achieved by putting in place systems to ensure that key position holders are suitably qualified and experienced, and levels of training for school staff in this area are consistent.
 - 7 There may be a need for differentiation of support structures to enable fulfilment of some obligations in some education systems, to assist with identification and responses to child sexual abuse. Similar considerations may apply to schools with a larger indigenous, ethnic or religious composition.

Obstacles

- 8 The following obstacles have been identified:
 - inconsistent legislation and practices between states and territories
 - frequent changes to legislative requirements which can be difficult to manage
 - legislative requirements falling short of best practice models for preventing abuse (for example the focus on reporting after abuse), and
 - differing legislative requirements for different school sectors (for example, a requirement that is mandated in the non-government sector but is a policy requirement only in the government sector).
- 9 All schools should be subject to the same stringent requirements for policies and procedures to keep students safe and to act protectively (including via reporting to appropriate authorities) when a child is harmed or at risk of harm.

- 10 There should be consistency in the general approach to child protection in schools within and between the states and territories. There can be no rationale for differing child protection legislative requirements for government and non-government schools, given that the function of both systems is essentially the same.¹² Any such differences create unnecessary confusion and conflict. Similarly, any policy differences should exist solely to reflect the different organisational structures between government and non-government schools.

Risks

- 11 The following risks have been identified:
- The key risk for schools systems is their capacity to respond to challenging and complex child protection scenarios. Schools are not resourced to do this.
 - While child protection is a now core component of school education, it still may not be given this status by individual teachers and schools. The risk is exacerbated by an approach that sees schools as responsible for the training of staff and volunteers in child protection policies and procedures with varying levels of expertise and external input.
 - Time, or a lack of it, in a busy school environment is a critical risk factor, in terms of it being a threat to the capacity for schools to ensure that child safety is integral in view of the myriad of demands made of them. While child safety needs to be embedded in schools, the time factor means there is the potential for reactive approaches which may not have the best outcome for those involved.
 - The complex legislative requirements for responding to and reporting child protection concerns (as previously discussed) are a challenge to navigate. The focus should be shifted onto the needs of children and families.
 - Some of the most significant obstacles towards providing safe schools and minimising child sexual abuse in the school context are the jurisdictional legislative differences, compliance differences and the limitations on exchange of information between jurisdictions where child protection issues are involved.
 - The inability to share information directly between schools across the various jurisdictions is detrimental to ensuring child safety, as is the inability to share information between schools and other relevant agencies.

Harmonisation

- 12 Children have the right to feel and be safe everywhere, in any context whether in or out of school and regardless of the jurisdiction. Different legislative obligations and policy frameworks for child protection for different states and territories or for government and non-government schools unnecessarily fragments the educational landscape. The Council submits that child protection laws and approaches across Australia should be harmonised.

¹² Until relatively recently this has been an issue in Queensland given the specific requirements for non-state schools under the *Education (Accreditation of Non-State Schools) Act 2001*(Qld) and regulations compared with those that applied to state schools.

1.4 Do the nine elements of the 2009 National Safe Schools Framework effectively make schools safer for students? Are there any additional elements schools should adopt?

- 1 As it currently stands, the National Safe Schools Framework (NSSF)¹³ is comprehensive. If implemented, it provides an excellent framework for supporting child safe practices while giving flexibility for the structures each school may develop. The NSSF and associated Safe Schools Hub provide a set of guiding principles and useful practical resources for school communities to use to develop and foster a culture and philosophy based on providing a safe environment for all students.
- 2 Generally speaking, the nine elements of the NSSF¹⁴ have the potential to make schools safer for students by capturing the breadth of interrelated components that facilitate safer school environments. The NSSF and the Safe Schools Hub align with the Australian Curriculum and therefore the principles and resources flow through the various state and territory curriculum documents directly into schools. While the NSSF is not a binding document, this alignment ensures it will be used by all schools in any education system. Thus, the Council submits that the NSSF could be the vehicle for a set of national standards on child protection which could be embedded in state and territory school registration requirements.
- 3 The success of this type of policy initiative is largely dependent upon dedicated resourcing, the quality of the school leaders responsible for its implementation, the quality of training offered to school personnel and the existence of an approved and meaningful audit tool. Seeking and considering the views of the children may also be useful. The Safe Schools Hub provides considerable professional learning resources that should be accessed in conjunction with the results of the Safe Schools Audit Tool, also available at the site.

Improvements

- 4 The Council suggests that Element 4 of the NSSF on *Professional Learning* should be expanded to more explicitly encompass recognising harm and abuse and how to respond. It is further suggested that in Element 6 *Engagement, skill development and safe school curriculum* the section on skill development could also include developing skills of students to report when feeling unsafe.

A Queensland Perspective

In considering the scope and approach of the NSSF, it is appropriate to draw comparison with the Child and Youth Risk Management Strategy requirements for organisations providing services to children in Queensland. The *Working with Children (Risk Management and Screening) Act 2000* (Qld) and regulations require the development and implementation of a child and youth risk management strategy which aims to keep children and young people safe.¹⁵

¹³ *National Safe Schools Framework* (revised 2010; updated 2013), <http://safeschoolshub.edu.au/home> (accessed 9 September 2015).

¹⁴ The nine NSSF elements are: (1) leadership commitment to a safe school, (2) a supportive and connected school culture, (3) policies and procedures, (4) professional learning, (5) positive behaviour management, (6) engagement, skill development and safe school curriculum, (7) a focus on student wellbeing and student ownership, (8) early intervention and targeted support, and (9) partnerships with families and community.

¹⁵ Child and Youth Risk Management Strategy Toolkit, Blue Card Services, Public Safety Business Agency Qld

To comply with the legislative framework, a child and youth risk management strategy must meet eight minimum requirements.¹⁶ These are:

- a statement of commitment to the safety and wellbeing of children and the protection of children from harm
- a code of conduct for interacting with children
- written procedures for recruiting, selecting, training and managing staff and volunteers
- policies and procedures for handling disclosures or suspicions of harm, including reporting guidelines
- a plan for managing breaches of your risk management strategy
- risk management plans for high risk activities and special events
- policies and procedures for managing compliance with the blue card system, and
- strategies for communication and support.

These requirements apply to all organisations working with children in Queensland, not just schools. There is congruence between the elements of the NSSF and the child and youth risk management strategy requirements, with the NSSF providing significant detail through the nine elements. This consistency in approach is positive for providing safe school environments for children.

1.5 What regulatory, oversight or governance mechanisms are needed to ensure schools have adopted 'safe school' elements? How has their effectiveness been evaluated?

Registration and Accreditation Processes

- 1 State and territory-based school registration and accreditation processes could provide a vehicle for embedding the NSSF elements to ensure that child safe policies and procedures are evident in schools as a condition of registration.

Compliance Certificate

- 2 Complementary to state and territory-based school registration requirements, the Commonwealth government can monitor compliance with NSSF elements by requiring that these be attested to through the annual Australian Department of Education and Training Compliance Certificate process for school funding accountability.
- 3 In considering the regulatory, oversight or governance mechanisms needed to ensure schools have adopted 'safe school' elements, it should be noted that the states and territories have already implemented a range of

¹⁶ The evidence base for these eight requirements is clearly articulated in the Queensland Commission for Children and Young People and Child Guardian Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, Issues Paper 3 – Child Safe Organisations. <http://www.childabuseroyalcommission.gov.au/getattachment/45e6b5b1-9e32-415c-8423-7f14a2570b04/17-Commission-for-Children-and-Young-People-and-Ch> (accessed 18 September 2015).

mechanisms. For example, in Queensland, the two primary regulatory mechanisms for safe non-government schools are:

- The accreditation requirements as prescribed by the *Education (Accreditation of Non-State Schools) Act 2001* (Qld) and regulations¹⁷ administered by the Non-State Schools Accreditation Board (NSSAB), the regulatory authority for the accreditation of non-state schools.
- The child and youth risk management strategy requirements prescribed by the *Working with Children (Risk Management and Screening) Act 2000* (Qld) and regulations, with the Public Safety Business Agency as the regulatory authority.¹⁸

Evaluation

- 4 It is understood that neither specific regulation discussed above has been evaluated for the effectiveness of its requirements across the many schools in Queensland. However reference can be made to the evidence base associated with the development of the requirements of the Child and Youth Risk Management Strategy. There is a need to develop a mechanism to identify reliably from both a system and a school perspective what constitutes a safe school. Agreement is required as to the type of measurable indicators that would be suitable evaluative tools. However, the current scheme lacks capacity to evaluate the effectiveness of the governance mechanisms, policies and procedures.
- 5 There is a need for dialogue for schools to understand how they can better evaluate their effectiveness in providing a child-safe environment. The NSW Catholic Systemic Schools Child Protection Group is currently developing an audit tool for Catholic systemic schools to use in NSW and the ACT, drawing on the frameworks used by the NSW Office of the Children's Guardian, NSW Ombudsman and some international audit tools. Other such tools may exist in other jurisdictions.
- 6 A recent evaluation of the Safe Schools Hub by researchers at the Centre for Research in Education at the University of South Australia¹⁹ found that the Hub is a credible and useful digital resource. The report however recommends that considerable work be undertaken to promote the resource and that there is a need to mandate accountability in the use of the resource by schools.

¹⁷ See in particular regulation 10 of the Education (Accreditation of Non-State Schools) Regulation 2001 (Qld) which provides requirements relating to the health, safety and conduct of staff and students.

¹⁸ For a discussion of these requirements see above at 1.4.

¹⁹ Taddeo et al., *A report on the Evaluation of the Safe Schools Hub*, <http://apo.org.au/research/report-evaluation-safe-schools-hub>

Topic B: Governance and leadership

Governance & Leadership

- 1 Ensuring that the school is compliant with all legal and statutory responsibilities while having staff meet best practice standards in the area of child safety is a core responsibility whatever the governance structure. This means that those involved in school governance, particularly those not involved directly in school education on a day-to-day basis, must undergo extensive education in proper child safe standards. Similar opportunities for education must also be extended to parents and school and sector policies on child safety must be displayed in the school as well as made available online. Students should have access to the policies in the same way as parents and staff.
 - 2 While seeking to avoid any structure that moves child safety into a specialised area rather than everyone having joint responsibility, one proposal is that each school establish a 'Child-Safe Team', a model for which is Appendix 1 to this submission.
- 2.1 How could school governance arrangements be strengthened to provide better protection for children? What should be the role of: students, staff, principals, school councils or boards, governing bodies and education departments in reviewing current safety arrangements, incidents, decision-making and promoting child safety within individual schools?
- 1 The ideal way for school governance arrangements to be strengthened to better respond to child protection issues is through harmonised legislative requirements.
 - 2 Legal reform and published minimum standards for schools could be broadened across jurisdictions with the possibility of integrating these into school review and improvement processes and providing transparent standards and practices for reporting to the school community.
 - 3 Examples of recent relevant reforms include:
 - the NSW 'Safe and Supportive Environment' requirements that form part of the school registration process. This registration requirement encompasses, as criteria for school registration, compliance with all relevant NSW child protection legislation.
 - pending Victorian legislation which will require all schools to be compliant with new standards, outlined in the *Education and Training Reform Amendment (Child Safe Schools) Act 2015 (Vic)*.

Victoria

From January 2016, the Registration and Qualifications Authority (VRQA) will incorporate child protection requirements into the minimum standards for school registration. The proposed Victorian Child Safe minimum standards are expected to incorporate the following elements:

- a child safe policy or statement of commitment to child safety

- screening practices that reduce risk of harm to children by new staff (and volunteers) including robust character/criminal history checks
- a code of conduct that establishes clear expectations of appropriate behaviour
- strong organisational leadership and staff management
- clear policies and processes for identifying, responding to, and reporting suspected harm to children
- active risk management to embed an organisational culture promoting child safety
- mechanisms to promote the participation & empowerment of children, and
- promotion of cultural safety for culturally & linguistically diverse children (including Aboriginal and refugee children).

4 There needs to be an integrated and collaborative approach to building safe and respectful school communities where students, staff, principals, priests, school councils or boards Catholic school authorities and governing bodies work together to develop the knowledge, understanding, confidence and compliance. Policies and strategies need to be designed and implemented to apply to the following:

- School climate and culture: increasing the capacity and awareness of schools to meet child safety needs thus increasing stakeholders' confidence that the organisation will fulfil expectations.
- Curriculum and pedagogy: enhanced and consistent approaches to teaching and learning about child safety and resources to benefit teachers and students across all schools.
- Policy and procedures: improved knowledge and understanding among staff, students and the community about child-safe policies and procedures. The provision of exemplary policies, protocols and materials for training/educating and supporting school staff, parents and students about such matters by Education Departments, would be helpful to schools.
- Partnerships: enhanced appreciation of the importance of child safety to child and adolescent development and wellbeing; increased commitment of all members of the school community to achieve better health, safety and wellbeing outcomes for children and young people.
- Resourcing: priority is given to human and material resources to ensure that child-safe policies and procedures are in place and are acted upon.

5 Governing bodies customarily receive reports from the school review and development process. They should be alerted to the need to certify that appropriate policies and procedures for child safety are in place in the schools for which they are responsible. In addition they should be advised to take measures such as:

- incorporating into a principal's contract provisions clear guidelines in relation to implementing processes and procedures associated with child safety
- including in a school's annual report steps that the principal has taken to meet the standards for child protection, and
- requiring that protocols for child safety be incorporated into a school's risk management protocols and reporting.

- 6 Greater collaboration by school communities in these processes will promote ownership and understanding and will increase the impact of any outcome. It will also encourage more active parent, family and student voices.
- 7 Harmonisation across Australia in the obligations of education systems would be beneficial. There is a need for harmonised legislation for state and non-state schools. Reviewing practices across all jurisdictions would be one way to raise standards and consistency. This could lead to the identification of best practice to inform the eventual goal of establishing national standards.

2.2 What governance arrangements should be in place to ensure that teaching and non-teaching staff and other members of school communities have the support and confidence to identify and report suspected child sexual abuse without fear of negative repercussions for themselves or their careers?

- 1 Mechanisms that allow for prompt and easy access to support, information and guidance are critical to the effective implementation of reporting processes. Such mechanisms might include:
 - The ability for school staff members to consult with appropriate practitioners who have knowledge and expertise in the area of child protection.
 - Having information accessible through appropriate systems, such as online access.
 - The use of supportive tools and resources,²⁰ to enable school staff members to carry out their reporting responsibilities.
- 2 Suggested governance arrangements:
 - child safety policies and procedures are a regular item on the agenda of governance meetings
 - clearly articulated school policy that expresses the expectation that abuse will be reported and incorporates clear information on how any such report will be managed
 - school child safety policy is reflected in employment contracts of staff, appointment of board members and school enrolment policy
 - practices to ensure confidentiality
 - a 'child-centred' approach is reflected in all school policies and practices especially in relation to recruitment and promotional positions
 - appropriately conducted investigations into cases when non-reporting has occurred and demonstration of corrective action
 - education and training based on case history and management
 - strong commitment to external and internal review of reported cases to increase learning and assess adherence to policy

²⁰ For example the *Queensland Child Protection Guide* <https://www.communities.qld.gov.au/childsafety/partners/our-government-partners/queensland-child-protection-guide> or NSW Ombudsman Factsheets on Child Protection www.ombo.nsw.gov.au/news-and-publications/publications/fact-sheets/child-protection

- child safety risk assessment processes are a part of the whole set of risk assessments carried out in schools and at governance levels
 - governance personnel undertake professional learning on child-safety policies and processes, and
 - student access to policies and procedures is guaranteed at governance level.
- 3 One potential immediate improvement could be that governing bodies are required to guarantee that all school staff including coaches, tutors, volunteers and casual staff are trained in mandatory reporting and related procedures. It is imperative for all schools to build the capacity of staff to recognise and have the confidence to report instances of child abuse through professional learning. Clear and consistent policies and procedures for responding to and reporting of cases of suspected child abuse must be present in all schools within each system. A whole-of-community approach is needed to ensure generational change in attitudes to child safety.
- 4 A key issue of governance is developing and maintaining a culture within a school that promotes child protection and constantly sees it as a priority. Child protection is fundamental to everything that occurs in the school community. Good leadership is essential for this to occur. Such leadership would, for example, provide access to training in managing situations where staff may need to 'report' a colleague. Also desirable would be practical training in techniques in having a difficult conversation to challenge a colleague or point out unacceptable behaviour.
- 5 There is opportunity for governing bodies to extend the awareness and understanding of staff members by requiring them to complete the study of a child safety training package. Such a study would have broader preventative and proactive focus on child safety promotion, prevention and the continued provision of child-safe environments. It would contribute to long-term cultural change and understanding for school communities as well as the wider community.
- 6 As evidenced in the Royal Commission's recent report,²¹ there is value in asking children and young people for their views on what makes them feel safe and how they can best be supported when they are concerned about their safety and welfare. It must be noted that children and young people understand and experience safety in ways different from adults. Hence without an appreciation of what exactly children and young people need to be and feel safe, adult responses may fail to respond to their concerns.
- 7 In general under state and territory legislation, protection is provided for anyone who in good faith makes a report. Nevertheless, the issue of fear of repercussions is real among school staff members. It must be emphasised that it is never acceptable for anyone who makes a report in good faith to be subject to repercussions.²²

²¹ Moore et al, (2015) *Taking us seriously: children and young people talk about safety and institutional responses to their safety concerns – A report for the Royal Commission into Institutional Responses to Child Sexual Abuse*, <http://www.childabuseroyalcommission.gov.au/getattachment/33a95fc9-0e8d-41da-ac9f-31f625794d4f/Taking-Us-Seriously> (accessed 9 September 2015).

²² Governing bodies should ensure that a suitably qualified person is delegated responsibility for receiving and processing reports in the event that the principal is the subject of a report or when it is perceived that the principal would have a conflict of interest if the report was made to him/her.

Topic C: Protection and support services for children and specific student populations

- 3.1 What needs to be taken into account to ensure that the full diversity of students are equally protected and equipped to voice concerns? Are the needs of children with particular vulnerabilities, such as children with disability adequately addressed?

Responsibilities of Schools

- 1 In addressing safety and protection of all children in a school community, a whole-of-school approach that encompasses governance, school culture, policies and practices, training, learning programs, support and intervention services and community partnerships, provides the best opportunity to meet the needs of the full diversity of students.
- 2 Each school is expected to identify and address the needs of specific cohorts, community groups or vulnerabilities through audits, planning, implementation, monitoring and review processes. In addition many schools have the practice of making available to students nominated adults within the school setting to whom they can report concerns. As a general rule students participate in the selection of that adult.
- 3 As discussed at 1.4 above, the NSSF provides nine elements which support proactive initiatives to build safe and supportive school communities and to respond effectively to situations that are unsafe for children and young people. In this context the NSSF can be seen as a useful tool through which to demonstrate legislative compliance.
- 4 Key components of protection and support services for all children and young people, including identified specific cohorts are:
 - a child protection education program
 - support services and resources within the school and in the community to respond to the needs of children and young people immediately and in the longer term.

Child Protection Curriculum

- 5 When states and sectors adopt and/or mandate a child protection curriculum for use in schools it is critical that resources specific to each cohort are developed to complement the general programs. Effective learning resources that engage and support the full diversity of students will support schools in demonstrating rigorous and inclusive learning.²³

²³ Examples of specific child protection resources developed to support diverse populations include:

- The South Australian *Keeping Safe: Child Protection Curriculum* contains support documents for students with disability, Aboriginal and Torres Strait Islander students and for culturally and linguistically diverse students <http://rantraining.e3learning.com.au/>
- The Daniel Morecombe curriculum resource, complemented by the 'Keeping Kids Safe' Kit that includes DVD and workbooks produced by the Daniel Morecombe Foundation.
- *Keep Them Safe: A shared approach to child wellbeing (NSW)*. This resource includes strategies to enhance the universal service system, to improve prevention and early intervention services, to protect children at risk, to support Aboriginal children and families, and to strengthen partnerships with non-government organisations in the delivery of community services.

Services that support the diversity of children and young people in schools

- 6 Schools have access to services and personnel to support the safety and wellbeing of children and young people. The resources vary between schools and are dependent on the size, type and location of the school and the availability of services.
- 7 It is a critical component of child protection curriculum and school support responsibilities that all children and young people have a documented, active network of trusted adults and have access to age-appropriate support services at all times. Schools should regularly review and update networks with children including children with particular vulnerabilities. Skills in communication and in seeking help are vital components of building protective strategies for all children.
- 8 In addition schools are responsible for providing access to specific support and intervention services either at the school or by referral to community services.
- 9 Schools need to have systems in place to facilitate an understanding of the student cohort and the identification of particular vulnerabilities or needs within the student population. This data can be used to plan, implement and review processes and programs to protect and support students.
- 10 Where possible schools need to consider recruiting staff who have the knowledge and skills to work with vulnerable students (for example Aboriginal and Torres Strait Islander students and students from culturally and linguistically diverse backgrounds, students who may have experienced trauma – refugees, asylum seekers - abuse/neglect, domestic and family violence.)
- 11 It is important to create opportunities for students to express their views on how to create a school community that is emotionally and physically safe. This maximizes a school's ability to ensure that students from diverse backgrounds are equally protected. It will also ensure that all are equally equipped to voice concerns.
- 12 It is also desirable, for example during a school review process, to seek feedback from students concerning the school's performance in a creating safe school environment.

Responsibilities of Systems

- 13 School system authorities have a responsibility to:
 - provide training, access or options for appropriate frameworks to develop policy and procedural resources
 - clarify and/or develop review processes, requirements for documentation and reporting of abuse in order to support sustainable practices for child protection
 - provide training in the delivery of a child protection curriculum to schools
 - facilitate access to qualified, targeted intervention services for children, their families and school communities following any critical incident
 - develop accountability mechanisms for the implementation of the NSSF or other frameworks
 - embed in staff training the need to consider particular vulnerabilities of students, for example child risk factors that increase vulnerabilities of student to abuse, neglect and exploitation.

3.2 What support services should schools provide for victims and others affected by child sexual abuse, either directly or through referral to external providers? Are schools able to ensure these services are provided and if not, why not?

Responsibilities of Schools

- 1 Schools have a moral imperative and are required by legislation to report any abuse and to provide support and intervention to children. In addition schools are required to:
 - provide pastoral support to students who have disclosed sexual abuse
 - encourage students and families to access support services and facilitate appropriate referrals
 - monitor and check on students' wellbeing, and
 - work in partnership with other service providers to provide support.

General support

- 2 Schools will generally refer children and their families to specialist services including sexual abuse intervention services. School staff exercise pastoral care to children and young people in their care by modelling safe and supportive behaviours and engaging young people in respectful relationships that respect their dignity.
- 3 Children and families impacted by child abuse must be able to readily access support services. A key question is the role of schools in facilitating this, as schools do not necessarily have the appropriate capacity and expertise. Further, where an allegation involves the conduct of a person associated with a school, there may be a very reasonable desire for the support to be accessed externally.
- 4 Better resourcing of non-government organisations and government agencies in the area of specialist child sexual assault counselling is required and networking between the service providers and agencies that refer clients would improve service delivery.

First response to disclosures of sexual and other abuse

- 5 It is essential that the response across all levels within a school and within the community is pastoral. It is important to provide a range of appropriate support services for both the young person and if necessary their family.
- 6 Teachers and school staff, including leaders and staff engaged in student well-being, may be those who make the first response to a disclosure of abuse. A professional and caring response can influence further positive communication from a vulnerable child. Staff training which involves familiarity with communication and reporting procedures can be critical in a positive intervention and support for a sexual abuse victim and for their family.²⁴
- 7 The privacy of children and families accessing support is an important factor which can impact on a school's capacity to ensure that a child is actually receiving support.

²⁴ Examples of first response procedures and guidelines, see <http://www.decd.sa.gov.au/docs/documents/1/GuidanceforRespToCYP.docx>

Support services in schools

- 8 Smaller or regional/remote schools may rely on community services for counselling, health services or family support, while larger and metropolitan schools may have on site access to school nurses, psychologists, counsellors and wellbeing staff. All schools are expected to document and provide information to students and family support services and community services in relation to sexual abuse that are available on site, in the local community, online or in the state.
- 9 Where a concern or known sexual abuse has been disclosed the appropriate member of staff will:
 - follow all mandated procedures for documentation and reporting of abuse
 - develop an individual support plan that details school-based and community support services, and
 - work in partnership with allied health agencies.

Counselling

- 10 School counselling and psychological services play a valuable role in supporting students who have been affected by abuse, both by providing direct support and in assisting families to access external services. Again, the capacity of education authorities to resource this level of support is limited. Clearly more extensive support is required and schools need to be better resourced. Some of the difficulties are:
 - costs and limited capacity of non-government schools to access counsellors suitably trained in child sexual assault
 - delays in a child and their family obtaining access to specialist services
 - cost to families when the private service is utilised
 - extremely limited capacity of schools in regional areas to refer a student to specialist counselling services as frequently there is no appropriate service available or there are lengthy waiting periods, and
 - some child victims and their families have complex needs and issues such as mental illness, disability or cultural factor which pose a risk to the child receiving proper care and support.

Referral to Community services and specialist services for sexual abuse

- 11 Access to external expert counsellors and providers of support should be easily available as well as to school counselling services. Information about approved/appropriate on line support and external services should be communicated regularly to students given that many young people use online support by preference.
- 12 Schools should be aware of local external providers and know how to access them. They may have formal referral arrangements with government or non- government agencies and may also utilise sector-central support services to meet students' needs.
- 13 Sectors may provide support including resourcing to access community services for schools including psychologists, family counsellors and/ or sexual abuse specialist services. However, financing these services can be difficult for schools especially if the student is from a family which lacks financial resources.

- 14 In addition to facilitating access to external support services a specialist team in the school needs to meet regularly with the child and parent/s/carer to monitor personal, psychological, spiritual well-being. The student may need a 'go to' person in the school setting.

System Responsibility

- 15 Systems supporting schools have a responsibility to provide training, advice and guidance to school staff who may be involved in providing direct support to students affected by sexual abuse. As well they have a responsibility to:
- develop and maintain training for support staff in relation to documenting and reporting intervention processes
 - promote partnerships with community specialist services
 - actively support the provision of intervention services to rural and remote schools
 - advocate for the provision of targeted and accessible services for all children who are victims of sexual abuse
 - provide specific intervention and continued support to a child and their family where sexual abuse has occurred in a school and
 - support the staff member.
- 16 It is a community expectation that there is equitable access to support services for all children and that there is a basic level of intervention services across the nation. It is critical that this be so nationally especially in regional and remote areas.

Community Responsibilities

- 17 Community services for diverse cohorts need to be sustained, publicised and readily accessible.²⁵ There need to be clear referral processes which provide specific information about their ability to cater for different age groups, as well as locations, cultural identities and sensitivities, online and phone services. Where no support services are available, or where services are not available when needed, the risk to children is compounded.

²⁵ Examples of Community Services include: Counselling, referral services <https://aifs.gov.au/cfca/publications/helplines-and-telephone-counselling-services-children-y> and <http://www.decd.sa.gov.au/docs/documents/1/SupportServicesforChild-1.pdf>. Services for particular groups <http://cfc-sa.org.au/support-services/support-services-for-foster-children/>. Services that can link children and their families with more than one service for ongoing support, or in more than one location, for example <http://www.centacare.org.au/OurServices/Families>YouthChildren.aspx> and <http://www.baptistcaresa.org.au/services/children-youth-family>

3.3 What measures should boarding schools take to ensure that students are and feel safe? Are particular measures needed for boarding schools catering to specific populations such as Aboriginal and Torres Strait Islander students, international students, or students in regional and remote areas? Will draft Boarding School Standards for Australian Schools provide boarding students with stronger protection against child sexual abuse?

School Responsibilities

- 1 Boarding schools have additional responsibilities with regard to the safety of students given that the care and supervision that they provide is constant. In Queensland, such facilities are obliged to implement the Child and Youth Risk Management Strategy requirements. These encompass significant measures that any residential care environment should implement to ensure the safety of children.
- 2 While the legislated student protection processes apply in boarding schools as they do in other schools, policies (including Code of Conduct), training etc require an added level of care to be taken in the boarding environment. This must include:
 - protective procedures embedded in all operational methods, for example escorting visitors, knocking on doors before entering
 - care taken when selecting staff to ensure that they have a pastoral focus, and
 - regular student surveys which address student safety with students.
- 3 The newly released Boarding Standards for Australian schools and residences²⁶ make clear the requirements for boarding schools to ensure a safe environment including:
 - application of state, territory and federal legislation
 - suitable frameworks and processes developed, documented, disseminated, implemented, maintained and reviewed, and
 - minimum requirements for governance, management, boarders, staff, parent, family and community engagement.
- 4 Adopting the National Boarding Standards may result in greater consistency in the way that boarding facilities operate. Little judgement can be made as to whether these standards alone would provide for stronger protection against child sexual abuse. As with all schools, boarding schools do need to be better resourced to meet compliance requirements. The National Boarding Standards will assist with an increased awareness of the necessity of protective measures for students. Stronger emphasis on boarding school supervisor staff training and a more diverse range of training is necessary. Maintenance of professional boundaries is critical in boarding situations, where staff are constantly with students.
- 5 A particular strength of the National Boarding Standards are the clarity with which they define requirements in relation to:
 - screening and child protection requirements

²⁶ Standard Australia Ltd (2015) Boarding Standard for Australian schools and residences <http://www.boarding.org.au/1922/standards/>

- staff training, codes of conduct and annual performance review
 - child protection
 - requirements for reporting and grievance and complaints procedures
 - accountability of schools to develop documentation, review and improvement processes
 - critical incident responses, and
 - providing for boarders with particular needs.
- 6 With regard to boarding students who are Aboriginals or Torres Strait Islanders, a key element is the cultural disconnection that can arise from students moving significant distances from their home communities. Boarding facilities must take into account the obligation to meet the cultural support needs of Aboriginal and Torres Strait Islander students. Options such as pre-entry programs and utilising elders and community groups in working with boarding staff can be particularly effective. These ensure that students maintain connection with key people in their community.
- 7 Processes to facilitate involvement of boarders, their families and staff in their safety and wellbeing minimise the risk of the Standards not being implemented. Furthermore, systems have a responsibility to provide accountability mechanisms to build the capacity of schools to maintain the safety and wellbeing of children and young people.
- 8 It is important that all children have a trusted adult with whom to connect; this is of greater importance for boarding students. Boarding House staff need to have a continued focus on acknowledging children's rights, sensitivity to their need for privacy and ensuring that students are regularly reminded of the actions they can take if they have any concerns.
- 9 Professional learning activities need to be provided to all staff to ensure awareness of the range of needs students living away from home may experience. These programs need to cover the specific needs of different groups such as Indigenous and International students. Professional learning must also equip all staff to be aware of behaviour that may indicate some sort of abuse.

System Responsibilities

- 10 School systems and governance structures are responsible for:
- accountability structures that monitor the implementation of the Standards in boarding schools
 - support to schools in staff training and procedural resources.

3.4 Do factors such as geographical isolation, distance from policy makers, and staff and student retention affect regional and remote schools' abilities to prevent and respond to child sexual abuse? If so how might they be addressed?

1 Ultimately, geographical isolation should not prevent a universal approach to child protection policies, training and operational guidelines. The reality is, however, that rural areas often have less access to support services, less access to training and professional learning can be more costly and more difficult to access. Furthermore it is more difficult to attract and retain staff with the required knowledge, skills, and cultural expertise, and students and families in these areas can be less connected to support networks.

School Responsibilities

- 2 On the positive side, rural and remote schools can form effective partnerships with their local community in support of children when:
- community members know each other well and one network of trusted adults can support children across a variety of community activities
 - family networks and generational supports are readily available to children
 - staff are long standing members of the community and have excellent knowledge of and partnerships in community resources and services
 - school and community health partnerships are developed and planned in relation to identified community needs and in particular for specific cohorts of children
 - schools have strong links to regional services that have been developed and sustained over a long period, and
 - information technology systems are used to provide education and information for children, teachers and community members, to support the safety and wellbeing of children.

Risks

- 3 The risks for children in rural and particularly in remote communities in relation to sexual abuse may include:
- limited networks of trusted adults for children
 - the impact of abuse in a small community may be overwhelming and fracture family and community relationships
 - privacy issues for victims and families
 - difficulties in resourcing effective services where abuse has a generational and pervasive effect, and
 - lack of services and in particular lack of specialist sexual abuse services.

Difficulties

- 4 The difficulties for schools in rural and remote communities include:

- access to timely and appropriate training for school staff -often schools report that they are continually training new staff and lose experienced staff who could mentor others or guide the development of policy and procedures
- a lack of sustainability in relation to retaining staff with the experience and ability to apply policy in context, and
- a lack of community services and access to expert advice for school staff in relation to supporting children who are victims of sexual abuse.

Sector Responsibilities

5 School sectors have a responsibility to:

- advocate for services in rural and remote communities
- develop training and school support services that build capacity in a school staff to manage incidents effectively and to support children and families who are victims of sexual abuse, and
- develop targeted approaches that support diverse populations.

Addressing geographical isolation

6 Possible ways of addressing the impact of geographical isolation include:

- a dedicated regional team, familiar with the regional issues and aware of the services available, supported by the system²⁷
- the introduction of a scheme similar to the Police Youth/School Liaison Officer which operates effectively in NSW. A Health/ School Sexual Assault Practitioner could be allocated to a number of schools across a region to act as the point of contact for providing appropriate advice to school staff and facilitating referrals to counselling services for child sexual assault victims
- the time and resourcing associated with travel has a marked impact on remote schools. Conscious effort is therefore required to ensure that remote schools receive the same level of service and access to information as those in regional and metropolitan areas
- enhancing community connectivity particularly with key external agencies who have a role in the investigation and prevention of child abuse
- more creative ways of accessing support services, for example, internet and telephone counselling
- developing skills and knowledge of staff within schools by the use of technology, for example, webinars, video conferencing
- building into budgets additional teacher release time and additional funds for professional learning
- building communities of practice either virtually or with other professionals in the community to share ideas and resources to prevent and respond to child sexual abuse, and

²⁷ This is the model used by Catholic Education Western Australia with Broome, Geraldton and Bunbury Regional Officers working locally and supported by the system.

- conducting more focused needs analysis and engaging local communities in discovering solutions focused on preventing and responding to child sexual abuse.

Rural experience

For rural school authorities, there can be a difficulty with the delay in police response after making a mandatory report. This is particularly problematic where there is no local police Criminal Investigation Branch. There are often also limited resources in the community to provide support for those in need.

In one situation, a twelve year old child who was exhibiting predatory sexual behaviours was required to travel a round trip of over one thousand kilometres to access appropriate professional support due to geographic isolation.

3.5 What sorts of measures are needed to help protect younger children from the risk of sexual abuse by older children?

Responsibilities of schools

- 1 The wellbeing of students is a first order responsibility of schools and it is important to support efforts of schools and school systems to ensure sufficient attention is paid to this dimension. Furthermore it is essential that schools do not attempt to be 'one stop shops' for all issues but rather they see themselves in a community context. By referring and closely working with community and health agencies, schools can broker appropriate support for students, including support for victims of child sexual abuse regardless of the context in which it occurred.
- 2 Staff and volunteers must receive formation in this area, otherwise what is a sound, comprehensive code or set of guidelines can be too easily dismissed as highlighting the community's lack of trust in schools and their staffs. It is vital that staff understand that the risks to, and safety of, children and young people is the proper context in which to understand this approach.
- 3 Children and young peoples' greatest protection is an awareness of the behavioural boundaries in a respectful relationship and the development of the knowledge, skills and confidence to take action to protect themselves or in talking to a trusted adult.
- 4 Child protection curriculum and child protection processes include:
 - building capabilities in children and young people with a focus on power in relationships
 - adequately supervising all students
 - educating staff about child development and age-specific behaviours
 - recognising and reporting abuse and engaging in protective strategies
 - access to training and procedural support for teachers, and

- resources to guide responses to problem sexual behaviours that uphold the dignity and privacy for all children and provide targeted support for those children who demonstrate problem sexual behaviours and those who are affected by them.
- 5 Schools have a responsibility to provide an individual plan of support and referral to targeted services for all children as well as providing an educational response and monitoring for children who abuse others. Problem sexual behaviours may be an indication of abuse in a child who abuses others.
- 6 In addition schools are responsible for:
- education programs for parents, caregivers and the community
 - the development of practices that ensure adequate supervision incorporated with risk identification, risk assessment and mitigation strategies
 - good personal safety programs in schools appropriate to developmental stage of children
 - access to independent, confidential support by trained personnel
 - strong development of safety standards within schools with emphasis on professional learning for staff
 - well-developed policies for positive relationships and clear processes relating to bullying and harassment for students, staff and families
 - opportunities for both vertical and horizontal pastoral care for all students
 - possible provision for separate areas of playground for different age groups and different activities with visible monitoring by adults
 - development and encouragement of open communication between adults and students, and
 - ways of allowing non identifiable communications from students about issues of concern, for example an anonymous online post-box.
- 7 Responses to any critical incident or issue should include:
- legal response, when indicated
 - behaviour management response in line with the school policy
 - pastoral care response
 - educative response, and
 - schools having access to procedural documents that include prevention, intervention, monitoring and educational responses to peer problem sexual behaviours.²⁸

²⁸ Examples of specific focus and guidelines for problem sexual behaviours include:
<http://www.decd.sa.gov.au/docs/documents/1/RespondingtoProblemSexual.pdf>

System Responsibility

8 School systems have a responsibility to:

- develop resources that include responding to problem sexual behaviours of children
- provide training for teachers to identify and address problem sexual behaviours, and
- develop procedures to document, intervene and provide targeted interventions for all children who are affected by or display problem sexual behaviours.

9 Suggested measures are:

- commitment to the provision of programs for children and young people which focus on respectful relationships, sexuality education and personal safety
- dissemination to schools and other services of information concerning effective evidenced based programs which focus on respectful relationships, sexuality education and personal safety for children and young people
- provision of professional learning opportunities for school staff and those supporting schools staff
- interdisciplinary collaboration when developing:
 - individual support plans for students exhibiting problem sexual behaviour or sexually abusive behaviour, and
 - safety plans for students affected by problem sexual behaviour or sexually abusive behaviour by another student
- increased commitment to fund services to address problem sexual behaviour in children and young people before these behaviours escalate, and
- ensuring that school staff members have an understanding of developmentally-appropriate sexual behaviours, and therefore the ability to identify and respond to emerging problem sexual behaviours.
- consideration of the physical environment, particularly in schools which cater for students across a wide age-range.

Topic D: Registration of non-government schools, not-for-profit and corporate entities

- 4.1 To what extent should a non-government school's registration be conditional on it having strong child safe principles, policies or procedures (for example, concerning student health and wellbeing and complaints management)? How can the adequacy of individual schools' approaches be assessed?

Registration

- 1 The registration of all schools, government and non-government, should be conditional on their having child-safe principles, policies and procedures. This is already the case in a number of jurisdictions. In NSW, for example, the Board of Studies Teaching and Educational Standards (BoSTES) has carriage of the registration of schools (both government and non-government). Registration is contingent on compliance with the Safe and Supportive Environment requirement.²⁹ Similarly, the Victorian Registration and Qualifications Authority and the Education and Early Childhood Services Registration and Standards Board of South Australia are responsible for registration of all schools in their respective states. Non-government schools in Queensland operate under a process of accreditation under the Non-State Schools Accreditation Board.³⁰ Registration/accreditation in these states is conditional on their meeting standards including demonstrating evidence of policies and procedures relating to the care, safety and welfare of students.
- 2 The adequacy of a school's approach can be assessed through the cyclical registration and accreditation process and through active supervision by the respective state authorities. If any components required for registration/accreditation are lacking then they must be addressed prior to confirmation of registration/accreditation.
- 3 To comply with standards for registration, Victorian schools will soon face additional statutory obligations relating to managing the risk of child abuse including responses to allegations of abuse. The *Education and Training Reform Amendment (Child Safe Schools) Act 2015* (Vic) is due to commence operation by 21 December 2015 and introduces new minimum standards for registration. These will require registered schools to satisfy the Victorian Registration and Qualifications Authority (VRQA) that they have taken action to manage the risk of child abuse including responses to allegations of child abuse. Schools thus will be required to develop policies, procedures, measures and practices in accordance with a Ministerial Order.
- 4 The VRQA will be given new powers under these minimum standards similar to those of BoSTES NSW which has recently demonstrated its authority in this respect by intervening to reduce a school's registration from five years to one as a result of concerns in the area of child protection compliance.

²⁹ See: Section 5.6 of the Registration Systems and Member Non-government Schools (NSW) Manual at http://www.boardofstudies.nsw.edu.au/policy-research/pdf_doc/reg-sys-member-non-gov-manual.pdf
Section 3.6 of the Registered and Accredited Individual Non-government Schools (NSW) Manual at http://www.boardofstudies.nsw.edu.au/policy-research/pdf_doc/reg-accred-individ-non-gov-manual.pdf

³⁰ In order to receive accreditation to operate, non-government schools must be able to demonstrate that they meet the requirement of Regulation 10 of the *Education (Accreditation of Non-State Schools) Regulation 2001*. Regulation 10 includes a number of child protection requirements, including:

- Processes for implementing child protection reporting requirements, the implementation of a Code of Conduct for staff and students.
- Processes for reporting and addressing allegations of inappropriate behaviour by staff members towards students.
- Complaints processes for failing to follow child protection procedures.

- 5 The Catholic Education Commission of Victoria (CECV) is working with schools and congregations in developing standardised and consistent child protection policies for schools. There is a risk of de-registration (and consequent reputational damage) if policies are not current and do not comply with legislation or reach minimum standards. Through a Memorandum of Understanding between the CECV and the VRQA the latter has delegated responsibility to CECV to ensure that all Victorian Catholic schools are compliant with the current Victorian legislation and reach the minimum standards for school registration. The CECV has processes to ensure compliance including the school review process, guidance material, checklists and annual reporting to the CECV and VRQA.
- 6 The lack of harmonisation in state-based legislation governing the registration of primary and secondary schools and child protection creates differences that impede the adoption of consistent child-safety standards in all Australian schools.
- 7 Legislative change could be introduced in Australia to ensure that school registration and teacher accreditation processes in primary and secondary schools are harmonised and focused on child-safety.

National Standards

- 8 A set of national standards could be developed and incorporated into the NSSF and school registration processes. These national standards could articulate uniform standards in the following key areas:
 - complaint management that reflects the Australian standard
 - probity checking of employees (paid and voluntary)
 - governance and leadership development
 - professional development, and
 - policy review and development
- 9 The Australian Government Compliance Annual Certificate requirements could be amended to include an additional compliance field, for example, 'Has your school implemented the national child protection standards as articulated in the NSSF?'

4.2 What role could or should insurance, organisational or directors' liability, as well as regulation by the Australian Charities and Not-for-profits Commission and Australian Securities and Investments Commission, play where a registered school or corporate body fails to prevent, identify, report or respond to child sexual abuse?

Insurances

- 1 Matters relating to insurance and liability are best addressed through consultation with insurance providers. If a registered school fails to prevent, identify, report or respond to child sexual abuse and if they do not have requisite policies and prevention measures in place the insurer may refuse to insure and indemnify the school.

- 2 As liability is likely to flow to the organisation where an employee or the organisation's system as a whole failed to prevent, identify, report or respond to child sexual abuse, depending upon the facts of particular cases, insurances should be taken out where possible to cover this potential liability both on behalf of the organisation and on behalf of 'directors'.

Australian Charities and Not-for-profit Commission

- 3 The Australian Charities and Not For Profit Commission (ACNC) was established in December 2012 for the purpose of protecting the public interest and the confidence that the community places in charities and not for profit organisations. As a result of meeting the obligations of the ACNC each charity is entitled to maintain significant concessions related to the status of being a registered charity.
- 4 With the exception of a very limited number, most non-government primary and secondary schools in Australia are not for profit organisations and therefore are bound to comply with the requirements set down by the ACNC. The responsible persons of each of the schools (the ACNC definition, not the Education Act definition) would therefore need to comply with the ACNC Governance Standards.
 - Governance Standard 3 requires organisations to comply with Australian laws.
 - Governance Standard 5 requires responsible persons to exercise the entity's duties with a degree of care and diligence that a reasonable individual would exercise.
- 5 Breaches of governance standards by an organisation or its responsible persons may result in disciplinary action by the ACNC which, in the extreme, may include the suspension and removal of 'directors' and the revocation of endorsement of the entity as a charity. More likely in these circumstances the ACNC Commissioner would exercise power to give directions or to require enforceable undertakings. Since ACNC has no jurisdiction in relation to government schools national oversight/regulation in this area by ACNC would not be appropriate.

Australian Securities and Investments Commission

- 6 The *Corporations Act 2001* (Cth) imposes duties on officers as well as directors. The key provisions deal clearly and comprehensively with directors' liability.³¹ The Australian Securities and Investments Commission (ASIC) oversees compliance and enforcement under this Act. In a governance context, directors of some State Education Commissions as well as some school boards are subject to the provisions of this Act. The governance structures in Catholic schools vary across Australia.
- 7 The ACNC and ASIC currently exercise regulatory powers in relation to accountability which may or may not play a role where a registered school or corporate body fails to prevent, identify, report or respond to child sexual abuse. The uncertainty about the future of the ACNC is not an encouragement to look in the long term to that body for regulatory powers. Likewise, a role for ASIC in relation to corporate bodies which are school authorities might duplicate statutory arrangements applying to state authorities.
- 8 Duplication of accountability should be avoided wherever possible. Over-regulation will not solve the problems of prevention, identification, reporting or responding to child sexual abuse.

³¹ *Corporations Act 2001* (Cth) ss.180-183: duty of care and diligence, duty of good faith, duty not to properly use one's position, knowledge or information gained.

Topic E: Education, training, professional support and primary prevention

5.1 What obligations should schools have to ensure that their teaching and non-teaching staff are aware of and comply with applicable codes of conduct, professional standards or child protection policies?

- 1 Most Australian states and territories require non-government schools to ensure that school staff are aware of and comply with codes of conduct, professional standards or child protection policies. In addition schools are required to make readily available to all staff expectations of appropriate conduct and the processes of responding to harm or allegations of harm to students.
- 2 To comply with this obligation, all staff complete regular student protection training. In the Catholic education sector, most Catholic schools carry out this training annually. Additional training is provided to specific staff nominated as Student Protection Contacts (or equivalent positions) to enable them to provide support and guidance to other staff and assist them fulfil their obligations.
- 3 It is expected that at the outset of employment all teaching and non-teaching staff are fully informed about codes of conduct, professional standards and child protection policies that apply to them. In addition, staff should be reminded about their responsibilities at regular intervals throughout the duration of their employment. While maintaining currency in this area is an individual employee responsibility, an employer should retain primary responsibility for regularly ensuring that staff are aware of and meeting expectations.
- 4 School authorities would need to ensure that staff have access to relevant documentation, provide formal and informal opportunities for them to ask questions to clarify the information, require staff to acknowledge receipt of the documentation and confirm that they understand their responsibilities. Schools authorities have a responsibility to ensure the codes of conduct, professional standards and child protection policies are compliant with legislation and are updated regularly to reflect current practice.
- 5 Where breaches of codes of conduct, professional standards and child protection policies are identified, schools need to have in place processes consistent with legislative requirements to deal appropriately with them. In addition, non-government schools must have a complaints process that addresses failure to comply with these processes.
- 6 A system-level approach may be helpful to support schools in ensuring that staff are meeting these expectations. The Catholic Schools Office/Catholic Education Office, for example, makes sure that schools are equipped with the necessary tools to meet their obligations at an individual and collective level.
- 7 Schools need to have clear policies defining acceptable standards of staff behaviour. Staff need to be trained to report behaviour that does not meet those standards. They need to understand that they are not required to assume intent nor to form a judgement. The majority of barriers to reporting child sexual abuse could be overcome by a focus on reporting behaviour, and having well trained decision makers who can assess behaviour and take appropriate action.

5.2 What role does teacher education, training and professional support (including university study, pre and in-service training, and mentoring/support) play in equipping individual teachers with skills and confidence to identify behaviours indicative of, and to appropriately respond to risks or incidents of, child sexual abuse, and to children displaying problem sexual behaviour?

- 1 Teachers are in a privileged position of having daily contact with children and young people. In many instances they are seen as supportive adults by many students. Teachers therefore need to be supported in developing knowledge about child abuse and neglect, problem sexual behaviour and approaches to positive behaviour support. They build relationships with students over time and therefore are better placed than most to know when something is not right. A teacher can often be the first person to notice or be told about child sexual abuse occurring. Therefore it is vitally important that teachers are equipped with the relevant skills and confidence to identify behaviours indicative of child sexual abuse, know how to appropriately respond to risks or incidents of child sexual abuse and understand the dynamics of children displaying problem sexual behaviour.
- 2 Given this important role, teachers need to be supported in developing the requisite knowledge about child protection and child sexual abuse. Equally important is that the education delivered to teachers on this topic is delivered by experts. Specifically, training should include training in areas which seem to be poorly understood such as recognising grooming. Areas such as problem sexual behaviour are complex. They require specialist training developed and delivered by appropriately qualified personnel. Well-structured pre service training by teacher education organisations is essential.
- 3 The fundamental issues of understanding, identifying and responding to child abuse and harm are the same across Australia. However, there is no consistent approach to pre-service teacher training in child protection. The legislative and resulting policy requirements for each state and territory are different. A more consistent, uniform and national approach would be more efficient and effective. Training would then need to be particularised to reflect the policy and procedure requirements of each education authority.
- 4 Education in child protection should commence during university as an integral part of teacher education. Ideally every university teaching degree should contain a unit of child protection training which is compulsory for all students and is a minimum requirement for entering the profession. Beginning teachers will thus be adequately informed of issues prior to commencing working with children in school contexts. Their knowledge will then be enhanced through further workplace training and professional learning.
- 5 At the commencement of employment, new teaching staff should receive from specialist staff specific induction in the area of child protection. All teaching staff should be required to undertake some professional learning every 12 months to ensure that their knowledge remains current. It could also be possible to develop a mentoring/support program which links with teacher accreditation and registration. Beginning teachers need continued mentoring and support until they feel equipped to manage issues of sexual abuse.
- 6 School staff and leadership should be supported in managing and responding to child protection concerns by specialist staff in the central offices. Approaches to training should be multi-faceted and constantly available to meet the needs of a diverse adult learning population. Approaches could include:
 - online learning modules
 - workshops and large group in-service training provided by appropriately qualified presenters
 - written material and self-paced learning

- use of practice-based scenarios and guides

7 Training should not be exclusive to teachers. School officers and support staff play an equally important role in identifying and responding to abuse and harm. Training must thus be accessible to all staff members including volunteers, coaches, tutors and other visiting personnel who must also be equipped with requisite knowledge and access to information to be able to respond to child protection matters.

5.3 What should school systems do to ensure their schools consistently deliver effective sexual abuse prevention education? Do such programs address barriers to children disclosing abuse, including the specific needs of children with disability, with English as a second language or with other particular vulnerabilities?

- 1 All elements of school communities need to be engaged in this important dimension – children and young people, staff and especially teachers and parents. Educationally appropriate programs for children should begin from the time they enter school. There is considerable merit in an approach employed by some schools in England where some staff are especially trained to be leading teachers in child protection education. Specifically-trained staff support the principal in ensuring children remain safe and child safety is embedded in the culture of the school.
- 2 Teachers are often required to complete mandatory training modules, some of which can be completed online and be monitored. Similar modules need to be part of pre-service training for teachers, including the more challenging task of learning about the ways children and young people might behave when they are experiencing neglect or abuse, with a special emphasis on sexual abuse. The consistent implementation of comprehensive induction processes for volunteers in relation to responding to abuse and neglect is also advisable.

Compulsory Curriculum

- 3 To ensure schools effectively deliver sexual abuse prevention education to students a compulsory national curriculum on sexual abuse prevention education needs to be developed so that a minimum standard of education is delivered to children regardless of state, territory or educational sector. The curriculum should be:
 - age-appropriate across the various stages of development
 - written in consultation with children and young people
 - based on consultation with peak bodies representing minority groups so their needs are being met and their voices are heard, and
 - be child focused; and delivered on an annual basis.
- 4 Given the sensitive nature of child protection and in particular child sexual abuse, the curriculum would ideally be focussed on building the capacity and confidence of all teachers with support from experts, who could facilitate the training of teachers. If this is not possible (and normal constraints of resourcing and logistics suggest that this would be the case) it should be delivered by teachers who have undergone rigorous training, who can deliver the material with sensitivity and confidence.

- 5 If schools remain individually responsible for creating and delivering child protection education, greater support needs to be given to teachers, support that takes into account a teacher's capacity to deliver the curriculum due to a multiplicity of factors. Continued professional development and opportunities for debriefing are necessary for these staff members.
- 6 Currently there is no mandated approach to child protection education programs for students in government or non-government schools. It would be fair to state that schools generally have an ad-hoc approach to protective behaviour programs. The Daniel Morcombe Child Safety Curriculum and the South Australian child protection curriculum *Keeping Safe* are examples of particularly useful programs, but their implementation is frequently left to the decision of particular school authorities.
- 7 Consequently it would be useful for schools to have access to a program that is:
 - developed by those with expertise in the area (national and international) and in consultation with children and young people
 - evidence based
 - evaluated by obtaining feedback from children and young people, parents/carers and staff, and
 - nationally consistent across jurisdictions to ensure all children and young people receive the same messages.
- 8 In developing programs/procedures, schools would need to be able to address, with sensitivity, procedures that would give accessibility to ALL students. In the delivery of child protection education, as with any educational program, the diversity of the target group should be acknowledged. Clearly it is difficult for one program to meet the needs of a diverse population such as
 - remote Aboriginal and Torres Strait Islander communities
 - children with disabilities
 - children from varying socio-economic backgrounds
 - children with English as a second language, an additional language or dialect, and
 - children from other cultural backgrounds.
- 9 Whilst there needs to be a consistency in message, the delivery of the message must take into account the needs of the student population. Development of a suite of educational options underpinned by a consistent approach seems to be a way forward.
- 10 Finally, programs should be evaluated to assess their learning effectiveness against student needs.

Topic F: Reporting, information sharing, complaints and investigations

- 1 In Catholic schools across Australia teachers and other staff are trained to report child sexual abuse. Training is compulsory and is generally undertaken initially during the induction phase for staff new to the organisation and subsequently at regular intervals during the course of employment. The quality and focus of training offered and the resources allocated would vary significantly across education systems in Australia. The experience and the prior knowledge of the attendees may also differ considerably. Time allocated to training as well as the quality of human and other resources impacts on the consistency and quality of the training and the learning outcomes of attendees.
 - 2 Since there has been no overall evaluation of the training nor an assessment of the ability of staff to understand and apply the training in the school setting the question as to whether the training assists in equipping school staff in understanding and carrying out their role in relation to reporting child sexual abuse remains unanswered.
- 6.1 What barriers or fears might discourage or prevent individuals working in or with schools from reporting suspected child sexual abuse (whether the abuse is perpetrated by colleagues, volunteers, other students, other members of the school community or family members)? How could those barriers be addressed?

Barriers and Fears

- 1 The following issues have been identified:
 - Despite the clear requirement that teachers, in reporting suspected sexual abuse, need to have formed a belief based on reasonable grounds that sexual abuse did occur, teachers often search for proof. This mind-set can often prevent teachers from acting on their initial instinct while they wait for greater certainty.
 - Despite the existence of sound guidelines concerning how to treat disclosure by a child of sexual abuse, there still exists in some cases a tendency to disbelieve the child and/or the information.
 - The child protection system is complex and is constantly changing. School staff can be overwhelmed or confused by the system.
 - The notion that teachers may be seen to be in judgement of their peers does not sit comfortably with many of them.
 - There is also a level of anxiety amongst school staff members that they may 'get it wrong' in reporting a reasonable suspicion that a student has been or may be abused. This can result in either over- or under-reporting of concerns. This level of anxiety may be mitigated in some way through provision of protection under legislation, for example, the *Education (General Provisions) Act 2006* (Qld) which contains a specific provision in relation to reports of suspected or likely sexual abuse, namely that a person who makes a report cannot be held liable for doing so. Such protections might need to be strengthened nationally.
 - There are also concerns regarding reporting of conduct which, while inappropriate, does not constitute sexual abuse, and the fact that such reports are not necessarily afforded the same degree of

confidentiality as mandatory reports. Where a staff member believes that they may be identified as having made such a report this can pose a barrier. Education around such reporting is required.

- Staff who have worked alongside someone or come to know a person in the course of their work or social setting, can at times be unwilling to recognise reportable behaviour for what it is.
- Some staff believe that child protection is not their responsibility or beyond their expertise.
- Complications arising from a pre-existing relationship/connection between the alleged perpetrator and the person reporting also influence staff in whether or not they make a report.
- Staff come with varying degrees of personal and professional experience which can impact on how and if they manage the reporting of sexual abuse.
- The response of senior staff within the school and the system – whether or not they are supportive of the person making the report - can help or hinder the action of reporting.

2 The following factors are also pertinent:

- the emotional impact of making report of child sexual abuse on the person reporting - a culture that does not acknowledge this, leaving the reporter feeling unsupported;
- fear of personal repercussions
- fear of repercussions on others, for example:
 - a child being removed from parents
 - sibling groups being placed in separate foster placements
 - children/young people being dislocated from their support networks at school and in the local community
 - children/young people blaming or losing trust in the reporter for the trauma caused by reporting or statutory intervention, and/or
 - fear of damaging the reputation and career of another staff member.
- lack of ability to recognise the dynamics of child sexual abuse, for example grooming
- fear/confusion and subsequent immobilisation at the horror of sexual abuse
- misconceptions concerning confidentiality
- fear of and lack of trust in authorities and statutory processes: school / government departments / police / court / systems - particularly if the reporter has had a negative personal experience of such
- lack of a culture (organisational and community) to support child safety and reporting
- previous negative experience in reporting, including previous reporting giving rise to no action

- lack of understanding of the limitations of the role of Police and Statutory Child Protection Services - at times school staff report matters that are clearly outside the jurisdiction of Statutory Child Protection Services resulting in no action. Reporting is then seen as 'pointless'
- lack of feedback from Police and Statutory Child Protection Services about what if any action will be taken, leaving schools in a situation of not knowing if or how they can best support the family
- backlash – there have been cases where parents have been informed that the school has notified Police and Statutory Child Protection Services of concerns. This has resulted in some instances in a student being moved from the school.
- School personnel frequently maintain relationships with children and families over a significant period of time. How these relationships are maintained after reports of abuse and harm is of significant importance. Where a fear exists that raising an issue may jeopardise relationships, it can pose a barrier to reporting.
- Specific barriers and fears within Indigenous communities include
 - fear of payback from the family if they were to report
 - fear of having to go to court against a family member
 - family links and loyalties can create fear for some indigenous staff
 - fear of how the situation will be handled by police and statutory agencies.

Suggested Actions to Address Barriers:

- the introduction of mandatory reporting to school authorities and external agencies: mandatory training and professional development to address codes of conduct, reporting requirements and contemporary issues relating to child sexual abuse enabling staff to deal confidently with these matters.
- access to ongoing training and professional development opportunities that are consistent and nationwide
- comprehensive policies and procedures which are child centred, easily accessed, known and followed
- clearly-defined procedural steps
- school and system leaders who respond appropriately to reports of reportable behaviour
- implementation of best practice
- focus on reporting what is noted as inappropriate rather than analysing or explaining it
- good relationships with and solid understanding of the operations of other agencies, such as police, family and community agencies, the Ombudsman, the Children's Guardian and equivalent
- committed and informed leadership to effect cultural change in the prevention of and responding to suspected child sexual abuse
- leadership which addresses contemporary and emerging issues relating to child sexual abuse and the role of schools and other institutions in preventing it

- child-centred policies and procedures
- rigorous requirements for transparency and independent external accountability
- independent, nation-wide external oversight through implementation of a 'reportable conduct' scheme (similar to that operating in NSW under the Ombudsman)
- comprehensive programs to allow teachers and school staff to recognise and address peer child sexual abuse and to exchange information with other agencies as necessary
- capable and highly responsive statutory and support agencies for schools
- quality resources to create a school culture that will not tolerate child sexual abuse in any form
- better communication and information sharing between systems
- legislative provisions for the exchange of information³² that enable schools and statutory and support agencies to work together with:
 - confidentiality
 - access to support/counselling for person making a report
 - better inter-agency relationships particularly at a local level
 - access to child protection practitioners for all schools, and
 - less onerous processes to raise concerns with child-protection agencies and a clearer understanding of their complaints mechanisms.
- processes to address fears within indigenous communities through:
 - inclusion of considerations of local implications in training about abuse and harm
 - involving local Indigenous staff with child protection experience in training about responding to abuse
 - involving elders within particular communities
 - involving the entire community in the awareness and the prevention of sexual abuse.

³² For example those operating pursuant to Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW)

6.2 How effective are mandatory reporting and reportable conduct schemes in assisting to identify and report child sexual abuse in schools? If necessary, how might these schemes be refined to better suit school environments?

- 1 Mandatory reporting and reportable conduct schemes are critical to dealing with the complexities of child protection where there can be a high degree of hesitancy to report and/or to act decisively. This is particularly so in view of the inherent potential for conflict of interest, uncertainty, doubt and fear that may otherwise serve as impediments to responsible action. Legislative compliance removes the element of choice in relation to reporting real or suspected child sexual abuse.
- 2 Reportable conduct schemes and regulatory oversight are effective in raising the bar against which to evaluate the performance of organisations (including schools) when dealing with concerns and complaints.
- 3 In NSW the trigger for a matter to be dealt with under the reportable conduct scheme includes the more comprehensive concept of 'sexual misconduct' rather than the narrower 'child sexual abuse'. This helps ensure that a concern is addressed early with the ensuing investigation able to address patterns of behaviour which may cause concern but which may not have been detected at such an early stage.
- 4 The State of Victoria does not currently have a reportable conduct scheme in place. However the State Government has indicated its intention to implement a scheme in the future. Catholic Education Melbourne has indicated it would welcome this as an added layer in the prevention of child sexual abuse in schools.

Factors inhibiting the effectiveness of these schemes:

- 5 The multiple reporting obligations can appear to be quite complex and require a substantial level of understanding by key officers responsible for managing a school's follow-up of all mandatory reporting obligations. Coordination and collaboration with various bodies can also be complicated and difficult when schools are required to operate across a range of agencies.
- 6 There is a concern that having lodged a report staff may feel they have carried out their responsibility. They need to be encouraged to continue to monitor, support and re-refer if necessary.
- 7 The response time post reporting can be slow with the reporter and the school often unaware of what is happening and whether or not the matter will be investigated. Lack of feedback has a significant impact on schools particularly in matters involving problem sexual behaviour between students or issues involving staff.

Areas for potential refinement of the schemes to better suit school environments:

- 8 Mandatory reporting laws can be better refined for school environments by consolidating the numerous legislative requirements into one. An obligation to deal with just one piece of legislation would significantly enhance the ability of schools to give effect to these requirements at a practical level.³³ The fact that multiple bodies must be reported to causes inefficiency and confusion. Simplification of the process of reporting and further development of the capacity for sharing of critical information with other relevant agencies and employers will be of benefit to schools and school authorities.

³³ Reference is made to the submission of Queensland Catholic Education Commission to the Commission of Inquiry into the Queensland Child Protection System concerning the challenges faced by schools in implementing mandatory reporting requirement, particularly in specific situations where the legislative requirements do not support the best interests of children and families.

- 9 Effective training is another key factor as is the use of common definitions which are in place nation-wide and across all sectors in respect of:
- child-related workers and child-related roles (*compared with* 'employees of designated agencies')
 - working in direct contact with children (*compared with* 'delivering a service to children').

Whatever is in place, the central focus must remain the best interests of children and young people.

6.3 What obligations should schools have to alert teachers, parents/carers, other schools (for example, where a student changes schools or progresses to secondary school) and other professionals when a child has exhibited problem sexual behaviour, or has engaged in sexually abusive behaviour?

- 1 There is agreement that a child-centred approach should predominate and that sharing information that will support the child while at the same time providing a safe environment for all students must be the goal.
- 2 Schools should be supported by legislation requiring them to transfer all information about a child, including information about sexual abuse, to their new school. It is as relevant to their education as their academic records. Sharing of this information is critical to address the needs of a student exhibiting the sexual behaviour as well as protecting other students from harm. Admittedly this is a complex area. Any information-sharing needs to ensure that no child is discriminated against. Achieving this in a consistent, coordinated fashion so as to maintain confidentiality and avoid a potential litigious claim is difficult. Over time, levels of risk will change (particularly where a child engages in support and treatment). Communication must be consistent with the level of risk at a given time. No child should be stigmatised.

Privacy

- 3 Issues of privacy require very careful consideration in this context. Accurate information appropriately conveyed will avoid unnecessarily catastrophizing the situation.
- 4 The legislative frameworks provide for schools, as appropriate to their role and function, to take the necessary steps to respond to risks and to alert teachers and other staff to assist in managing the risk that a child poses as well as coordinating services to support the child and family. Ideally parents and carers and the student will be involved a confidential decision-making process concerning exchange of information. Nevertheless, where a child or young person is changing schools and there is some history of their being sexually abusive or engaging in inappropriate sexual activity this must be sensitively disclosed and used appropriately, even if the parent/carer has concerns about such disclosure.
- 5 With regard to the parents/carers of a child who has exhibited problem sexual behaviour, schools should also be encouraged to work with them wherever this is reasonable. The privacy of students and families must be considered, in balance with the risk to school communities. This includes provision for sharing information where a student later changes schools (intra-state) or progresses to secondary school. There are varying systems of communication between government and non-government schools particularly with regard to student behaviour. When matters of sexually abusive behaviour have been reported to the authorities and have been investigated a key question is the responsibility of school to pass on this information. In a student transfer process, the investigating authority may be better placed to undertake this, with due regard to considerations of risk and support needs.

- 6 It must be noted as well that in some states sharing information between schools or conveying the information to other parties represents a possible breach of privacy legislation.
- 7 With regard to the parents/carers of other children, the priority should be to protect the children from harm and to provide them with appropriate support without compromising the privacy of the child in question.³⁴ The process for alerting teachers and parents to a student's problem sexual behaviour is commensurate with the nature of the behaviour. On a case-by-case basis, and sensitive to particular circumstances, this requires assessment of appropriate action to address concerns and to minimise the risk that the child exhibiting problem sexual behaviour may pose in the school.
- 8 In alerting teachers to problem or sexually abusive behaviour the key consideration is maintaining a safe environment for all children. Consequently staff members involved in developing and implementing risk management plans will require information commensurate with what is necessary to carry out their role.
- 9 A nationally-consistent approach to this issue would be welcomed.

6.4 How should investigations into allegations of child sexual abuse be undertaken within schools, and by whom? What measures should be taken to ensure that the sensitivities and vulnerabilities of children involved are considered?

- 1 Investigations into allegations of child sexual abuse must be child-focused in order to ensure that the sensitivities and vulnerabilities of children involved are attended to, as opposed to focusing on determining whether or not allegations can be substantiated. This means that the process must be clearly explained, the child's views and needs taken into consideration, proper and effective communication with the student and family ensured, and ongoing support facilitated.
- 2 Investigations into allegations of sexual abuse by staff should not be undertaken within schools by school personnel.
- 3 That being said it is imperative that schools cooperate with the relevant statutory authorities to enable the relevant investigative arms of those agencies to conduct investigations. In NSW, under the reportable conduct scheme the school's investigations of reportable allegations (including sexual misconduct by employees) are subject to the oversight of the Ombudsman regardless of whether or not the matter involves further investigation by any statutory authority. In Queensland, allegations of child sexual abuse within schools are referred to police for investigation.³⁵
- 4 The principle of the best interests of the child demands that a risk assessment be conducted and if the matter concerns a staff member this person should be stood aside while the matter is being investigated. Such a stand down should occur in consultation with police so that any police investigation is not compromised. The delicate balance between principles of procedural fairness for an accused staff member and the best

³⁴ In NSW the provisions of Part 5A of the *Education Act 1990* (NSW) in particular, and also Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW), require and/or provide for schools to take steps to respond to such risks and for the sharing of information between various organisations and professionals when a child has exhibited problem sexual behaviour or sexually abusive behaviour towards others.

³⁵ In Queensland, if a teacher is charged with a criminal offence, the Queensland College of Teachers suspends the teacher's registration. A school cannot continue to employ a teacher whose registration is suspended. The suspension is effective until the criminal matter is resolved via either a conviction (which results in termination of employment) or an acquittal, in which case an investigation by the employing authority is required. Such investigations should be undertaken by (external) qualified investigators. Authority staff generally do not have sufficient skills to conduct such an investigation. The conflicts of interest inherent in the school relationships may mean that the investigation becomes a governance rather than an administrative matter.

interests of the child should err in supporting the interests of the child. However, strategies should also be employed to maintain (as far as is possible) a staff member's reputation while ever a matter remains unsubstantiated. There exists, therefore, a certain tension between procedural requirements relating to issues of privacy and confidentiality and competing interests such as the rights of the accused.

5 Where an investigation has been undertaken by police or a statutory authority and/or it has deemed an investigation not warranted because the matter is not criminal, it is returned to the school authority who may still need to investigate because of professional conduct concerns.

6 In such cases there needs to be a standard of investigation that is professionally competent and objective as well as reflective of the potential seriousness of the matter. Interviews of children should be conducted only by a trained interviewer with consideration given to the number of times a child may already have had to tell their story. Their experience of the power imbalance, their lack of trust and fear of repercussions, as well as their natural deference to authorities all need to be considered. Re-traumatising a child is not acceptable. Furthermore, adequate assistance such as counselling should be offered to all involved.

6.5 Are there barriers which might prevent or limit appropriate and timely sharing of information about child sexual abuse (whether perpetrated by adults or other children) in school contexts? If so, do such barriers differ depending on which individuals, bodies or jurisdictions are involved (for example: sharing within and between schools, between schools and parents/carers, between schools and government agencies, regulators and oversight bodies, or across jurisdictions)? How could such barriers be addressed?

1 The law in some Australian states, for example Western Australia, allows for information-sharing between schools and government agencies if it is in the best interests of the child. In some states such as NSW, it is mandated, while in others including Queensland sharing between schools and agencies is limited. In Queensland privacy limitations impact on the sharing of information. Protecting the sharing of information through legislation to facilitate the best care for the child is required.

2 Further, there is concern regarding how communication occurs when criminal investigation processes or court proceedings are underway in order not to impact negatively upon the outcome of these proceedings.

3 It follows then that staff and leadership need to be absolutely clear as to what is required of them by legislation, policies and procedures. Clearly, complexity within the various systems and unclear lines of communication between agencies can prohibit effective child care and safety.

4 Barriers operate in recognising the appropriate way to communicate highly confidential information, and the willingness of government agencies to work across school sectors. There are barriers which prevent and limit appropriate and timely sharing of information about child sexual abuse after a report has been made to a state authority. Response times are slow and frequently the principal of the school is obliged to follow-up. Timely responses from state authorities are critical in addressing the situation.

5 An example of this is what occurs when an allegation is made and a police investigation commences. The school is required to take immediate steps to address matters such as:

- the safety of the school environment
- supporting affected students and families, and

- industrial issues with respect to circumstances where the allegation is against an employee.
- 6 There can be problems in how a school system addresses each of these issues without compromising the police investigation processes, or adversely affecting court proceedings. The timeframes associated with criminal investigations and prosecution processes are often protracted. Delay can lead to the emergence of other issues in managing the school community, particularly with regard to information sharing. The key issue is how these separate processes from both a school-based and a police perspective effectively intersect in a manner that supports all affected parties, and leads to an effective, timely outcome.
- 7 Consideration could be given to establishing national protocols to define more clearly how schools and police are to work together during investigation processes especially where the investigation relates to an allegation of abuse within the school. These protocols would refer to
- information sharing - to ensure consistency in how government and non-government agencies exchange and receive information in an investigation process
 - roles and responsibilities of education authorities
 - notification of outcomes (with appropriate regard for legislative confidentiality and privacy)
 - support for affected students and families.
- 8 In cases of criminal prosecution where an allegation of child sexual abuse occurs within a school the parties to the criminal proceedings are generally the child victim and their family, the perpetrator and their defence counsel, and the prosecution. The school itself is not generally party to the proceedings. Consequently the involvement of the school is at arm's length. Yet schools have important obligations to support the affected persons. Consideration needs to be given as to the role the school may have when criminal proceedings involve an employee. It would be useful to have access to best practice guidelines to ensure that the institution is taking the necessary immediate steps in supporting and informing (where appropriate) their school community.

Barriers to sharing of information

- 9 The following barriers have been identified:
- While in some Australian states there are provisions to enable the sharing of information, these are not sufficiently broad neither within NSW, and certainly not in other states
 - Some of the barriers that limit information-sharing relate to definitions in legislation as to which particular bodies or persons are prescribed to be able to take part in the process
 - Increasingly there is potential for substantial holdings of information in relevant databases.³⁶
 - Currently these are proactively used by the Children's Guardian to reach out to employers where a WWCC is withdrawn or the person is barred
 - The area of privacy, and the extent to which privacy provisions do or do not prevent information-sharing appears to require further clarification.

³⁶ For example the NSW Children's Guardian records which employers have verified a worker's WWCC.

Addressing the barriers to sharing information

- A national systems approach for sharing of information across all bodies and agencies engaged with children and children's services is called for.
- Privacy issues that pose difficulties for the appropriate and timely sharing of information about child sexual abuse in every conceivable situation would need to be addressed comprehensively (and perhaps in the legislation itself) and not just on a piecemeal basis through a series of separate pieces of legislative adjustments.³⁷
- A review of Commonwealth (and perhaps State) privacy legislation so it clearly reflects these emerging needs for consistent information sharing is necessary.

An understanding of the dynamics of grooming and other high-risk adult behaviour informs us that offenders will go to great lengths to obtain access to a child. In this era it is unfair to children fail to protect them by sharing information because the organisation that held the information did not fit within a definition. A structure that monitors the release of information may be the way forward for integrity in such a process.

³⁷ For example, part 5A of the *Education Act 1990*; Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*; and Part 13A of the *Crimes (Domestic and Personal Violence) Act 2007*. Note that the last of these specifically provides for an exemption to privacy restrictions otherwise required under NSW state privacy legislation. However, that recently introduced provision does not assist in the case of the non-government Catholic schools covered by Commonwealth privacy law.

APPENDIX 1

A model for consideration: THE CHILD SAFE TEAM (CST)³⁸

- 1 The Royal Commission interim report noted that 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.
- 2 The major role of a CST is to oversee the above on behalf of the school community. The responsibility for developing such policies rests with the principal and professional staff with the support and guidance of a System authority as appropriate.

Membership

- 3 In all schools there would be a core CST membership of five, being three staff members of whom two must be registered teachers and two members of the school governance body one of whom must be a current parent. In schools with an enrolment greater than 400, an additional two members may be considered – one from each membership base.
- 4 The principal would be responsible for assigning staff members to be part of the CST although the designated child safety/protection liaison person who would be an ex-officio member. The convenor of the school governance group would be responsible for assigning members from that group.
- 5 The chair of the CST should not be a staff member.
- 6 The membership period of the CST would be two years. Members could be nominated for further periods of membership.

³⁸ This model has been developed by Catholic Schools Parents Australia, and provides an example of how such a body might be structured.

Practice

- 7 The CST would meet three times per year or once each school term. Administrative responsibilities for the work of the Team would be the responsibility of the designated child safety (protection/liaison) officer who would be registered teacher trained to carry out this role.
- 8 The principal would prepare a briefing report for each meeting. The briefing would cover the following areas:
 - details of staff training and parent education in child protection/child safe issues
 - relevant policy development and implementation and issues arising from implementation
 - cyclical policy reviews and updating
 - report on implementation and any issues with employment/vetting of staff and volunteers
 - school programs and activities to assist students to be child safe aware and pro-active in their own and others students' safety, and
 - a sensitive summary of child protection and staff compliance issues that is regarded as strictly private by all concerned
- 9 A brief report of each CST meeting would be developed by the Chair for inclusion in the school newsletter. The report is to be co-authorised by the CST Chair and the Principal before being published.
- 10 The CST would prepare an annual report for the school community. A copy of this report would be considered by the school's governing body. It would also be sent to the relevant system authority.

Child Safety Officer

- 11 The school Child Safety Officer(s) would:
 - take the lead on child protection in the school and act as a source of support, advice and expertise to staff on matters of child safety
 - have the skills and ability to identify signs of abuse and be a point of first contact for staff and volunteers should they have concerns for the safety of a student
 - ensure all elements of the school community are aware of the school's child safe policies and practices and that the communication of these is appropriate to the needs of each group, particularly students
 - assist in reviewing and monitoring any causes of concern relating to students which are raised in school
 - be an ex officio member of, and provide administrative support to, the school Child Safe Team
 - as required and appropriate be the school's contact person for liaison with statutory bodies, the police and community agencies with regard to child protection issues
 - ensure the secure maintenance of accurate, confidential and up to date school documentation of cases involving child protection

- assist in ensuring students who are victims of abuse are supported appropriately and sensitively and that all actions arising from planning and intervention meetings are successfully carried out and monitored by the school
- assist in facilitating the development and monitoring of the 'child safe standards' in the school and provide leadership and support for the regular updating of staff professional development in child safety as well being involved in regular and planned policy review
- maintain close support and communication with the principal on all matters to do with child safety, and
- maintain a high level of personal commitment, knowledge and experience through engaging in appropriate and regular personal professional learning in matters to do with child safety.