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**Evidence for Case Study 45: Public Hearing in to the response to children with problematic or harmful sexual behaviours in schools**

Can you describe the current state of knowledge about problematic and harmful sexual behaviours?

While there is specialised knowledge held by a relatively small number of psychologists and sexual assault counsellors in Australia, the body of Australian research is actually quite small.

There is almost no knowledge in the broader community about problematic, harmful and sexually abusive behaviours exhibited by children. This is partly because people find these behaviours to be deeply confronting. In instances where harm occurs, adults are often deeply shocked that children can behave in this way.

In the absence of knowledge, community attitudes are driven by fear and misconceptions. When incidents occur, adults often lack the knowledge required for them to act in a timely, sensitive and effective manner. Without clear knowledge about what action they should take, adult responses are inappropriate and children (those with the behaviours *and* those subject to the behaviours) often experience additional and unnecessary harm as a result.

Inappropriate responses fall, largely, into two categories:

- minimising the behaviours (ignoring the behaviours; disbelieving, discouraging, or silencing disclosures by children; or dismissing these behaviours as harmless "child's play" or "boys being boys")
- equally inappropriate responses are: for adults to react with anger, fear, disgust, violence, and public measures to shame, isolate or punish a child with sexualised behaviours.

These dominant reactions are extreme opposites of one another: to deny the behaviours silences children and denies them safety; and maximising public attention with panic and punishment stigmatises children and scapegoats. Both are a misuse of adult power, and both put children at ongoing risk. Neither of these dominant responses considers that children live in communities, and in peer groups (children's social development means that this is more true for children than it is for adults). To bolster the wellbeing and safety of one child bolsters the wellbeing and safety of all children. Conversely, when adult responses damage a child further (whether a child with sexualised behaviours or a child subjected to these behaviours) that response ultimately damages all children in that peer group, school, or community.

Lack of knowledge about how to respond is the primary reason that these inappropriate and damaging responses occur with such regularity. There is a need for comprehensive community education to dispel myths about sexualised behaviours, and to ensure that parents, caregivers, and all professionals working with children possess the knowledge that they need to respond in a timely, sensitive, and effective manner.

What is the source of the confusion, and the misconceptions about this issue?

Part of the confusion relates to a powerful conceptual problem. That is:

- are children with these behaviours perpetrators of abhorrent and harmful acts (crimes) that cause considerable harm to other children; or
- are children with these behaviours themselves victims of trauma or adversity, who require

counselling and support to ensure that they adopt positive behaviours and cause no further harm.

Our criminal justice system is predicated on an understanding that 'victim' and 'offender' are binary opposites. Ideas about the mutual exclusivity of 'victim' and 'offender' play a powerful role in shaping community understandings of justice and of safety. We have a 'commonsense' understanding of victim and offender as distinct, and we have quite an attachment to this concept because we see this as underpinning the social order that maintains our safety. And this is evident in the language that we use to describe crime. For example – where a child is sexually abused by an adult the child would be referred to as a 'victim', and the adult as an 'offender' or 'perpetrator'. The latter terms carry enormous stigma, something that many see as justifiable punishment for acts of abuse.

For children with sexualised behaviours, this language is inappropriate. Children with problematic, harmful and sexually abusive behaviours complicate our understandings of victim and offender. There is strong consensus among specialised counsellors that children who come to attention for sexualised behaviours are children who also face profound challenges in their lives, including any or all of the following: histories of child sexual abuse; neglect; exposure to, or direct experience of violence; exposure to caregiver substance abuse; cognitive delays; and social isolation. This is not an exhaustive list, and I will discuss these factors in greater detail in due course.

For now – I will clarify that the material that I will present identifies the dual priority:

- of ensuring the safety and wellbeing of children that have been subjected to sexualised behaviours; and
- ensuring the safety and wellbeing of children that exhibit sexualised behaviours.

I see these priorities as mutually reinforcing, not conflicting. It is absolutely crucial that counselling be made available to a child harmed by the sexual behaviours of another child, acknowledging, with sensitivity that, for equivalent acts (for example, for penetrative assault) sexually abusive behaviours by a child are no less harmful than those by an adult. There is important work to be done to ensure that the community (parents, caregivers, teachers, police, child protection officers) understand the seriousness of this harm, and that a child subjected to the harmful sexual behaviours of another child should be provided with the opportunity for counselling, in *every* case, which is not to say that counselling should be in any sense mandatory.

It would be a mistake, however, to think that it is a lesser priority to provide therapeutic counselling to the child that has exhibited the behaviours. There are negative media messages, at times, that suggest that responding sensitively to a child with sexualised behaviours is, in some sense, an affront to the child that has been victimised. These negative messages need to be challenged, whether they circulate in the media, in schools, or within the counselling sector itself.

Ensuring the safety and wellbeing of **both** children *is* possible.

How should we be responding to children with these behaviours?

We need to promote understanding that it is in the interests of all children that effective behavioural change assists the child with sexualised behaviours to cease their behaviours. This requires specialised therapeutic support to: address the source/s of underlying trauma; restore the supports that the child requires; and, without stigmatising the child, to instill a sense of empathy and personal responsibility for their behaviours. This is the most humane way to respond to a damaged child.

Providing a child with a reason to contribute meaningfully and respectfully to a community is the strongest means of building long-term community safety and wellbeing. (We must be very wary of measures that maintain only the appearance of community safety – yet leave children at risk).

There may be times when it *appears* that there is a conflict between the needs of a child with sexualised behaviours and the needs of a child that has been subjected to these behaviours. In cases of sibling sexual assault, for example, parents or caregivers are faced with the challenge of implementing counselling plans and safety plans to protect and promote the wellbeing of the victimised sibling, while also providing sensitivity and supports for the sibling with sexualised behaviours in order to promote positive behavioural change. A punitive or panicked response might be to isolate the child with the sexualised behaviours, by removing them from the family home. This would be completely ill-conceived in all but the most extreme circumstances. Removing a child from their social supports, in this case their family, would have a corrosive effect on any efforts to promote positive behaviours. It is in the interests of both siblings if therapeutic work means that the child discontinues the sexualised behaviours, and evaluations show that this is much more successful where children's therapeutic process is bolstered by natural supports (the active involvement of their family or caregiver/s). A holistic response to this complex social problem requires that we respond with sensitivity to children that are victimised, and also to those children displaying harmful sexual behaviours.

Access to services is often contingent on the child's age, is this helpful or unhelpful?

Children and young people who display problematic, harmful or sexually abusive behaviours are not a homogenous group and terminology varies across legal and therapeutic settings, and between states and territories. In general however, there is a broad distinction made between the behaviours of those that are under the age of criminal responsibility, and those that are old enough to be held criminally responsible for their actions. There are some problems with defining behaviours based on the legal ramifications of a child's chronological age. I will examine these problems in due course.

Before doing that I will outline the way in which these two broad definitions of behaviour operate.

As knowledge about problematic, harmful and abusive sexual behaviours in children has increased there has been a growing awareness of the need for particular care with language, to avoid further harm to children exhibiting these behaviours. Terms used as descriptors can become labels that impact on how a young person considers their identity, their future, and their own potential to engage in healthy and positive behaviours. There is a general consensus among researchers and clinicians that to refer to children and adolescents as 'sex offenders', 'perpetrators', or 'abusers' is stigmatising and likely to inhibit the young person's impetus to change. In general, Australian specialised counsellors rarely use stigmatising language, particularly to refer to children below the age of criminal responsibility.

Instead, specialised counsellors now use terms that describe the *behaviours* that a young person has displayed, rather than describing the young person *as something* that is pathological and intractable, (i.e. 'a perpetrator', or as 'a sex offender'). There are important reasons for this, which include:

- Criminological studies demonstrate that labelling those that breach the law *as criminals*, provides a disincentive for positive behavioural change.
- Labelling a child as a sex offender or a paedophile incorrectly applies an adult label to childhood behaviours that differ from adult sex offending behaviours in their origin, their purpose, their nature, and in terms of prospects for rehabilitation. Children with these behaviours are not young paedophiles, or young sex offenders. It is important that we remember that they are children, and children differ from adults in important ways.

- We now know that the human brain is not fully developed until the age of 25. Actions taken by children, are taken while their brains are still developing – before a child’s decision-making capabilities are fully formed.
- Children have not yet had the lessons, and the life experience, to engage in the moral reasoning that we expect of adults. We should be particularly careful about imposing the same expectations on children’s behaviour that we would impose on adults.
- This is particularly the case when the adult world is increasingly providing children with extremely mixed messages about sex, violence, and power. So many of the messages in everyday media celebrate physical strength, dominance, and power as qualities associated with masculine success. Often designed by advertisers *to persuade* – the messages themselves are designed to manipulate the audience point of view. We cannot expect children to interpret these messages unless we provide them with meaningful counter narratives, and education about their own rights and responsibilities in interpersonal relationships.
- Childhood is a time of extraordinarily rapid social, emotional and psychological development, and children’s sense of self is deeply linked to others, including their family and their peers. This peer association, coupled with the (as yet under-developed) decision making capabilities and under-developed frameworks for moral reasoning, means that children are more likely than adults to engage in risky behaviours, and they often do so in groups.
- This contributes to one of the most robust trends in criminological data – that is, that while the majority of crimes are committed by adolescent males, these same adolescents are very likely to grow out of crime in young adulthood. The maturation process itself proves rehabilitative.
- The fact that children and young people have not yet fully developed their world view, or their neural pathways, means that they have a special capacity for rehabilitation, so therapeutic supports for a child or adolescent hold particular rehabilitative promise. (A prospect that far exceeds prospects of rehabilitation for an adult sex offender).
- Perhaps above all – a key reason for remembering that children with sexualised behaviours are qualitatively different to adult sex offenders, is that in the majority of cases children with these behaviours are children who have experienced considerable harm themselves.

### What is the best way to describe these behaviours?

#### Definitions

I mentioned that although there are differences in the terminology used in each state and territory, there is a broad distinction made between the behaviours of those under the age of criminal responsibility, and those old enough to be held criminally responsible for their actions. Children under the age of criminal responsibility tend to be described in terms of exhibiting *problematic* or *harmful sexual behaviours* (or sometimes problematic harmful sexual behaviours). For those over the age of criminal responsibility the behaviours are often described as *sexually abusive*.

**Problematic and/or harmful sexual behaviours (PSHBs)** - At present, these descriptions are applied largely on the basis of a child’s age (children under 10 years of age, or, sometime children under 12).

Behaviours in this spectrum vary from excessive self-stimulation, sexual approaches to adults, obsessive interests in pornography, and sexual overtures to other children that are excessive to developmental bounds. For some children, these problematic sexual behaviours are highly coercive and involve force. It is important that we understand that behaviours by children in this age range can

extend to penetrative sex acts - acts that would certainly be described as 'abusive' were it not for the child's age. This fact is a clear reminder as to the importance of using terminology carefully.

**Harmful** - The application of the term 'harmful sexual behaviours' acknowledges the severity of the acts, and the impact that these have on children subjected to these behaviours. This is important, because of a longstanding and damaging assumption that sexual abuse is less harmful if the person with the abusive behaviours is a child (on the contrary, studies show that the harm children experience is the same as they would experience if abused by an adult).

The term **Problematic Sexual Behaviours** is used when a child's behaviour is not harmful to others, but may cause problems for, and signal problems with, a child's social integration and development. This might apply to children engaging in obsessive and excessive self-stimulation, for example, or children with an obsessive interest in pornography.

Problematic and harmful are not synonyms, and they should not be used as interchangeable terms. A child's behaviours should only be described as "harmful" when their behaviours are causing harm.

For 'young people' aged 10–17, the term **Sexually Abusive Behaviours** (SABs) is more readily applied. Importantly, this terminology also labels the *behaviours* rather than the young person, and is less stigmatising than the imposition of a label such as 'perpetrator'. There is some discussion across the specialised counselling sector as to the most appropriate terminology. There are difficulties in describing coercive behaviours in a way that is non-stigmatising but also conveys the seriousness of the behaviours and their impact on victims.

We can take the following as a good working definition of sexually abusive behaviours - "A child has exhibited sexually abusive behaviours when they have used their power, authority or status to engage another party in sexual activity that is either unwanted or where, due to the nature of the situation, the other party is not capable of giving consent (for example animals, or children who are younger or who have a cognitive impairment). Physical force or threats are sometimes involved. Sexual activity may include exposure, peeping, fondling, masturbation, oral sex, penetration of a vagina or anus using a penis, finger or object, or exposure to pornography. This is not an exhaustive list."<sup>1</sup>

### Problems associated with these definitions

It is certainly the case that we do need definitions, so that we have a language with which to talk about these behaviours. Promoting understanding of the behaviours is an important part of improving responses, including preventing incidents and reducing prevalence.

It is important, however, that we are careful about how definitions are applied. For several reasons:

- Some sexualised behaviours in children are developmentally appropriate, and it is important that children's age appropriate behaviours are not misinterpreted, or pathologised as problematic.
- Each child displaying sexualised behaviours, and each incident of such behaviours, is individual, and should be assessed on a case-by-case basis with particular attention to the context for the behaviours and the child's broader circumstances in life. This is something that I

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<sup>1</sup> This is the practice definition used by the Victorian Therapeutic Treatment Board. Pratt, R. & Miller, R. (2012) *Adolescents with sexually abusive behaviours and their families: Best interest case practice model – Specialist practice resource*. Department of Health and Human Services, Victoria. p. 6.

will address in much greater detail. For now, it is important to note there is a tension between the need for definitions that will give us a language with which to talk about these behaviours, on the one hand, and then the need to fully understand, and engage with the *specific* behaviours exhibited by an individual child, on the other. We need to take care to ensure that the convenience of definitions and labels does not result in children's behaviours being classified in too blunt a fashion. To do so would have a range of adverse effects, including the possibility that the child be stigmatised, unnecessarily criminalised, or, that the significance of their behaviours is minimised or denied, with the consequent risk that the child misses out on therapeutic support, and the behaviours may continue – with the possibility of ongoing risk to both the child and other children with whom they interact. In general, the blunt application of definitions and labels has the potential to cause harm, by obscuring the specific contextual factors that may be relevant to the origin of the behaviours for a child. This is particularly concerning, because understanding these contextual factors for each child is key to addressing the behaviours, and therefore key to preventing further harm both for the child with the behaviours, and children with whom they interact.

- A further caveat about defining sexualised behaviours is that correct assessment of, and appropriate response to, a child's sexualised behaviours requires that these behaviours are understood in terms of the full range of behaviours for that child. The sexualised behaviours may not be the only behavioural issue exhibited by a child or adolescent. For example, a very traumatised and angry child may exhibit extreme aggression, and sexual aggression may be a small facet of this. It is vital that a sensitive safety plan be implemented to prevent further harm to other children, and the sexual aggression should be addressed as part of a therapeutic response that understands the child's full range of aggressive behaviours. Yet, because problematic, harmful and abusive sexual behaviours in children have the potential to provoke panic and confusion among adults, it is possible that the sexual aggression be (mis)understood as the defining behavioural characteristic for that child. There is the potential then that the child be stigmatised, isolated, and the full range of that child's circumstances be overlooked. Responding to the sexualised behaviours in isolation, without addressing the broader trauma history and context for anger would not constitute an effective or sensitive therapeutic response, and may cause the child further harm.
- Other impediments to clearly defining behaviours relate to the (sometimes) secretive nature of these behaviours. At times, adults may be unsure of the appropriate response to behaviours because they may not fully understand what has taken place. It is important that efforts to understand incidents do not cause additional trauma or harm to children subjected to these behaviours, or to children who have displayed these behaviours. Understanding incidents often relies on disclosure by children who have been subjected to sexually abusive behaviours. This is challenging because disclosure raises the risk of re-traumatisation, and sometimes these children are pre-verbal, or non-verbal in the case of children with a cognitive disability. Where threats and bribery are features of the behaviour children may fear retribution if they disclose abuse. Further, children sexually abused by a sibling are often reluctant to disclose because they are fearful of consequences for the family unit). Children who have displayed problematic, harmful, or abusive sexual behaviours may also be traumatised by being confronted or questioned about the behaviours. It is vital that efforts to define the behaviours, and to understand particular incidents, do not take priority over the wellbeing of the child. Calm, sensitive and non-stigmatising responses are required, including in instances where police questioning is necessary. All professionals working with children require training and clear protocols so that they can respond to incidents in an informed and calm manner that prioritises children's safety, while also avoiding panic and stigmatisation.

Is a criminal justice response helpful in responding to children and young people with sexually harmful behaviours?

Criminal law also plays a role in defining problematic, harmful and abusive sexual behaviours. The fact that some of these behaviours are criminalised, for children over 10 years of age, has played an influential role in how we define these behaviours (the general tendency is to define behaviours by children under 10 or 12 years of age as “problematic”, and the corollary is that behaviours by children 12 years or over are “abusive.” These age dependent definitions are most evident in legal settings, and in the administration of therapeutic programs (eligibility criteria, program descriptions, departmental protocols and therapeutic approaches). A more nuanced terminology is required to ensure that the distinction between ‘problematic’ and ‘abusive’ is not determined solely according to the age that children are deemed culpable for their actions under the law. There are several reasons for this:

- Children under 10 are capable of using coercion or force to engage other, usually younger, children in sexual activity. To refer to this as ‘problematic sexual behaviour’ minimises the impacts that this behaviour is likely to have on the victimised child, as well as minimising the urgent need for specialised care for the child responsible for the act. There is a need for a more nuanced structure of terminology here, so there is clarity as to the differences between the behaviour of a child who engages in excessive self-stimulation and, for example, a child who uses force or power to sexually assault another child.
- The formal age of criminal responsibility in each Australian state and territory is 10 years of age. (This is lower than the United Nations recommended minimum of 12 years.) In Australia, the common law presumption of *doli incapax* holds that children between the ages of 10 and 14 lack the developmental maturity to form the intent to commit a crime. This presumption is rebuttable, which means that if the prosecution proves that a child does possess the capacity to know that the act is seriously wrong, then a child between 10 and 14 can be convicted, including for a sex offence. The principle of *doli incapax* reveals a tension in the law as to whether a child should be punished by the law, or protected from the full force of the law. Legally, each case would be taken on its facts, and appropriate assessments would be made to determine whether a child can or cannot be held criminally responsible).
- To categorise behaviours (PSHBs and SABs) according to the age of criminal responsibility also risks conflating all those aged 10–18 who have sexualised behaviours as having sexually *abusive* behaviours; this is not the case. Referrals for casework and therapeutic intervention for those 10 and over may be made for any sexualised behaviours that are determined to be excessive to developmental bounds and likely to place the young person or others at risk of harm. These behaviours might include excessive self-stimulation, an obsessive interest in pornography, inappropriate use of technology to create, store, or send sexually explicit material, public exposure, engaging in or being at risk of engaging in sexual exploitation, sexual harassment, as well as acts of penetrative or non penetrative sexual assault, with or without violence. To conflate these diverse acts as ‘sexually abusive’ is not only likely to be stigmatising. We cannot allow blunt definitions to result in all children over the age of criminal responsibility being stigmatised as engaging in criminal acts when, for some, the behaviours may be problematic, and of harm to themselves but not harmful to others.

- It is also problematic for definitions and eligibility criteria to pivot around the age of criminal responsibility in instances when the child or young person has an intellectual disability, a developmental delay, or cognitive limitations, including where this is due to childhood trauma or foetal alcohol syndrome. In schools, therapeutic settings and in legal contexts we need much greater attention to responding to children's developmental capacity, rather than simply their chronological age. This requires intensive training and supports for professionals, to ensure that they understand childhood development, and the impacts of childhood trauma. This is particularly important in out of home care settings, where children require therapeutic and nurturing home environments that are attuned to their often complex needs. If we simply warehouse traumatised children in out of home care, in situations where a young and transient workforce is completely unable to acknowledge children's trauma, we create profound contexts of risk for children. Comprehensive education, and comprehensive systems change, is required to create an out of home care response that does not further damage the most vulnerable members of our community.
- Finally, using a legal definition about the age of culpability as the cornerstone of our understanding about these behaviours frames the range of responses in terms of punishment. This is problematic because the criminal justice system seeks to apportion individual responsibility for acts on the assumption that these are committed with individual volition. Compounding the false assumption that children have the same decision making capacity as adults, criminalising children as the default response to sexually abusive behaviours overlooks the systemic and contextual factors that may contribute to, or accompany, a child's behaviours. Further, although rehabilitation is ostensibly a priority in criminal justice sentencing, children's contact with the criminal justice system is particularly stigmatising, and is a risk factor to ongoing criminal justice involvement.
- I am firmly of the view that the definitions about these behaviours and the recommendations for appropriate responses should be driven by rigorous research that is conducted in conjunction with the specialised counsellors in this sector. These findings should drive legal responses (where these are necessary) within a therapeutic framework that priorities the wellbeing of both the child with the behaviours and children that may be subjected to these behaviours.

If there are difficulties with fixing pre-determined classifications to behaviours, what mechanisms can be used to understand and respond to children with these behaviours?

### **Understanding behaviours as a spectrum (the importance of understanding child development)**

Rather than seeking to identify categories or labels that can be applied bluntly to all situations, it is important that we think about problematic, harmful, and abusive sexual behaviours as a spectrum of behaviours. When we seek to define sexualised behaviours within this spectrum we should do so with a solid understanding of childhood development, and the factors that we know to impact adversely on childhood development: interrupted attachment; childhood trauma, which may include exposure to, or direct experiences of violence, sexual abuse, neglect, exposure to caregiver substance abuse; poverty, and social isolation). Understanding child development also requires knowledge about the factors that we know to be protective for children (primarily: strong and stable attachment to parent/s or caregiver/s, and other social attachments, including social integration into peer group). Informed by an understanding of childhood development, assessments of sexualised behaviours should pay particular attention to the following:

- The chronological age of the child exhibiting the behaviours, and whether the behaviours are excessive to the developmental range for that age

- The developmental age of the child exhibiting the behaviours (whether there is a developmental delay, autism spectrum disorder, or intellectual disability - whether present at birth, caused by trauma, foetal alcohol spectrum disorder, or an acquired brain injury)
- The extent to which a child has received guidance or instruction that the behaviours are inappropriate, harmful and/or abusive
- Whether there is an unequal relationship between the child with the behaviours and the child that is subjected to those behaviours. (An age gap of two years; inequalities in size strength, and/or status; the presence of a developmental delay or cognitive disability; other factors that may make threats, bribery or coercion possible, including a difference in emotional development)
- Whether or not the behaviours involve threats, bribery, coercion, physical violence; deception and/or secrecy
- The particular context in which the behaviours occur, noting that certain circumstances create temporary vulnerabilities and/or inequalities among peer aged children (for example, where a child is affected by drugs, alcohol, or sleep, or where a child is already in a state of undress because using showers or toilets).

### What are the factors influencing or motivating these behaviours?

The behaviours are often misunderstood. This is partly because for decades we defaulted to understandings about adult behaviour in our efforts to understand these behaviours in children. It is incorrect to assume that these behaviours are motivated by a sexual desire for children.

In recent years there has been a significant evolution in research and clinical interventions with children and young people with sexualised behaviours. It is often the case that the individual child/adolescent is pathologised as deviant and criminal, without attention to the contextual factors in that child's life. The sexualised behaviours are not always about sex:

- Sometimes sex is the primary motivation, violence is an enabler
- Sometimes aggression is the primary motivation, sex is a facet of that
- Cognitive impairment (Available data indicates that of 443 clients referred to SABTS in 2011–12, 25 per cent had a disability. Thirty per cent of those clients had an autism spectrum disorder, 30 per cent had a learning disability or attention deficit disorder and 28 per cent had an intellectual disability).<sup>2</sup>
- For traumatised children and adolescents compulsive behaviours may reduce their anxiety
- Naivety and immaturity
- Peer group pressure and group think – these are characteristics common to adolescence and can contribute to a range of sexualised behaviours, ranging from bullying with sexualised overtones, sharing sexually explicit images, through to sexual abuse by a group (often colloquially referred to as gang rape or pack rape).
  - Peer group mentality can take particularly damaging forms when linked to traditions (usually male traditions) in educational and other training institutions (including the military). In some institutions cultures of male entitlement make sexual dominance a group norm (for example – electronic sharing of sexually explicit images or information about other students). Also - Initiation rites – or hazing – in which a group of students intentionally dominate another student, or a group of students simultaneously, in acts designed to humiliate and degrade the

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<sup>2</sup> Royal Commission on Family Violence, (2016) *Final Report*, p. 228.

victim. In most cases the victimised students are new and therefore younger, and the practices are seen as a necessary initiation to the peer group. These incidents often involve excessive alcohol consumption, forced nudity, and forced sex acts, including forcing new recruits to perform sex acts on one another, or on members of the dominating group.

- Exposure to pornography forms another concerning context for sexualised behaviours among children. The relative developmental immaturity of young people impacts on their ability to process the vast array of sexualised images and images of sexual dominance that circulate in the mainstream media. A 2011 comparative study (Australia/Europe) found that Australian children are among the youngest and most prolific Internet users in the world. 76% of children (aged 9-16) use the internet daily or almost daily and, compared with European children, a greater number of Australian children access the internet using handheld devices (9% v 31%).<sup>3</sup> 30% of Australian children report being exposed to upsetting content online, more than two and a half times the number of European children who report exposure to upsetting content online. Of particular concern is the fact that 44% of Australian children (9-16 years old) have encountered sexual images in the last 12 months (whether online or offline) this is double the national average of children from European countries.<sup>4</sup> At a time when children and adolescents are learning about the social organisation, and preparing to assume a role as an individual in society, they need adult and peer role models to help them distinguish between stylised and excessive images of sexual dominance, and the moral, ethical and legal expectations for interpersonal relationships. We are confusing children, by immersing them in a world of images that glamorise sexual violence. 44% of Australian children have told us that they find the content upsetting, and we need to take these concerns seriously.

### Contexts of disadvantage and trauma

In addition to these influences and contextual factors, there is now a greater understanding that children who experience compounding factors of trauma and disadvantage are at greater risk of engaging in problematic, harmful or sexually abusive behaviours. Correlative factors include:

- Neurobiological effects of trauma
- Being witness to, or directly exposed to family violence
- Chronic long term neglect (cumulative harm)
- Inappropriately witnessing sexual activity
- Being a victim of sexual abuse

Where a child displays these behaviours the child, and their family, very often face a variety of complex challenges. The child might be socially isolated, there may be problems in the home, such as caregiver substance abuse, profound economic hardship, or violence. To consider the child's context is not to blame parents. It is a reminder that responding to these behaviours will only be effective when the child's full context is understood, and the appropriate supports are put in place. It is inappropriate to provide weekly counselling to a child from a chaotic and traumatic home environment, and then to expect that child to take responsibility for behavioural change. It might be that in addition to positive behaviours counselling for the child, the family requires assistance with housing, or perhaps with

<sup>3</sup> Leila Green et al., 'Risks and safety for Australian children on the Internet: Full findings from the AU Kids Online survey of 9-16 year olds and their parents' *Cultural Science* 4 (1) (2011) p. 7.

<sup>4</sup> Leila Green et al., 'Risks and safety for Australian children on the Internet: Full findings from the AU Kids Online survey of 9-16 year olds and their parents' *Cultural Science* 4 (1) (2011) p. 8-9.

understanding the challenges that the child is facing at school, or drug and alcohol counselling. The child's behaviours are just one facet of their life. A sensitive and effective response demands a full understanding of the child's circumstances (at home, at school, in their social life).

Understanding the correlative factors to sexualised behaviours also provides important insights as to how we can support children and their families to positive behaviours.

Children, by virtue of their developmental immaturity, require secure attachments with adults, and nurturing supports, to ensure that they develop the capacity to make decisions progressively for themselves. Where children's attachment is disrupted, the supports that children need are lacking.

There is a positive role for schools here, as we know that a child's wellbeing is not just influenced by their immediate home context. The contexts of school, and community, also have the potential to act as strong supports for a child.

In school settings it is crucial that a sensible and sensitive safety plan is implemented that prioritises the wellbeing and integration of all children, including the child with the behaviours. Practitioners have reported instances where children with sexualised behaviours are segregated by being forced to spend lunchtime seated outside the Principal's office. Isolating a child from their peers and treating them with disrespect is not a sensible course of action if we seek to teach a child respectful behaviours. A punitive measure of this kind strips a child of the social interaction that we know to be a protective factor. Punishing a child in this way does nothing to address the underlying concerns that may have lead the child to display sexualised behaviours in the first place.

### **Definitions are necessary – in part to dispel myths that continue to place children at risk**

Despite the extensive difficulties in defining behaviours, **definitions are necessary** to promote understanding, and the skills and knowledge required to correctly identify developmentally appropriate and inappropriate behaviours. At present, adults working with children are largely confused about age appropriate behaviours. This, and the influence of various myths about childhood contribute to the risk that problematic, harmful and abusive behaviours are minimised, denied, or ignored. Myths about gender and childhood that contribute to the minimisation or denial of sexualised behaviours include:

- A certain level of aggression (including sexual aggression) is an acceptable part of being a boy (sometimes sexually abusive behaviours are dismissed as "boys being boys")
- Childhood bullying is a norm or rite of passage that children should accept. Sexual "play" can be seen as an extension of this damaging idea about bullying as a rite of passage
- Children will "grow out of" sexualised behaviours if these are ignored
- The impacts of sexual abuse, including penetrative sexual abuse, are less harmful if the person with the abusive behaviours is a child (on the contrary, studies show that the harm children experience is the same as they would experience if abused by an adult)
- Children's testimony about sexual abuse is untrustworthy
- Children are inherently good and innocent, and therefore they do not possess sexual feelings, and are incapable of sexual acts, including harmful or abusive sexual acts
- Acts between children are consensual, particularly where the children are of a similar age

While these myths play a role in fostering a culture of denial about problematic, harmful and abusive sexual behaviours, there are contradictory myths that fuel quite different, yet equally damaging,

responses. Myths that contribute to the pathologisation and stigmatisation of children with sexualised behaviours include:

- Sex is inherently immoral and abhorrent, and any manifestations of sex in children are particularly abhorrent
- The related idea, that children are inherently innocent and good, and therefore incapable of sexual feelings. Where children break from this stereotype by displaying sexualised behaviours they are seen as particularly abhorrent
- Those that engage in sex acts with children are paedophiles – therefore children with sexualised behaviours are paedophiles
- Shaming children for unwanted behaviour is an appropriate disciplinary measure, and will elicit compliance with accepted codes of behaviour

Education about age appropriate behaviours is the key to refuting these myths. This will reduce the chances of behaviours being minimised or denied by parents, teachers, child protection professionals, health professionals, etc. Education about guidelines on age appropriate behaviours should be accompanied by clear protocols for responding to incidents, and these protocols should include clear advice about referral pathways for specialised therapeutic counsellors.

#### **How prevalent is the issue, nationally and internationally?**

The challenges presented by children with these behaviours are evident globally and, we know that similar countries (the United States, New Zealand, and the United Kingdom) experience very similar challenges in terms of prevalence and barriers to effective response.

In Australia, the cohort requiring therapeutic response for sexualised behaviours comprises children and young people from a broad range of socio-cultural, geographic contexts, and a broad range of ethnic backgrounds. Problematic, harmful and abusive sexual behaviours occur in family homes (sibling abuse), in schools, in out of home care facilities, in sporting contexts, in juvenile detention facilities, in disability services settings, in online contexts, and in the community.

In Australia, as elsewhere, boys come to attention for their behaviours more than girls, and girls are the most commonly reported victims (although we need to remember that these data are incomplete, and non-comparable, as they are gathered from specialised counselling services each of which has different eligibility criteria. Our understanding of the extent of these behaviours is also limited by the fact that data are based only on reports. So, for example, the fact that boys come to attention for these behaviours more than girls cannot be taken as robust evidence about the proportion of problematic, harmful or sexually abusive behaviours used by boys and girls respectively. Report data is skewed by many factors, including by gendered assumptions that feminise victimisation. Damaging cultural myths such as this are very likely to reduce the numbers of boys reporting instances in which they have been subjected to sexualised behaviours by a child.

It is not possible to assess prevalence definitively, in Australia or elsewhere. In Australia, data on children with sexualised behaviours are not collected uniformly but we do know that specialised services report that demand continually exceeds their capacity to respond. Services also report that they regularly receive calls from schools requesting advice about responding to particular incidents. In 2014 data from an ABC Freedom of Information Request revealed 1000 incidents in Australian schools in a one-year

period.<sup>5</sup> These data are most certainly an underestimation, as Victoria reported more than 700 incidents, NSW reported 45, and Tasmania reported none. The stark discrepancies between states indicates a concerning lack of uniformity in data gathering. Incomplete data poses several problems:

- We can't know the extent of therapeutic need, and services cannot be properly resourced.
- We can't assess data longitudinally, and therefore have only an anecdotal sense of whether incidents are increasing or decreasing over time.
- Poor data gathering, and the absence of data collection requirements, contributes to the culture of denial about sexualised behaviours in children. When behaviours do then come to attention they are framed as wildly anomalous, and panic is a common response. This perpetuates confusion about how to respond.
- Without data to show that these behaviours occur across the broadest range of schools, the myth persists that these behaviours don't occur in good schools. Implementing mandatory data collection in all schools would have a leveling effect, as it would become public knowledge that sexualised behaviours can occur in any school. It would create much greater public awareness about the prevalence of sexualised behaviours among children, an awareness that should be accompanied by clear messaging about appropriate response protocols. This would subvert the idea that a school's reputation would be damaged by an incident of sexualised behaviours. In fact, reputational concerns for schools could be conceived differently. There is an *opportunity* for good schools to lead by example, by:
  - o gathering and disclosing data;
  - o including sexual violence and sexual harassment as central planks of school anti-bullying policies, protocols and curricula;
  - o educating teachers and providing teachers with clear guidelines for responding to incidents in a timely and sensitive manner; and
  - o by sensitively managing safety plans so that children with sexualised behaviours can safely remain integrated in school, with line of sight care where necessary, but without stigma.

Schools that prioritise children's safety in this way should be publicly celebrated as leaders in education and child wellbeing.

What are the barriers to accessing specialised services?

Although we lack robust quantitative data, we do know that the number of children receiving therapeutic counselling represents just a portion of the need. There are several avenues by which potential referrals for children may be blocked:

- **Non-disclosure**
  - o Children may not wish to report due to fear, intimidation or bribery, or they may not be able to report due to a cognitive disability, etc.
  - o Children subjected to the behaviours may not be aware that the behaviours are inappropriate or abusive
  - o A general lack of knowledge about age appropriate behaviours mean that adults may respond inappropriately to incidents of sexualised behaviours, by consciously or unconsciously overlooking incidents, ignoring or disbelieving reports, or creating a culture in which reporting isn't possible.
- **Blocked referral pathways**

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<sup>5</sup> <http://www.abc.net.au/pm/content/2014/s4018032.htm>

- When adults do report statutory child protection agencies often fail to act.
- Reports to police won't necessarily result in onward referrals for children under the age of criminal responsibility (unless parents or caregivers are particularly persistent, these children are likely to be overlooked until they reach the age of criminal responsibility, by which time their unchecked behaviours may have escalated, and they are charged with sex offences. This is a common trajectory. Waiting until children are eligible for a criminal conviction before they receive attention is a negligent and inhumane systems response that creates lifelong harm for the child that receives a conviction, and creates a string of victimised children that might have been safe had supports been provided when the behaviours first came to attention.
- Specialised services uniformly report that demand exceeds their capacity to respond. Most services manage lengthy wait lists. Some services don't have the administrative capacity to maintain a wait list, yet they report that they regularly receive requests that they cannot fulfill.
- Remand – children held in pre-trial detention for sex offences cannot be offered specialised counselling (until convicted). Lengthy remand terms mean that children are often released at sentencing, having not received specialised counselling while in custody. This is detrimental, as the adverse impacts of incarceration are not mitigated by specialised rehabilitation to assist a child with reintegrating into the community. It is completely impractical and unreasonable to expect that a child's behaviours will self correct, simply because they have spent time in prison. On the contrary, we know that removing a child from their supports, and placing them in relative isolation, has an extremely damaging effect, that often further entrenches unlawful behaviour.
- When police remove a child from a small community, and take them into police custody for questioning, the child's behaviours come to the attention of the whole community. In instances where police then release that child back into the community, damage to the community bonds often results. The child, and the child's family, may be subjected to violent retribution and profound stigmatisation. The child that was subjected to the behaviours is also likely to experience further trauma, due to the community knowledge of, and reaction to, the events. There is scope to consider more sensitive policing responses that don't require such public policing, and the removal of children. Discrete and sensitive interviewing practices, by non-uniformed officers, and at places other than the police station, is likely to cause less trauma for children. In instances that involve Indigenous children, advice should be sought from community Elders about respectful and non-stigmatising means of engaging with communities to ensure both the safety and the wellbeing of all children concerned.
- **Confused referral pathways**
  - Adults don't know the correct referral pathways, as these are different in each state and territory, they are not promoted centrally, and there is a profound reluctance in the community to acknowledge that we have a need for services of this kind. Nationally, we require a website that will provide information for parents, caregivers, teachers, and others working with children; as well as an information service from which they can seek confidential advice about referral options in their region.
- **Geographic and demographic gaps in service provision**
  - Eligibility criteria –
    - age restrictions limit children's access to services. In some areas there are service gaps for adolescents, in other areas there are service gaps for children. The ambiguous legal position for children aged 10 to 14 is matched by considerable variance as to the age specific eligibility criteria for specialised counselling services. Some services will accept children only up to the age of

- 10 years old. Others will accept children up to the age of 12.
    - Some services require that a police report be made. Other services refuse counselling for adjudicated children.
    - Multiple studies show that counselling is more effective when parents and caregivers are supportive and actively involved. On the strength of this knowledge, some services restrict eligibility to children who have a willing and engaged parent or caregiver. (Clearly this presents challenges for children in OOHC, and for children from families with compromised family functioning). Some parents and/or caregivers lack the capacity to support a child's counselling (driving a child to sessions, implementing safety plans, and engaging with counsellors themselves).
  - Most services are located in metropolitan areas, and largely on the eastern seaboard. This is not to say that there are sufficient services for metropolitan areas (eligibility criteria create service gaps in cities and, even for eligible children, wait lists are lengthy).
  - Culturally appropriate counselling for Indigenous and CALD children is exceedingly rare. This is a major problem, as linking children to the strength of family and community supports is a key part of effective therapy. There is an urgent need to support Indigenous and CALD workforce development in this specialised counselling sector.
  - Children with cognitive disabilities are at particular risk of exhibiting sexualised behaviours, and they are at particular risk of being subjected to these behaviours by another child. Specialised counselling, and safe placements are required. It is also important that training be provided for those working with children with cognitive disabilities, so they can better identify signs of harmful sexual behaviours, without relying on verbal disclosures.
  - Safe and stable placements are required for children with sexualised behaviours. Out of home care placements are often not possible, but alternative therapeutic placements need to be made available.
- **Premature Cessation of Counselling**
  - It is also important that the counselling not be withdrawn prematurely. There is the potential for great harm when children in state care, for example, are funded for counselling, but then the funding is abruptly withdrawn at the first sign that the behaviour has abated. This is reported to cause further trauma for the young person, who is forced to sever a relationship of trust with their counsellor – perhaps the only relationship of trust that they have.

### **Is the therapeutic treatment order (TTO's) response effective?**

The therapeutic treatment order is a good example of an initiative to clarify referral pathways for children and young people. There are several reasons why this is effective.

- Children are diverted from the criminal justice system and into specialised therapeutic counselling. We know that contact with the criminal justice system harms children, so diversion is an excellent outcome, particularly when children are diverted to counselling that is so relevant to their rehabilitation.
- The TTO legislation was accompanied by funding for specialised training to sexual assault counsellors across a network of counselling services in Victoria (this network forms the Sexually Abusive Behaviours Treatment Service SABTS). This has built much needed capacity

in the sector and, given that the services are located across the state, this now provides families with much better access to services.

- Formal evaluations of SABTS show increasingly positive outcomes with 70% of cases closed in 2011-2012 having positive outcomes.<sup>6</sup>
- Formal TTO orders are rarely required. Once families become aware of this mechanism, the child, and the family, tend to engage with the therapeutic service willingly (again, this is a hallmark of improved therapeutic outcomes).
- As a result of the Royal Commission into Family Violence TTO's will be formally available to children aged 15-17 (closing one of the age-specific gaps in service response).

### How do we prevent these behaviours?

It is vital that we refute assumptions about disproportionate prevalence among any one ethnic group. In the absence of comprehensive knowledge on these issues, sensationalist media stories sometimes link these behaviours to certain communities, to certain schools, or to Indigenous or CALD children. Stigmatising families, communities or ethnic groups is destructive, and will deepen divisions in our society. It is extremely important that we understand that these behaviours are exhibited by children from all cultural backgrounds, and from all socio-economic strata.

We know that children that have experienced compounding forms of childhood trauma are at greater risk of a range of adverse outcomes in life. For this reason, we need to pay particular attention to addressing structural disadvantage in various parts of Australia, including in some Indigenous communities, and in some new migrant communities. Where these supports are required, they should be provided in such a way that families and communities are not stigmatised. Challenging racism and discrimination is an important part of this.

A holistic approach is required to support *all* Australian families, as strong attachment to parents and caregivers is the strongest protective factor for a child. In instances where new migrant children have come from war-torn countries, additional supports should be provided, led by culturally appropriate counsellors. In some Indigenous communities, where structural disadvantage impacts adversely on families, additional supports may be required to strengthen families, and to strengthen communities. These supports should be designed by, and implemented by, Indigenous people.

Nationally, we need to challenge the view that children's behaviours are the result of something innate to that child, or innate to that community. These behaviours are a product of a complex set of factors, that are shaped by a child's context.

If we wish to create safer peer settings for children and young people, then we need to shape (and resource) policies that will strengthen families and strengthen communities, as these are children's natural supports, and their primary protective factors.

Protective behaviours programs in schools, and respectful relationships education, are one facet of a prevention response. These are most certainly not the full solution. It is unreasonable to expect that children take responsibility for solving a problem that is created by contexts that are out of their control. It is key that we address the mixed messages that children receive about sex, power, gender and violence. It is key that we address the adult violence that children witness, or experience directly, in their own homes.

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<sup>6</sup> Royal Commission on Family Violence, (2016) *Final Report*, p. 229.

Finally, it is key that we ensure that children's views help shape responses to these issues. Adults are always sure that they know better than children, but children tell us that they have a stake in their own safety. As one child reminded the Parliamentary Joint Select Committee on Cyber Safety:

*Cyber safety, as you very well know, is a big thing! It isn't to be taken lightly, not anymore anyway... What you need to be doing is come to us teens and just ask us the best way to get through to us. Asking other adults isn't very smart because what they were taught or told and their ideas are probably quite different to a teenagers.<sup>7</sup>*

### School responses?

- Ensuring safety of all children is the first priority
- Panic can be mitigated by clear protocols and prior training
- Contacts with parents, child protection and police (the latter where necessary)
- Integration important (without causing re-traumatisation)

In school settings it is crucial that a sensible and sensitive safety plan is implemented that prioritises the wellbeing and integration of all children, including the child with the behaviours. Practitioners have reported instances where children with sexualised behaviours are segregated by being forced to spend lunchtime seated outside the Principal's office. Isolating a child from their peers and treating them with disrespect is not a sensible course of action if we seek to teach a child respectful behaviours. A punitive measure of this kind strips a child of the social interaction that we know to be a protective factor. Punishing a child in this way does nothing to address the underlying concerns that may have led the child to display sexualised behaviours in the first place.

### Media messaging

- Stigmatising language which we know to be criminogenic – encourages punitive responses in community
- Inflating a sense of prevalence – sexual violence is “rife” – when we don't have data. This is a disincentive for schools to collect data
- Sits within a broader punitive discourse about youth crime – tough on youth crime policies
- This does nothing to attend to the contexts that give rise to youth crime.

### Fear of Reporting

- Create cultures in institutions where children's voices are valid (in general)
- Provide pre-service training to teachers on child development and child wellbeing (so they can identify signs when a child withdraws, etc)
- Promote positive behaviours (respectful relationships education) among the teacher and student body, so that the group mentality is one that is not supportive of bullying or violence in any form.

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<sup>7</sup> Australian Parliamentary Joint Select Committee on Cyber Safety, *High-Wire Act: Cyber-safety and the Young* (2011) 14.

- Extend anti-bullying protocols in schools to include clear guidelines on the schools' response to sexualised behaviours