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

Response to Consultation Paper

***Best practice principles in responding to complaints of child
sexual abuse in institutional contexts***

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Response to Royal Commission Consultation Paper: Best practice principles in responding to complaints of child sexual abuse in institutional contexts

Introduction

The Sexual Assault Support Service (SASS) is a community-based service committed to providing high quality support and information services to Southern Tasmanian survivors of sexual violence, family members and support persons, professionals, and the general public. SASS provides a 24 hour sexual assault crisis response service; a 24 hour phone support service for people affected by recent or historical sexual violence; and face-to-face information, support, counselling, and referral services for anyone impacted by sexual violence.

SASS is also contracted by the Federal Government to provide support to victims of institutional child sexual abuse, who are directly involved in or affected by the work of the Royal Commission into Institutional Responses to Child Sexual Abuse (“the Royal Commission”).

SASS welcomes the opportunity to respond to the Royal Commission’s *Consultation Paper: Best practice principles in responding to complaints of child sexual abuse in institutional contexts*.

Matters on which submissions are sought

3. Best practice principles

3.1 – Six principles to strong and effective complaint response

SASS supports the six principles outlined on Page 17 of the Consultation Paper. With regard to the fourth principle (‘Protocols are in place for managing relationships and sharing information with other agencies’), we suggest that a sentence is included about institutional compliance with reportable conduct scheme requirements, in States where such a scheme exists. We note that NSW currently has a reportable conduct scheme, and a Victorian scheme is in the process of being implemented.¹

3.2 – Suggested topics of a complaint handling policy

SASS approves of the scope and content of suggested topics, as outlined on Pages 18 and 19 of the Consultation Paper. The only recommendation we make is that the conflict of interest dot point on Page 19 be amended to “has no existing or potential conflict of interest with the proper investigation of the complaint”. Note: As discussed in 4.10 below, we submit that the best way to ensure impartiality and objectivity, and avoid conflicts of interest, is to engage an external party to conduct the investigation.

4. Implementing the principles

SASS commends the Royal Commission policy team on the comprehensiveness of the information contained in this section, which should assist institutions greatly with practical implementation of

¹ See: <http://www.cfecfw.asn.au/sites/default/files/Betrayal%20of%20Trust%20-%20Child%20Safe%20Standards%20-%20DHS%20CCYP.pdf> and <http://www.vic.gov.au/news/principal-commissioner-for-children-and-young-people.html>

the principles. We offer feedback in response to several of the implementation points listed, as follows:

4.2 – Institutional structure and senior management

SASS agrees that it is important for accountability to be “shared across all executive levels of the institution”;² however, we also believe that it is vital for complaint management tasks to be formally delegated, documented, and followed up. If delegation guidelines in a policy are too broad, there is a risk that key complaint management tasks will be overlooked.

4.3 – Listening to children when they disclose

In our view, it is essential for complaint handlers to be knowledgeable about the potential impacts of traumatic events on survivors of sexual violence. The Nebraska Domestic Violence Sexual Assault Coalition in the United States explains that:

There is no “typical” response to sexual assault. Survivors of sexual assault may vary dramatically in their response to other people. Some survivors may appear very calm and describe the assault with little or no emotion. Other survivors may express feelings verbally or by shaking, crying, restlessness, or tenseness. Remember, sexual assault survivors have just experienced a traumatic event. Any response to assault – whether it looks like the right response to you – is their way of dealing with the sexual assault.³

South Eastern CASA (SECASA) in Victoria also provides useful information about common responses to traumatic events, including emotional numbness:

After an assault has occurred, many victims experience periods of emotional numbness which is a shock response. This response is often misinterpreted by those around them. For example, it may be taken as an indication that they are in control of the situation, are calm and relatively unharmed, or even that they are fabricating their experience of the assault. However, emotional numbness is not an uncommon reaction to severe trauma. It should be interpreted as a victim's 'front line' defence against the overwhelming reality that they have been sexually assaulted.⁴

It is also important for complaint handlers to be aware of developmental features that may impact on disclosure processes. Child Family Community Australia (CFCA) provides a useful resource for professionals titled *Responding to children and young people's disclosures of abuse*, which is available on the Australian Institute of Family Studies website.⁵ The resource includes a list of reasons why a child or young person may delay disclosure or retract their allegations, as follows:

- pressure or threats from the perpetrator;

² Royal Commission into Institutional Responses to Child Sexual Abuse (“Royal Commission”), 2016. Consultation Paper: *Best practice principles in responding to complaints of child sexual abuse in institutional contexts*, pp 20-21.

³ Nebraska Domestic Violence Sexual Assault Coalition, n.d. Fact sheet: *Feelings frequently felt by sexual assault survivors*. Available at: <http://ndvsac.org/wp-content/uploads/SA/Feelings%20Frequently%20Felt%20by%20Sexual%20Assault%20Survivors.pdf>

⁴ South Eastern CASA, 2015. Web page content: *Feelings after sexual assault*. Available at: <http://www.secasa.com.au/pages/feelings-after-sexual-assault/>

⁵ Child Family Community Australia, 2015. CFCA Practitioner Resource: *Responding to children and young people's disclosures of abuse*. Available at: <https://aifs.gov.au/cfca/publications/responding-children-and-young-people-s-disclosures-abu>

- relationship to the perpetrator;
- expected consequences of telling (e.g., physical injury/death, family separation, parental distress);
- pressure from the child's family;
- fear of negative reactions from parents or family;
- fear of not being believed;
- feelings of embarrassment, shame and self-blame; and/or
- for males specifically: fears of stigmatisation, being labelled a victim or being labelled homosexual (Alaggia, 2004; Alaggia, 2005; Hershkowitz et al., 2007; Malloy et al., 2011; Ullman, 2003).⁶

Information about trauma symptoms, developmental factors, and other relevant considerations as outlined is likely to have an awareness-raising function, in terms of highlighting the need for sensitivity and the importance of staff training. We anticipate that being equipped with trauma-related knowledge will mean that complaint handlers are less likely to form and communicate inappropriate judgments or inaccurate views about a complainant's presentation (including perceived level of truthfulness), and the content of their disclosure.

4.8 – Provision of support

With regard to the second dot point on Page 27, we suggest that where possible, supported referral should be offered to the victim/survivor. A supported or 'warm' referral might include contacting the counselling agency or medical practitioner in the presence of the victim/survivor, helping them to arrange transport to the appointment, and doing a follow-up call or alternative referral if there is a waitlist for services.

4.10 – The investigation

We agree that an investigation "should be carried out by an impartial, objective and trained investigator [who has] no conflict of interest with the proper investigation of the complaint".⁷ We submit that in order to ensure impartiality and objectivity, it is good practice to engage an external party to conduct the investigation. We agree that it is appropriate for a senior person within the institution to oversee the investigation.

We acknowledge resource constraints for relatively small institutions, and suggest that discussion among policymakers is warranted about ways to make low- or no-cost external investigation options available to institutions. For example, State governments might consider allocating resources for specialist training that could enable staff from Child Protection agencies to conduct investigations on behalf of institutions. An alternative option is to implement reportable conduct schemes in all Australian states and territories, which would enable oversight bodies to provide expert advice and support to institutions throughout internal investigation processes, and conduct additional investigation activities if necessary.⁸ This topic is discussed in greater detail, in the next section of this submission.

4.15 – Induction and training for staff and volunteers

⁶ Ibid.

⁷ Royal Commission, 2016. p.28.

⁸ ACT Government, 2016. Discussion Paper: *A Reportable Conduct Scheme for the ACT – A Proposal for Additional Oversight and Investigation of the Conduct of Employees to Help Create Child Safe Organisations*, p.12. Available at: <http://www.timetotalk.act.gov.au/storage/ReportableConductScheme.pdf>

We recommend that all new staff members and volunteers should receive an induction prior to commencing their duties, plus periodic ‘refresher’ training about protective practices with children and complaint handling. This supports the first and third principles of best practice listed on Page 17, i.e. “An institutional culture that makes decisions based on the best interests of the child and is aware of the inherent vulnerability of children in their care”; and “A process that is clear and accessible to children and adults, and emphasises responsiveness and accountability”.

Oversight of complaints handling – reportable conduct schemes

SASS welcomes discussion about the establishment of reportable conduct schemes in all Australian states and territories. We are aware that Victoria is in the process of implementing a scheme,⁹ and the ACT government recently released a Discussion Paper titled *A Reportable Conduct Scheme for the ACT – A Proposal for Additional Oversight and Investigation of the Conduct of Employees to Help Create Child Safe Organisations*.¹⁰ This Discussion Paper appraises the NSW scheme as follows:

The NSW model is recognised nationally. The Chief Executive Officer of the Australian Childhood Foundation, Dr Joe Tucci, recently stated:

“[The NSW Scheme] has worked with organisations in a capacity building way and over time increased the level of scrutiny that organisations can come under in relation to the way that they investigate claims or allegations of abuse by volunteers and employees. I cannot think of a better system in place anywhere in the world”.

Adopting a similar system to NSW will provide oversight of all reportable conduct matters (physical, sexual and emotional abuse) and investigations where the person believed responsible is employed in a capacity with power over, or responsibility for, children and young people.

Implementing a similar system to NSW will provide a more robust and protective system for children where extra-familial abuse has occurred.

The new system will also provide oversight and direction for designated agencies to conduct their investigations.¹¹

SASS notes from the Royal Commission Consultation Paper that the NSW scheme is supported by comprehensive information-sharing provisions in the *Children and Young Persons (Care and Protection) Act 1998*.¹² Whilst we have not conducted extensive research on reportable conduct schemes, we can see potential for joined-up schemes across jurisdictions, supported by clear information-sharing legislation, to have significant impacts in terms of child abuse response and prevention. Effective, coordinated schemes could reduce the risk of complaints being minimised, ignored, or overlooked by institutions; and enhance the safety of institutions by providing them with advice about what actions are required when a matter has been reported to authorities and taken to court, but no conviction has been recorded. It is possible that Australia-wide schemes will help to relieve legal and ethical uncertainty for representatives of institutions, with regard to reporting suspicious behaviours to potential employers of unconvicted individuals, and determining the level of information provision that is appropriate.

⁹ See: <http://www.cfecfw.asn.au/sites/default/files/Betrayal%20of%20Trust%20-%20Child%20Safe%20Standards%20-%20DHS%20CCYP.pdf> and <http://www.vic.gov.au/news/principal-commissioner-for-children-and-young-people.html>

¹⁰ ACT Government, 2016.

¹¹ Ibid. p.5.

¹² Royal Commission, 2016. p.33.

We encourage other State and Territory governments to consider the option of drafting a Discussion Paper for public release and consultation, similar to the ACT paper.

Advice and support for institutions

SASS agrees with Royal Commission that “providing smaller institutions with access to advice and support about responding to a complaint of child sexual abuse could improve the quality of their response.”¹³ We believe that advice and support should be accessible to all institutions (i.e. regardless of size and resource capability) that carry out child-related functions and activities. We submit that adopting a combination of strategies may be the best way to improve levels of responsiveness and coordination within institutions.

(i) Oversight bodies – provision of advice and support through reportable conduct schemes

The Victorian Government’s Justice and Regulation website provides an overview of key duties for the oversight body under the proposed reportable scheme, as follows:

- monitor investigations into abuse and report on trends
- refer certain findings to the Working with Children Check Unit to review eligibility
- share information with key organisations where appropriate to ensure child safety and wellbeing
- have the power to inquire into the safety systems of all organisations engaged in child-related work
- assist in building the capacity of organisations to respond to allegations of abuse.

It is intended that the proposed design of the scheme will build on existing requirements including Victorian and national professional registration, employee misconduct and reporting obligations. The proposed reportable conduct scheme will not interfere with reporting obligations to police or with police investigations.¹⁴

The ACT Government anticipates that under their proposed reportable conduct scheme,

[...] designated agencies will be assisted and supported to comply with new requirements through a range of strategies, including factsheets and practice notes, direct telephone advice, training and workshops, information sessions, and through receiving detailed feedback on particular audits.¹⁵

They also emphasise that the scheme “will not affect any requirements to report to ACT Policing or interfere with any police investigations.”¹⁶

In SASS’s view, all of the oversight body activities identified are likely to be of considerable benefit to institutions, in terms of building a safety-focused culture; developing appropriate policies and procedures; and improving the quality of services to children and families.

¹³ Royal Commission, 2016. p.33.

¹⁴ See:

<http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/overview+of+child+safe+standards+and+reportable+conduct+scheme>

¹⁵ ACT Government, 2016. p.10.

¹⁶ Ibid.

- (ii) Government departments/agencies – provision of resources, such as policy templates

Practical, resource-focused assistance could be provided by policy officers from health and human services departments and/or associated agencies, including Child Protection agencies.

- (iii) Non-government agencies – provision of assistance and support by specially trained staff

SASS currently offers support to people of all ages who are affected by sexual assault in some way, and this includes representatives of institutions. With appropriate resourcing, sexual assault support services across Australia could be well-placed to provide institutions with assistance and support by specially-trained staff members. These staff members would have high levels of knowledge about institutional settings, reporting requirements, and policy development. They would also have effective working partnerships with reportable conduct scheme oversight bodies, local police stations, and Child Protection agencies. A nationwide professional network could be established, as a means to share practice knowledge and resources.

References

- ACT Government, 2016. Discussion Paper: *A Reportable Conduct Scheme for the ACT – A Proposal for Additional Oversight and Investigation of the Conduct of Employees to Help Create Child Safe Organisations*, p.12. Available at: <http://www.timetotalk.act.gov.au/storage/ReportableConductScheme.pdf>
- Child Family Community Australia, 2015. CFCA Practitioner Resource: *Responding to children and young people's disclosures of abuse*. Available at: <https://aifs.gov.au/cfca/publications/responding-children-and-young-people-s-disclosures-abu>
- Nebraska Domestic Violence Sexual Assault Coalition, n.d. Fact sheet: *Feelings frequently felt by sexual assault survivors*. Accessed April 2016 at: <http://ndvsac.org/wp-content/uploads/SA/Feelings%20Frequently%20Felt%20by%20Sexual%20Assault%20Survivors.pdf>
- Royal Commission into Institutional Responses to Child Sexual Abuse (“Royal Commission”), 2016. Consultation Paper: *Best practice principles in responding to complaints of child sexual abuse in institutional contexts*. Available at: <http://www.childabuseroyalcommission.gov.au/getattachment/5114663e-7465-4027-989b-5ee9fd6c6daa/Consultation-Paper>
- South Eastern CASA, 2015. Web page content: *Feelings after sexual assault*. Accessed April 2016 at: <http://www.secasa.com.au/pages/feelings-after-sexual-assault/>
- Victorian Government – Department of Justice and Regulation, 2015. Web page content: *Overview of child safe standards and reportable conduct scheme*. Accessed April 2016 at: <http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/overview+of+child+safe+standards+and+reportable+conduct+scheme>
- Victorian Government, n.d. Powerpoint presentation: *The Victorian Government response to Betrayal of Trust: Child safe standards and capacity-building*. Accessed April 2016 at:

<http://www.cfecfw.asn.au/sites/default/files/Betrayal%20of%20Trust%20-%20Child%20Safe%20Standards%20-%20DHS%20CCYP.pdf>

Victorian Government, 2016. Media release 23/02/16: *Principal Commissioner for Children and Young People*. Accessed April 2016 at: <http://www.vic.gov.au/news/principal-commissioner-for-children-and-young-people.html>