

CONFIDENTIAL

Annexure 2: Case studies

The case studies below provide examples of how this office's child protection functions allow us to play a proactive role in identifying and responding to individuals who may pose a risk to children. **While de-identified, the case studies contain highly sensitive information and include matters that are still before the Courts. We request that the Commission contacts our office prior to tabling Annexure 2 publicly, to allow it to be appropriately redacted.**

Case study 1

A small independent school sought advice about how to notify us of a reportable allegation. The allegation concerned a student's disclosure that she had been indecently assaulted on more than one occasion by a teacher at the school.

The school told us that it had reported the allegations to the Community Services Helpline and had arranged to interview the teacher later that day.

Based on the information provided to us by the school, it was apparent that the student's disclosure met the threshold of a potential criminal offence. We warned the school that interviewing the teacher could potentially compromise a criminal investigation by police. We advised the school to postpone further action pending advice from Community Services and/or the NSW Police Force (NSWPF). As a result of our advice, the school cancelled the interview and initiated contact with police.

Two days later, the student was interviewed by members of the NSWPF's Child Abuse Squad (CAS) and made clear and consistent disclosures. The teacher was arrested, interviewed and charged with several counts of indecent assault. After further investigation by the CAS, the teacher was charged with offences against two additional victims.

Shortly after the CAS had interviewed the teacher, the school informed us that it intended to distribute a letter to members of the school community advising them of the charges that had been laid.

We advised the school to liaise with the CAS before sending the planned letter. This enabled a controlled message to be sent to the school community. As the CAS held information indicating that there may be additional victims, this was particularly important.

The teacher was convicted of five counts of indecent assault relating to two of the alleged victims. He is currently serving a custodial sentence.

Case study 2

Around 16 years ago, we received a number of notifications alleging that a teacher had abused four students in the late 1970s and 1980s. The allegations were investigated by the NSW Police Force (NSWPF) at the time and the teacher was charged; however, the charges were later withdrawn. Around five years ago, we received notifications alleging similar abuse by the teacher against two additional students.

As a result of reviewing information on the NSWPF database (COPS), we were aware that police were in the process of investigating the allegations but that the investigation was experiencing problems. One of the victims who came forward had made a statement to police but had stated he was not willing to participate in a criminal prosecution. However, he had indicated that he would reconsider if other victims came forward in future. The other victim who had come forward in 2010 was experiencing difficulty making a statement to police.

In January 2011, we asked police for information about the status of their investigation of these more recent allegations. They told us their investigation was on hold because of the reluctance of the available witnesses. After receiving this advice, we liaised with Education, which had been in contact

with the victim who had come forward in 2010. Education was subsequently able to support the victim in completing his statement to police.

At around the same time, we were notified of additional allegations of similar conduct by the teacher against yet another victim. We informed Police of the notification and provided details of possible witnesses. As a result, Police re-commenced their investigation.

The teacher was arrested and charged with a range of offences against multiple victims. He was later convicted of more than ten child sex offences and received a lengthy custodial sentence.

Case study 3

In 2014, we received a notification from a religious organisation alleging that a man was engaging in grooming-type behaviours with pre-pubescent girls. At the time, the man was engaged as a bus driver for children participating in a [REDACTED] program and was also involved in the organisation's [REDACTED] youth movement. The organisation suspended the man pending investigation of the allegations.

We decided to monitor the investigation into the allegations. We reviewed the information held about by the man on COPS and KiDS. As a result, we discovered that the man had two completely separate, unlinked police profiles under slightly different names. One profile contained information relating to child sexual assault allegations against the man in 2005. The allegations arose from a disclosure by an 11-year old girl that the man, who was a family friend, had groomed and sexually assaulted her. The JIRT had commenced an investigation at the time but the victim's parents were not willing to pursue the matter and it was closed.

We obtained the details of the 2005 matter and identified similarities between the past and the current allegations. We also identified that the alleged victim's underpants had been seized by police and sent for forensic testing in 2005, but the case had been closed before the results were returned and the results were not recorded in COPS.

We wrote to the NSWPF to advise them of the unlinked profiles; the current allegations against the man; the similarities with the 2005 allegation; and the existence of potentially relevant forensic evidence. We also noted that the alleged victim in the 2005 matter was now an adult.

In addition, as information on Community Services' database suggested that schools may have engaged the man's services, we contacted the Department of Education. Education confirmed that the man had previously been a volunteer at a school [REDACTED] program; however, he had been asked to leave due to concerns about his conduct towards children. We provided this information to police.

The police investigation of the 2014 allegations determined that the man's conduct did not meet the criminal threshold. However, the religious organisation's investigation sustained the allegations of sexual misconduct.

Meanwhile, Police reopened their investigation into the 2005 matter. The CAS retrieved the results of the forensic testing on the victim's underwear and discovered that unknown male DNA had been detected. The CAS then contacted the alleged victim, now aged 20, who indicated a willingness to pursue the matter criminally and to assist the police investigation. We continued to liaise with the CAS throughout its investigation. After becoming aware through other sources that the man may have been actively seeking other child-related employment and had applied for a new WWCC, we ensured the OCG liaised with the NSWPF.

In [REDACTED] 2014, the man was charged with a number of child sexual offences relating to the 2005 matter. The matter is listed for hearing in 2016. In the meantime, the man is disqualified from engaging in child-related employment.

Case study 4

We received a complaint from a woman about the contact arrangements for her two grandchildren in out-of-home care (OOHC). She also raised concerns about the management of her grandchildren's earlier placement, and the events surrounding the urgent removal of the children from this placement during the previous year.

As a result of our review of records on the Community Services database we identified that, at the time the two children were placed with the carers, Community Services held information which raised serious concerns about the male carer's suitability as a foster carer. This included a number of reports some years earlier that the man had attempted to sexually assault a child relative. These reports had been closed without investigation, and we could find no evidence that Community Services had provided this information to either the OOHC agency or police.

The records also indicated that the urgent removal of the complainant's grandchildren had resulted from a report to the Helpline that the man had sexually assaulted two of his other relatives when they were children. It was also reported that the man's wife had been made aware of the abuse some months earlier. A few days after the Helpline report, Community Services removed the two children who were the subject of the complaint to our office, and advised the OOHC agency of the nature of the allegations against the man. The allegations should also have been notified to our office but had not been.

The man relocated interstate shortly after this occurred. We could find no evidence that Community Services had provided this information to the NSWPF or to authorities in the other jurisdiction. We raised this with Community Services, who as a result, made an interstate risk of harm report.

Community Services advised us that it did not refer the report to the JIRT as it contained no specific information about abuse towards children in the man's care, and related to relatives who were now adults. Community Services has since worked with our office to implement changes to the Mandatory Reporter Guide and the Helpline Tool to ensure that there is adequate guidance in relation to the reporting of, and response to, historical allegations that relate to risks to a 'class of children'.

Community Services has also since worked with our office, the Office of the Children's Guardian (OCG), and OOHC peak organisations to ensure that, as part of their probity checking process, OOHC agencies consistently seek and are provided relevant information held by Community Services. This work also informed the development of the OCG's Carers Register, and associated legislative changes which came into effect in 2015.

Case study 5

A number of students made complaints about the conduct of a teacher employed at a large tutoring company. The allegations were of a nature that would have required notification to the Ombudsman, as reportable allegations of sexual misconduct, had the company been subject to the reportable conduct scheme. (Tutoring companies are not designated non-government agencies under Part 3A of the Ombudsman Act.)

Some months later, one alleged victim of the man's conduct who had not complained to the tutoring company, but was aware that others had, made a report about the teacher to police when she discovered that he was still teaching at the company and possibly elsewhere. The allegations did not reach the criminal threshold and police referred the information to the Department of Education. The Department identified that the man was on its list of casual teachers approved to teach within Departmental schools. Although the man had never been engaged to teach in a school, his presence on an approved casual list meant that the Department was required to notify our Office.

We subsequently identified through our routine intelligence checks that the man was actively teaching in an independent school. We facilitated an exchange of information to that school, which also notified us and took the lead in the reportable conduct investigation. We contacted the tutoring company and learnt that the man had since been dismissed due to similar concerns regarding his conduct towards female students. Prior to his dismissal, the company spoke to him informally about the concerns. However, because the tutoring company does not fall within the Part 3A scheme, there was no rigorous, transparent or fair investigation of the allegations of the type we would otherwise require. As a result, there was minimal documentation relating to the matter, and the concerns about the man's conduct were not reported to the OCG by the tutoring company.

The independent school recently sustained sexual misconduct by the man, dismissed him and made a report to the OCG, which has in turn issued an interim bar against him pending further assessment of his suitability to continue working with children.

Case study 6

A Community Services manager sought our advice about a report made to the Child Protection Helpline two weeks earlier by a carer engaged by an OOHC agency involving a child in his care. The carer reported that an incident had occurred that involved indecent contact between him and the child, however he reported that the incident had been initiated by the child and had occurred while he was asleep. During the call, the carer's wife also reported that the child had begun to display sexualised behaviours six months after the placement commenced.

We reviewed Community Services' database (KiDS) and the NSWPF database (COPS) and could not find any information to indicate that the OOHC agency had taken any action in response to the incident. We were concerned that despite the alleged incident having occurred two weeks earlier, it did not appear that the matter had been referred to police. We advised Community Services to contact the Joint Investigation Response Team (JIRT) to discuss the Helpline report.

Later that day, Community Services advised us that JIRT had accepted the matter for investigation, and that the Helpline report had been upgraded to require a response within 24 hours. JIRT officers interviewed the child who made disclosures of sexual assault.

As a result, the child was removed from the placement and the carer was charged and convicted of indecent assault.

Case study 7

A foster care couple resigned from their out-of-home care agency over disputes about their care of children. They indicated that they intended to transfer to another out-of-home care agency. At around that time, a child formerly in the couple's care disclosed that the male carer had been sexually abusing him. Because the man was no longer an 'employee', the disclosure was not notified to us under reportable conduct jurisdiction. However, we became aware of the disclosure through a separate complaint to our office which was made under our community services jurisdiction (*Community Services (Complaints, Reviews and Monitoring) Act 1993*).

After accessing the Police COPS database, we identified that the child's disclosures had been investigated. We also learnt that the man had been the subject of another investigation into child sexual assault, several years earlier. The disclosures by the unrelated victims were very similar. The OOHC agency had not identified the earlier matter during the carer assessment process because their review of records had been inadequate. Our Inquiries with the OCG revealed that the man had applied for and received a WWCC. However, the check had not yet been verified by his employer. We conducted a full intelligence check and issued the OCG with a Notification of Concern. The OCG was able to place an interim bar on the man's clearance, preventing him from working with children, pending the outcome of a full risk assessment.

Case study 8

In 1990, before our employment-related child protection scheme was in place, a man was engaged by a school body to provide services to children during a school event. A number of allegations were raised about the man engaging in conduct of an inappropriate sexual nature towards children during the event, which resulted in a report to police. A police investigation ensued; however, the parents of the children chose not to pursue criminal action after being satisfied by reassurances offered to them that the man would never again be re-engaged to work with children by either the school or the body to which the school belonged.

Recently, a representative of the same school body identified documentation relating to the 1990 allegations during a review of archived records. A senior staff member of the school body, who was involved in this archival review, visited the school soon after for unrelated purposes, and discovered that the subject of the allegations was on the premises and was interacting with children one-on-one.

The senior staff member made inquiries of the school executive regarding the nature of the man's business at the school and whether he had been probity-checked. The executive replied that the man was not required to be probity-checked, as he was engaged to present a training session to staff not students. The executive indicated that he had been recommended highly by a number of other schools.

The senior staff member then made contact with our Office immediately to discuss his concerns about the man's presence at the school, including that the man may have been obtaining entry to schools to provide a service to adults, and using it to gain access to children. The staff member provided us with copies of its records, acknowledging that the matter was not within our reportable conduct jurisdiction but sought our assistance to manage the potential risks to the broader class of school children in NSW that the man may have been able to access.

The approach coincided with the commencement of our Notification of Concern function under the new WWCC in June 2013. Consistent with that function, we identified significant information holdings of concern relating to the man, which gave rise to questions about his suitability to work with children. We also identified that he was actively advertising his services to schools and the broader community, and that while these services were primarily directed towards teaching staff and parents, some were advertised as being for children.

We compiled the holdings into a Notification of Concern to the OCG. As our inquiries had confirmed that the man was not in possession of a new WWCC, we suggested that the OCG take action to compel him to apply for a WWCC. As a result, the OCG issued the man with an early application notice, which ultimately resulted in the man being barred from working with children in NSW.

Case study 9

In 2008 and 2010 we received two notifications of historical reportable allegations about the conduct of a Christian Brother. Both notifications provided general information about historical allegations of child sexual abuse. However, as a result of a confidential deed of release signed by the alleged victim in each case, neither the notifying agency nor our office could obtain further details.

In February 2014, the NSWPF established a taskforce to investigate similar allegations that the Brother had committed numerous child sexual offences against multiple victims in the late 1970s and early 1980s. In May 2014, police generated future Court Attendance Notices which they had been unable to serve, because the Brother was no longer residing in Australia. Police were considering extradition – a process that can take several years and which is highly resource intensive.

We learned of this police investigation through our own-motion inquiries on the NSWPF database (COPS), as part of our ongoing oversight of the second notification about the Brother. Through internet searches, we became aware that the Brother was no longer working for the NSW agency that notified us of the allegations. He had begun working for Christian Brothers Oceania in 'schools administration' in another country. We had no further information about the nature of this employment, whether it involved direct contact with children, or whether information about risks identified in the 2008 and 2010 investigations had been referred to the new employer. We were therefore concerned about ongoing risks to children in the overseas location.

For these reasons, we made contact with the Commander of the police Local Area Command that was conducting the criminal investigation. We indicated to him that we were considering raising our concerns about risk with a trusted senior contact within Christian Brothers Oceania, who was now based in Rome and with whom we had developed a good working relationship. We also noted that police had as yet been unable to charge the Brother, because he was residing in another jurisdiction. We offered to host a joint teleconference between police and our senior contact in the Christian Brothers, with a view to facilitating the return of the Brother to NSW. The Commander agreed to this course. During the subsequent teleconference, the senior Christian Brother made an undertaking to ensure that the alleged offender returned to NSW to face the charges.

As a result, the alleged perpetrator voluntarily returned to NSW. He was arrested at Sydney airport one week after the teleconference and subsequently charged with numerous offences. He has recently pleaded guilty to 18 sexual offences against children and is awaiting sentencing.

Case study 10

In 2014 we were notified of allegations of sexual misconduct against the principal of a [REDACTED] school in [REDACTED] NSW. Specifically, it was alleged that the principal had sent sexually explicit Facebook messages

to a 14-15 year old family friend. It was further alleged that the principal had groomed the boy, and potentially the boy's younger brother, for unlawful sexual activity.

Whilst the principal resided and worked in NSW, the alleged victims resided in Queensland. The matter was initially reported to Police in Queensland, who conducted some investigation, but did not pursue the matter. The alleged victims' parents then referred the matter to the Department of Education, who in turn referred it to the NSWPF. Police investigated the matter, but advised that they had insufficient evidence to obtain a warrant to search the principal's property for forensic evidence.

Our review of the information provided with the notification, and information available on the NSWPF database (COPS), identified that there were additional lines of enquiry which could have been pursued to potentially support a criminal charge. As a result, we arranged an interagency meeting with Education and Police, during which we discussed the potential further lines of enquiry – including obtaining additional information from Queensland Police, seeking physical evidence from the victim's family, and interviewing the principal.

As a result of the meeting, Police re-opened their investigation and a number of charges were laid against the principal. We were subsequently advised that the Office of the Director of Public Prosecutions decided to withdraw the charges. Notwithstanding this, the additional information obtained by the Police will significantly assist Education in conducting its own investigation. In addition, the charges laid against the principal will trigger a risk assessment by the Office of the Children's Guardian in relation to the principal's Working with Children Check.

Case study 11

In [REDACTED] 2015, an agency providing a [REDACTED] service for youth and a [REDACTED] school for vulnerable young people notified us for the first time. The notification indicated that the school had already completed its investigation into allegations that a teacher had engaged in sexual misconduct (crossing professional boundaries) towards a female student, and had found that the allegations were false. However, our review of the notification, other available information and our holdings, indicated that the school had not conducted a proper investigation and that the teacher may pose significant current risks to a young person and to a class of young persons.

As a result, we met with the NSWPF, who were already aware of the teacher and the young person, and identified a number of actions that Police could take to address the presenting risks. One critical action was for Police to canvas with another alleged victim of the teacher (who is now an adult) whether she was prepared to make a statement to Police regarding allegations that she had been sexually abused by the teacher a number of years earlier.

After contacting the Board of Studies Teaching and Educational Standards NSW to discuss the matter, it supplied us with relevant information about the school's registration status and its lack of systems for responding to child protection concerns.

We subsequently met with the school to advise them that the matter would need to be properly investigated and to provide further information about their responsibilities under the reportable conduct scheme. We explained the role of NSWPF and FACS in assisting them to manage the risks posed by the employee. The school undertook to strengthen its relationship with its relevant peak body.

During discussions with FACS about this matter, the relevant Community Services Centre (CSC) advised us that it would consider re-referring the more recent allegations to JIRT for investigation and, if it assessed that a referral was not warranted, allocating the matter for casework. FACS also offered to support the school in conducting interviews as part of its re-investigation of the allegations.

In addition, following our liaison with Police, FACS and the school, the adult alleged victim agreed to assist the police investigation. This investigation is ongoing, and we are continuing to liaise with the school, FACS, and Police about this matter.

Case study 12

In [REDACTED] 2015, we received a completed notification from an independent school concerning alleged sexual misconduct by a teacher towards a student. The allegation was framed in vague terms – only that the teacher and student were ‘involved’ and had been seen talking to each other on several occasions. The school’s finding was ‘not sustained insufficient evidence’.

A few days before we received the school’s notification, we also received a phone call about the same matter from a caseworker at a local CSC. We were told that a caller to the Community Services Helpline had reported that during the school’s investigation, a senior staff member had coerced the student into retracting her disclosure about the teacher in writing, and further, that the senior staff member was believed to have a friendship with the teacher. The school’s notification to us included a letter of retraction written by the student.

Shortly after our receipt of the notification, an investigator from the Association of Independent Schools (AIS) contacted us to advise that the governing board of the school had engaged the AIS to re-investigate the matter, after becoming aware of it independently through rumour. The AIS investigator had conducted two interviews with the student.

Initially, she had made no disclosures about the teacher. However, after her initial interview, the student was upset and spoke with a friend, who urged her to tell the investigator the truth. The student then approached the investigator again and took part in a second interview, during which she disclosed an indecent assault by the teacher. On the advice of the AIS, the school board made a report to police and the AIS suspended its investigation pending criminal investigation.

We also made our own inquiries of KiDS and COPS. We could see that both agencies were aware of the allegation but it was unclear whether they were liaising effectively with each other, and whether they had a complete knowledge of the allegations. We contacted the relevant case worker at the CSC seeking clarification on this point, and we also drew her attention to the existence of the allegation about senior school staff coercing the student to retract her disclosure. Our subsequent inquiries on KiDS and COPS show that Police and Community Services have since liaised effectively and that the allegation about the student’s retraction was explored during her interview with Police. During the same interview, she disclosed details of alleged indecent assault by the teacher.

The teacher was subsequently charged in [REDACTED] 2015 with two counts of indecent assault. The criminal proceedings are ongoing.

Case study 13

In [REDACTED] 2015 we received a notification relating to allegations that a school employee was physically, sexually, emotionally and psychologically abusive towards his daughters. This constituted a reportable allegation because schools are designated agencies, which means that allegations about their conduct both within and outside of the course of employment are notifiable under Part 3A.

Allegations against employees that relate to their conduct within the domestic context can be very difficult for employers to respond to. The school’s response to these particular allegations was further complicated by the fact that one of the alleged victims was a student at the same school where the employee worked, and there was also information to indicate that the alleged psychological abuse of the child extended to the school environment. There were a range of other sensitivities involved in the matter, which the school appropriately identified and raised with us.

In [REDACTED] 2015, we provided a brief of information to FACS seeking its urgent consent to release a copy to the NSWPF. FACS consented to the release of our brief, which urged a coordinated response (between FACS, Police and the school) to risk of significant harm concerns relating to the subject children. We offered to play any role that might further facilitate a timely, coordinated response.

A few days later, NSWPF and FACS held initial discussions. Police agreed to investigate; and a meeting between the CAS, JIRT and CSC was arranged to prepare an action plan.

Within one month of our initial referral, police had arrested and charged the employee with 16 offences relating to physical and indecent assault of a child. The arrest took place on school premises

and was executed in line with a coordinated plan of action between police, CSC and the school. The criminal proceedings are ongoing.

The referral also resulted in various protective actions being undertaken by FACS, including an assessment of the protectiveness of the children's mother, the development of a safety plan, and ongoing casework with the family.

This matter illustrates how the reportable conduct scheme operates to strengthen the broader child protection system within NSW, and the positive outcomes that can result from effective interagency cooperation. It also reinforces the key role that schools can – and at times must – play in the protection of vulnerable children in their care.

Case study 14

Consistent with our employment-related child protection role, an agency in NSW notified us of allegations of sexual misconduct by an employee in 2005 and 2009. The 2009 allegations resulted in a sustained finding of sexual misconduct and the employee was notified to the CCYP. In addition, the NSWPF and Community Services had also conducted related inquiries into the employee's conduct that confirmed he posed a potential risk to children.

In 2011, the former NSW employer received an information request from an interstate employer that was currently employing the person in child-related work and had become aware that there had been serious allegations made in NSW. The NSW employer was unclear as to whether it could legally provide the information requested. Following this case being brought to our office's attention, we coordinated a review of all relevant holdings in the possession of our office, Community Services and Police, relating to the person and requested Community Services provide a summary of these holdings to its interstate child protection counterpart.

The provision of this information prompted a police investigation. This then led to police promptly laying a number of charges against him in relation to the sexual abuse of children from within that state. He subsequently pleaded guilty.

Case study 15

In 2014, a member of the public contacted us to express concern about information they had received from a friend. The information alleged inappropriate conduct by a number of employees at a child care centre, including possible physical assault, ill-treatment and neglect. The complainant indicated one of the employees involved had filmed some of the conduct on a mobile phone and distributed the footage to a number of people via a photo messaging application.

From the information provided by the complainant, it appeared that the child care centre may have been unaware of the allegations. Our review of KiDS and COPS indicated that the allegations had not been reported to either agency, and raised additional concerns about the child care centre leading us to hold grave concerns for the safety and welfare of the children attending the centre.

We contacted local police to alert them to our concerns and also made a ROSH report to the Community Services Helpline. Police promptly attended the centre and seized mobile phone evidence from an employee. Initial analysis of the mobile phone identified numerous photos and videos on the phone depicting inappropriate conduct towards children, but – according to witness statements – the alleged incidents meeting the threshold of a criminal offence had been deleted when police arrived at the centre.

After being informed of the allegations by police, the Director of the centre terminated and suspended a number of employees and notified us of the reportable allegations.

As a result of our liaison with the NSWPF and our ongoing review of information on the KiDS and COPS databases, we subsequently became aware of information relating to historical incidents at the centre which did not appear to have been notified to the directorate of the Department of Education (DoE) responsible for regulating the operation of early childhood education and care services. We also became aware that one of the employees at the centre, who at that time remained under investigation

by police, may have obtained employment at another child care centre after being terminated from the centre where the alleged conduct occurred.

Pursuant to Chapter 16A of the *Children and Young Persons (Care and Protection) Act* we facilitated the exchange of appropriate information between our office, DoE, Community Services, Police and the Office of the Children's Guardian to ensure that any risks were identified and appropriately managed.

While the police investigation did not ultimately result in any criminal charges, an investigation into the centre is currently being undertaken by DoE.

In the meantime, we have supported the centre in its initial efforts to improve its child protection policies and procedures and comply with the reportable conduct scheme, and will continue to work with the centre to identify and address any systemic child protection issues.

Case study 16

In 2014, a parent advised us that her daughter's school teacher had been arrested by police for 'child related offences'. We contacted the principal of the school to confirm that they were aware of the matter. The principal advised us that the teacher had been arrested and immediately suspended the previous week.

The school subsequently notified us of allegations that the teacher had indecently assaulted a student (who was also a relative of the teacher) on multiple occasions over a number of years. The notification also mentioned similar allegations of sexual misconduct against the teacher several years prior. The school had investigated the earlier allegations and determined that they were not sustained. They did not notify us of the allegations at the time.

Our review of information on COPS identified that the student who was the alleged victim of the most recently alleged conduct had been interviewed by the Child Abuse Squad (CAS) and made disclosures. The student also identified two additional alleged victims. The student's father had informed police that he would prefer to handle the matter 'within the family' and that as a result of a community meeting, the teacher was being 'sent to [REDACTED]' to live.

The COPS records did not include any details of the earlier allegations which had been investigated by the school, indicating that they may not have been reported to police. In light of this, we released information about the allegations to the CAS under section 34 of the *Ombudsman Act 1974*. As a result, the CAS obtained statements from the alleged victims in this matter, who are now adults.

The school subsequently advised us that the teacher concerned had resigned. Information held by the NSWPF indicated that he remained in NSW. We subsequently made a notification of concern about the teacher to the Office of the Children's Guardian.

Case study 17

In 2009 we were contacted by a school principal about reportable allegations involving a teacher. The allegations related to conduct when the teacher was employed at another school. We advised the principal to alert the Police to the information and to make a notification to our office. The principal actively liaised with Police and our office to ensure that the school's risk management action did not undermine any criminal investigation. After undertaking a risk assessment, the principal determined that the teacher's conduct with students should be closely monitored. On the information known to the principal at the time, this risk management action appeared to be appropriate.

After allegations relating to the teacher's conduct at his current school were investigated and not sustained, two separate parties contacted us with information concerning the teacher. On the basis of this information, we suggested to the principal of the school that it would be prudent of him to make enquiries with a former school about whether any concerns were held about the teacher during his previous tenure there. We advised the principal to use Chapter 16A to request the information (which had only recently come into effect). The school subsequently provided information about a range of concerns that had been raised in relation to the teacher's conduct towards students during his

employment at the school – concerns that were similar in nature to those raised during his earlier employment at another school.

The principal at the teacher's current school then made a notification of reportable conduct on the basis of this further information. The additional evidence obtained from the teacher's previous employer, together with the totality of earlier evidence, was assessed in accordance with our definition of 'sexual misconduct'. The investigation concluded that the teacher had engaged in sexual misconduct towards children, by engaging in a persistent pattern of crossing professional boundaries. He resigned prior to the investigation being finalised and, following a risk assessment by the Office of the Children's Guardian that had been triggered by the sexual misconduct finding, he was barred from working with children.

Case study 18

In early 2012, Community Services requested that one of its interstate counterparts obtain critical information from a school within the counterpart's jurisdiction about unconfirmed allegations that a teacher had engaged in a sexual relationship with a student when they had taught at that school. (Under the Ombudsman Act, the teacher's current employer – a NSW school – was under a legal obligation to investigate these historical allegations.) In response to Community Services' request, its interstate child protection counterpart advised that it did not 'hold' any information about the teacher within its own records.

Community Services then requested that its counterpart seek relevant information from the relevant school within that state. In response, Community Services' counterpart advised that it did not have the authority to request the critical information from the school because it did not have the power to seek information in circumstances where it was not acting pursuant to performing its child protection responsibilities in connection with a child from within its own state.

In correspondence between NSW Community Services and its interstate counterpart, the latter noted: 'A more national approach in this area of information sharing would be useful and valuable but unfortunately we do not have it at present.'

Case study 19

A school employee allegedly indecently assaulted a female student and committed an indecent act in her presence on school premises. After investigation, police decided that there was enough evidence to charge the man. However, the student declined to pursue the matter and no charge was laid. A reportable conduct investigation found further inappropriate conduct by the man towards the girl, including exposure to pornography. The school made a sustained finding of sexual misconduct and reported this to the Office of the Children's Guardian.

We conducted intelligence checks on the man, because the school's investigation report indicated he may pose other risks to children. We found records on KiDS indicating the man lived at the same address as an authorised foster carer who had children in her care. Although the man was apparently a household member of a foster carer home, he was not identified as such in the database and had not applied for a WWCC under the new scheme – as household members are required to do. We made our own motion inquiries with FACS, who confirmed the man was a foster carer household member. FACS conducted a safety assessment of the children in the placement and required the man to apply for a new WWCC. When he applied, the sustained sexual misconduct finding triggered a risk assessment of his suitability to work with children.

Case study 20

A former school student disclosed to a health counsellor that he had been sexually abused by a current teacher. The counsellor reported the allegations to Community Services, who in turn referred the matter to the school for investigation.

The school notified us of the allegation; however it was unable to commence an investigation as NSW Health would not disclose the identity of the alleged victim.

We commenced an investigation into the actions of NSW Health, which resulted in Health revising its Fact Sheet on Information Exchange (under Chapter 16A) to clarify that the intention of the information exchange legislation is to ensure that the safety, welfare and wellbeing of children and young persons are paramount and that this takes precedence over an individual's privacy. Health also arranged training for coordinators and managers of its sexual assault services, the child protection counselling service and the child protection unit.

The name of the alleged victim was provided to the school, which enabled it to commence an internal investigation.

Our investigation also uncovered that the teacher had improperly provided a reference for the alleged victim in relation to dispensation for his HSC examinations. Our evidence showed that he did so after he had commenced a close personal relationship with the young person.

The police were also engaged, but ultimately, the victim clearly indicated that he did not wish to participate in an investigation.

Prior to the completion of this matter, the teacher tendered his resignation. The school's investigation resulted in a sustained finding of sexual misconduct. As a result the teacher was notified to the Commission for Children and Young People (at that time responsible for administering the WWCC scheme) and was placed on the Department of Education's not to be employed list.

Case study 21

In September 2012, a man disclosed to us that he had been sexually abused as a child by his step-father. The trigger for the disclosure appeared to be the alleged victim having recently learned that his step-father was working in child-related employment for a NSW Government agency. The man was concerned about the current risks that his step-father might pose to the children with whom he was working. The man also indicated that he had reported the historical abuse to police in February 2012 but that no action had been taken.

We conducted own-motion inquiries into the handling of the allegations by the NSWPF and Community Services. Information on KiDS indicated that the alleged perpetrator had been reported to Community Services for allegedly sexually assaulting a number of children (possibly as many as six) between 1990 and 2006. While Community Services appeared to have recorded that the man was a 'determined abuser' following consideration of one of these matters in 1990, we could not find evidence that any of the allegations had been reported to police.

Records on COPS confirmed our informant's claim that the allegations had been reported to police (via his sister) in February 2012. It appeared that police had suspended the investigation in May 2012 because the woman had not provided a statement. As part of our preliminary inquiries, we also confirmed that the man was employed by the government agency in a child-related role.

We brought the matter to the attention of both the NSWPF and Community Services. The matter was investigated by the CAS. Our Aboriginal Unit provided assistance by working closely with the alleged perpetrator's former partner (the mother of our informant and his sister), who was familiar with us as a result of our community work. This relationship helped encourage her to cooperate with police and she subsequently became an important witness in the case against the man. The woman was also able to persuade her daughter to cooperate with police, despite her previous reluctance.

The man was charged in February 2013 with ten offences involving two of the possible victims we had identified through our own-motion inquiries.

While the police investigation was taking place, we received a notification about the matter from the agency.

We considered formally investigating Community Services' handling of the reports which they had received between 1990 and 2006, or referring the matter to Community Services to conduct its own investigation of the matter. After careful consideration, in October 2012 that there would be relatively little benefit in taking either of these courses of action, given the passage of time and the fact that the alleged perpetrator was being investigated by police. Instead, we provided details of the matter to

Community Services as a case study. This informed our work with Community Services to improve the guidance contained in the Mandatory Reporter Guide about both the handling of historical allegations and allegations concerning classes of children. On 8 August 2014, we also provided a notification of concern to the Office of the Children's Guardian about the man.

In December 2014 the man was found not guilty of the charges relating to one of the alleged victims and, in November 2015, the charges relating to the second alleged victim were withdrawn. The agency is currently in the process of conducting its own investigation.

Case study 22

A JIRT investigated alleged sexual offences by a foster carer against two girls who had been placed in his care. After investigation, the JIRT substantiated sexual harm, but the matter did not proceed criminally. After the criminal investigation had concluded, the employing agency completed its reportable conduct investigation and made findings of 'not sustained lack of evidence of weight', which meant the agency was not required to notify the findings to the OCG.

Our review of the COPS and KiDS databases revealed that the agency had not received all relevant information from the police. We suggested that the agency seek further information from police and review their finding. We then liaised with senior police to facilitate this release of information to the agency. The agency subsequently changed its finding to a 'sustained' finding of sexual misconduct, triggering a risk assessment by the OCG of the individual's suitability to work with children. The foster care agency informed us the carer and his wife had resigned as foster carers. On 9 March 2016, the OCG informed us that since then, the individual has not applied for a WWCC under the new scheme. This indicates he has not worked with children since his resignation, because in order to do so, he would need to have applied for a new WWCC. The OCG holds workplace record information in its WWCC system in relation to this person. This information will be matched against him if he applies for a WWCC.

Case study 23

In early 2014, a [REDACTED] notified us that a volunteer [REDACTED] had allegedly engaged in inappropriate behaviour towards children. The school had reported this to police. The volunteer told police that he also did volunteer work with a religious organisation but claimed he had no contact with children in that role. However, through an online search, we found information indicating that the religious organisation provided services to children, including '*visitations and [REDACTED] in state schools*'.

Based on that information, we contacted the Department of Education (DoE) and asked whether the man was working [REDACTED] in any state schools in the relevant area. The DoE checked its records and advised that he was operating in three different state schools. We then sought a Part 3A notification from the DoE and ensured that information about these matters was exchanged between police and the two organisations known to be employing him. Through our direct access to the police database, we also found out the man had previously been investigated by police in relation to child sexual offence allegations, which had not proceeded to charge. We provided risk-related information about the man to the OCG. The DoE has placed him permanently on its 'not to be employed' list. We are waiting for final advice from the [REDACTED], which has stood the individual down from all [REDACTED] activities and removed him from its list of volunteer [REDACTED]. To work with children again, this individual would need to apply for a WWCC under the new scheme. On 9 March 2016, the OCG advised us that the individual has not done so, which should mean that he is no longer working with children. The OCG holds workplace record information in its WWCC system in relation to this person. This information will be matched against him if he applies for a WWCC.