

Royal Commission into Institutional Responses to Child Sexual Abuse

Commonwealth update – supplementary statement – 21 February 2017

Redress – supplementary comment

Current Royal Commission Support Services

Since the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) was announced in 2013 the Department of Social Services has funded community based support services. These services provide support to people engaging with the Royal Commission in a broad range of areas of assistance including counselling, information and referral and case management to ensure victims and survivors of child sexual abuse, and their families, are able to access support and participate in the Royal Commission.

The specialist services have supported people engaging with the Royal Commission to improve outcomes and enhance wellbeing. The target client group is people adversely affected by past institutional and child-welfare practices and policies. In 2016 around 9,000 people attended a Royal Commission Community-based Support Service.

These services are underpinned by evidence-based practice, design and delivery principles that ensure:

- a tailored, flexible and holistic approach to support each client's needs;
- the importance of validating and respecting the different histories of people affected by former policies and practices;
- the client is central to all service design and delivery;
- people are empowered to make their own informed choices about their healing;
- service delivery staff have appropriate specialist skills / training and understand the unique and varied impacts of past institutional practices;
- people affected by past practices and policies are included in planning, and
- where service delivery organisations have existing links to institutions involved with past child welfare practices and policies which may have adversely affected individuals, services will be transparent and, where necessary, publicly acknowledge their involvement in past practices, confirm their commitment to deliver high-quality and independent services, and outline their policies for handling real and perceived conflicts of interest.

A list of the service providers funded by the Department of Social Services is in **Attachment A**.

These services provide appropriate support to people engaging with the Royal Commission, especially individuals who experienced sexual abuse as children (under 18) in institutional contexts, family members, and employees of institutions or organisations where abuse took place. Services must be accessible, inclusive and culturally sensitive, and consider the needs of women, men and priority groups including but not limited to:

- Indigenous Australians, especially members of the Stolen Generation;
- Forgotten Australians and Former Child Migrants;
- People with disability;
- People with culturally and linguistically diverse backgrounds; and
- People who experienced religious or clerical abuse.

Three service providers receive funding to offer best practice and advice to the support services (listed in **Attachment A**) to ensure accessibility for Indigenous Australians and people living with disability:

- *The Healing Foundation* is funded to offer support and provide advice on high quality, culturally appropriate healing services, to providers who primarily deliver services to Indigenous Australians; and

- *People with Disability Australia* and *Children and Young People with Disability Australia* are funded to support high quality service provision for providers who primarily deliver services to people with disability.

The Department expects these services to provide comprehensive individual, group and community therapeutic support to clients and deliver flexible and timely services before, during and after client engagement with the Royal Commission by providing:

- Case management to support clients through the Royal Commission process;
- Accessible, client-focussed information on the various stages of the Royal Commission process;
- Warm referrals to appropriate longer-term therapeutic support as required;
- Face-to-face counselling or social work support;
- Telephone, video and/or online counselling; and
- Counselling and support at Royal Commission hearings, where requested.

Out-Of-Home Care Data Collection

Working closely with the states and territories, the Australian Institute of Health and Welfare (AIHW) collects data from the states and territories relating to children in out-of-home care and publishes that data.

The Royal Commission proposed a data collection model in its March 2016 consultation paper on sexual abuse in out-of-home care. DSS has consulted with AIHW on the proposed collection of data and understands that the Royal Commission has also met directly with AIHW to discuss the technical aspects of the data collection.

The model calls for de-identified unit record files about allegations of sexual abuse that include information on dates, locations, perpetrator relationship, demographic descriptors, placement types, treatment and support and other responses.

AIHW has advised the Royal Commission in the Commonwealth submission to the consultation paper and in subsequent meetings, that it could potentially establish a data collection and report on sexual abuse in out-of-home care. This work would take a few years before the first data collection and report could be made. AIHW would first assess the feasibility of states and territories recording and AIHW collecting the data proposed by the Royal Commission.

It is the understanding of the Department of Social Services that data collection could only be undertaken on the following conditions:

- relevant state/territory and Commonwealth Ministers agree to establish and fund the data collection;
- the data collection is overseen by the Child and Families Data Network (CAFDaN), managed by AIHW, funded and supported by all states, territories and the Commonwealth;
- AIHW is able to confirm with states and territories the feasibility of collecting and recording the data fields.

Reportable Conduct and Mandatory Reporting

Reportable Conduct Schemes

On 1 April 2016, the Council of Australian Governments (COAG) agreed, in principle, to pursue harmonisation of state and territory reportable conduct schemes, similar to the current model in NSW and the model being planned in the ACT and Victoria (the Commonwealth notes that reportable conduct schemes are due to be introduced in the ACT and Victoria from mid-2017).

The Commonwealth Government supports any work undertaken by the states and territories towards

achieving harmonisation of reportable conduct schemes to improve oversight of responses to allegations of child abuse and neglect.

Institutional Complaint Handling and Reporting

The Commonwealth also acknowledges the importance of creating safe environments for children in order to reduce the risk of a child being harmed and to appropriately respond to threats to children. Accordingly, the *National Framework for Protecting Australia's Children 2009-2020* (the National Framework), in particular its Third Action Plan, has a specific focus on prevention and early intervention. This may be achieved, in part, through the improved oversight of organisations that have regular contact with children and young people, by implementing nationally consistent approaches to child safe organisations.

More information about the National Framework and the work under its Third Action Plan to create safer environments for children is below under the heading *2.8 Child Safe Organisations*.

The joint commitment by governments to the adoption of the National Framework does not change the fundamental responsibilities of the different levels of government in this area. State and territories retain responsibility for statutory child protection, including the oversight of institutional complaint handling and mandatory reporting.

Mandatory Reporting Study

In 2012, the then governing body for the National Framework (the Standing Council on Community and Disability Services) identified the investigation of the effectiveness of mandatory reporting legislation in jurisdictions as a priority under the Second Action Plan of the National Framework. As a result, a research project titled '*Child Abuse and Neglect: A socio-legal study of mandatory reporting in Australia*' (the Report) was funded by the Commonwealth Department of Social Services and managed by the Victorian Department of Human Services.

The aim of the project was to undertake research into mandatory reporting schemes to identify elements that enhance their success. The research was conducted by exploring different reporter groups across all states and territories, of different types of suspected child abuse and neglect (physical abuse, sexual abuse, psychological or emotional abuse, and neglect) using legal research and quantitative analysis of state and territory child protection data for the period 2003-2012.

The outcomes from this Report, together with any related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, are also relevant to the development and implementation of the 'child safe' strategy under the Third Action Plan.

A copy of the final report can be found at <https://www.dss.gov.au/families-and-children/publications-articles/child-abuse-and-neglect-a-socio-legal-study-of-mandatory-reporting-in-australia>.

Child Safe Organisations

All Australian governments and the community sector have been working towards keeping Australia's children safe and well through goals and strategies set out in the National Framework. This framework was endorsed by the Council of Australian Governments (COAG) in April 2009.

The National Framework represents an unprecedented level of collaboration between Commonwealth, state and territory governments and non-government organisations to protect children. It provides a foundation for reform, ensuring that children's interests are firmly placed at the centre of all collective action under the National Framework.

The National Framework is delivered through a series of three year action plans aimed at achieving a substantial and sustained reduction in child abuse and neglect over time. The Third Action Plan relating to 2015-18 was launched in December 2015 by the Commonwealth Minister for Social Services, the Hon. Christian Porter MP, following endorsement from all relevant state and territory ministers.

As stated above, the National Framework delivers an integrated and aligned response within the context of the existing responsibilities of participating governments. All parties have committed to focus their efforts on protecting children and work better in areas of shared responsibility, providing an opportunity to drive improvements across all systems and all jurisdictions. This national leadership has provided momentum for key national projects such as the development of National Standards for OOHC and a mechanism for engaging the non-government sector and the broader community on a national level.

The Third Action Plan was developed through a tripartite process involving the Commonwealth, state and territory governments and the non-government sector, with all parties represented on the National Forum. The non-government sector is represented by the Coalition of Organisations Committed to the Safety and Wellbeing of Australia's Children (the NGO Coalition) which consists of over 160 non-government organisations.

The Third Action Plan focuses on three strategies:

- **Strategy 1:** early intervention with a focus on the early years, particularly the first 1000 days for a child
- **Strategy 2:** helping young people in out-of-home care to thrive in adulthood
- **Strategy 3:** organisations responding better to children and young people to keep them safe

Under Strategy 3 of the Third Action Plan, state and territory governments, together with the Commonwealth and the non-government sector, have committed to helping organisations to respond better to children and young people to keep them safe. This strategy will drive implementation of a child safe culture across all sectors and will draw from the recommendations of the Royal Commission.

Work under this strategy involves the development of tools and resources to help services to move from a 'reporting' culture to a 'responding' culture to improve child safety and wellbeing. The scope of this work includes two signature actions for implementation by Commonwealth, state and territory governments and the non-government sector through collaboration.

Signature Action 3.1.1

Under this action the 2005 National Framework: *Creating Safe Environments for Children – Organisations, Employees and Volunteers (the 2005 Child Safe Framework)* is being reviewed and implemented. The 2005 Child Safe Framework was developed through consultation between all jurisdictions and signed by each Commonwealth, state and territory community and disability services minister to 'provide a more comprehensive and cohesive national approach to strengthening the capacity of organisations and systems to increase child safety'. This framework recognises that children will be protected if they have safe environments.

Signature Action 3.1.2

Following the review of the 2005 National Framework, work will focus on developing resources to support best practice on the agreed child-safe standards.

In the context of the Signature Action 3.1.1, the jurisdictions have acknowledged that while the foundations of the 2005 Child Safe Framework are still relevant, the Framework itself is out-dated. It does not reflect the child safe organisational approaches developed and implemented by government and non-government organisations within Australia over the last decade, including the advice and good practice outlined by the Royal Commission into Institutional Responses to Child Sexual Abuse to date.

Furthermore the 2005 Child Safe Framework only applies to the community service sector and does not cover other sectors involving organisations that have regular contact with children and young people (such as child-care, health, sports and the arts, and education). In order to establish a child-safe culture across all organisations in Australia, the updated framework will need to be applicable to all relevant sectors.

To achieve the commitments made under Strategy 3 and to move towards greater national consistency, Community Services Ministers agreed on 11 November 2016 to the development of the

National Statement of Principles for Child Safe Organisations (the National Statement of Principles) to be endorsed by Council of Australian Governments (COAG). The Ministers agreed for this work to be co-led by NSW Department of Family and Community Services and the Commonwealth Department of Social Services.

This commitment will:

- drive implementation of a child safe culture across all sectors working with children and young people to ensure the safety and wellbeing of children and young people across Australia;
- be used as a benchmark for cross-sectoral jurisdictional child safety policy making, funding and investment decisions and legislation and compliance regimes; and
- draw from the recommendations of the Royal Commission into Institutional Responses to Child Safe Abuse to support the findings on Working with Children Checks.

The proposed approach will provide a set of nationally agreed principles for all organisations across all sectors to adhere to when dealing with children and young people. Sectors that will be covered by the National Statement include (but are not limited to) the child protection sector, schools, child care services, health services, religious services, sports/arts services and youth justice and detention facilities.

As the National Statement of Principles will apply to all sectors, the principles will be developed in consultation with relevant sectors through a national cross-sector engagement process.

The National Statement of Principles will work similar to a UN Convention protocol. It will provide a benchmark for all governments to apply (in line with their constitutional responsibilities) to cross-sectoral child safety policy making, funding and investment decisions, and legislation and compliance regimes to help ensure children and young people are kept safe from harm.

The Commonwealth considers the principles should be voluntary and capacity-building based rather than regulated, noting there is limited research and evaluation available on the effectiveness of the existing mandatory child safe approaches.

The Commonwealth considers that the proposed 'aspirational' approach is more likely to be effective in driving cultural change within the organisations as it would encourage organisations to consider child safety as it applies to their particular context and thereby also encourage organisations to take ownership of the issue.

The National Framework has proven to be a useful mechanism to make progress on issues collaboratively, rather than through regulatory mechanisms. For example, through the National Framework, the Commonwealth, states and territories developed and agreed to adoption of Australia's first national standards for out-of-home care, setting 13 minimum standards for the care of children and young people in foster and residential care in addition to standards operating at state and territory levels. This approach enabled the joint development and commitment to a set of common standards, as well as agreement to the data required to report on these standards and create a clear national picture of progress.

Further, strong collaboration with non-government organisations through the National Forum has allowed state and territory governments to be supported by Aboriginal and Torres Strait Islander organisations to better implement the Aboriginal and Torres Strait Islander Child Placement Principle. Tools and resources are being developed to provide assistance with the implementation of the Child Placement Principle and the National Framework provides a mechanism for the sharing knowledge about effective strategies.

Prescriptive and mandatory approaches can pose the risk of promoting a cursory response to meeting compliance rather than effecting actual cultural change within organisations. They are also likely to result in higher compliance costs and administrative burden for jurisdictions and institutions. There is a risk this option is likely to be unsustainable for jurisdictions with relatively less access to resources, and smaller, volunteer-based organisations.

The National Statement of Principles will be further supported through the development of child safe organisation resources and a communication strategy in 2017-18.

Given the extent and scope of work, Community Services Ministers agreed to a phased approach for the development of the National Statement of Principles over an 18 month period commencing in early 2017.

The Department of Social Services is in the process of engaging the National Children's Commissioner, Australian Human Rights Commission, to develop a draft National Statement of Principles and a project plan for subsequent stages which will include a national cross-sector engagement process, seeking COAG endorsement of the final National Statement of Principles and the development of child safe organisation resources and communications strategy to assist implementation.

It is expected that the draft principles will be considered by Community Service Ministers in mid-2017 and, following the cross-sector engagement process, the principles will be submitted to COAG for endorsement in mid-2018.

Attachment A

Royal Commission Community-based Support Services funded by the Department of Social Services

Service coverage	Service provider
National	Blue Knot Foundation
National	Bravehearts Pty Ltd
National	Care Leavers Australasia Network
National	Child Migrants Trust
National	Child Wise
National	Children with Disability Australia
National	Healing Foundation
National	In Good Faith Foundation
National	On the Line Australia Inc
National	People with Disability Australia
National	Rape and Domestic Violence Services Australia
National	Tzedek
ACT	Canberra Rape Crisis Centre
NSW	Interrelate Family Centres
NSW	Link Up NSW Aboriginal Corporation
NSW	Relationships Australia NSW
NSW	The Womens Cottage
NT	Danila Dilba Health Service
NT	Relationships Australia NT
QLD	Link Up Queensland
QLD	Living Well
QLD	Centre Against Sexual Violence
QLD	Micah Projects Inc
QLD	Relationships Australia QLD
SA	Nunkuwarrin Yunti of SA Inc
SA	Relationships Australia South Australia
SA	Victim Support Service Incorporated
TAS	Relationships Australia Tasmania
TAS	Sexual Assault Support Service Inc.
VIC	Open Place
VIC	Drummond St Services Inc
VIC	Link Up Victoria
VIC	Relationships Australia VIC
WA	Anglicare WA Incorporated
WA	Kimberley Stolen Generation Aboriginal Corporation
WA	Relationships Australia WA
WA	Yorgum Aboriginal Corporation