

Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse

Consultation paper: Criminal justice

October 2016

Royal Commission into Institutional Responses to Child Sexual Abuse
Consultation Paper: Criminal Justice, October 2016
Submission from the Department of Communities, Child Safety and Disability Services,
Queensland

Thank you for the opportunity to provide a submission to the Consultation Paper: Criminal justice.

The Department of Communities, Child Safety and Disability Services (DCCSDS) welcomes the opportunity to make comment on the following points of interest:

1. the Queensland Suspected Child Abuse and Neglect (SCAN) team (chapter 3)
2. information about mandatory reporters (chapter 3)
3. blind reporting to police (chapter 4)
4. child-to-child sexual abuse (chapter 15).

1. Queensland's SCAN team

Chapter 3 of the consultation paper (*Issues in police responses*) refers to Queensland's SCAN team. The paper states:

SCAN teams respond to familial child abuse. However, familial abuse includes abuse in out-of-home care (other than residential out-of-home care), so it includes some institutional child sexual abuse within the meaning of the Royal Commission's Terms of Reference. SCAN teams coordinate between the key state agencies where it is established that a child is in need of protection under the Child Protection Act. If a matter fits within the SCAN criteria, it will be referred to a SCAN team. SCAN representatives represent their services in any ongoing decision making process around the needs of the child (p102).

DCCSDS is pleased to provide the information below to clarify the description of SCAN in the consultation paper.

SCAN

The Queensland *Child Protection Act 1999* provides the mandate for the establishment of, and activities undertaken, by the SCAN team system. The *Child Protection Act 1999* defines the purpose of the SCAN team system as enabling a coordinated, multi-agency response to children where statutory intervention is required to assess and meet their protection needs.

It is noted that the provisions which outline the operation of the SCAN system are being considered as part of the comprehensive review of the *Child Protection Act 1999* currently underway in Queensland.

SCAN teams provide an operational framework for information sharing and service coordination between core member agencies in relation to children assessed by DCCSDS (Child Safety) as meeting the threshold for recording a notification and/or when a child is subject to ongoing intervention.

All SCAN team core member agencies are able to make a SCAN team referral via their SCAN team core member representative. SCAN team referrals must meet the following mandatory criteria:

- the matter has been assessed by Child Safety as meeting the threshold for recording a notification and/or
- Child Safety is responsible for ongoing intervention with the child through a support service case, intervention with parental agreement or a child protection order and

- coordination of multi-agency actions is required to effectively assess and respond to the protection needs of the child.

The core member agencies are DCCSDS (Child Safety), Queensland Police Service, Queensland Health, Department of Education and Training, and the recognised entity in relation to Aboriginal and/or Torres Strait Islander children. Other government and non-government agencies may be invited to participate for a particular child if they have specific knowledge, expertise or resources to inform the discussion.

As it currently operates, a SCAN team is not a decision-making body. Decision making and service delivery responsibility is retained by the core member agency.

Depending on the individual needs of the child, the SCAN team system may be used to respond to the needs of a child who has experienced sexual abuse in out-of-home care including residential out-of-home care.

2. Information about mandatory reporters

The consultation paper states that given that the Australian Law Reform Commission (ALRC) and the New South Wales Law Reform Commission (NSW LRC) have identified that reforms to the protections against disclosing the identity of mandatory reporters may assist police investigations, the Royal Commission would like to hear whether interested parties would consider supporting the ALRC and NSW LRC recommendations in the context of institutional child sexual abuse (p127).

Currently in Queensland, section 186 of the *Child Protection Act 1999* provides confidentiality for persons who make child protection reports. It also imposes a penalty where a person unlawfully discloses information likely to lead to the identification of a notifier (section 186(2)). Some limited exceptions are provided, for example, where disclosing the notifier's identity is for purposes related to functions being performed under the *Child Protection Act 1999* (section 186(2)(a)), or by way of evidence given in a legal proceeding under subsections 186(3) and (4).

The intent of the protection of notifier confidentiality is to encourage people to report a concern about a child to Child Safety without fear of their identity being disclosed, to protect notifiers who have made a report from possible retaliation, and to help professionals to maintain positive (and often protective) working relationships with children and families.

There may be circumstances where police request notifier information as part of a criminal investigation that do not fall within the exceptions in section 186. This includes requests made in relation to the investigation of an alleged offence against a person when they were a child that is being investigated after the person is an adult. Given the sensitivity of notifier information, Queensland will carefully consider the implications of any changes to the provisions protecting the confidentiality of notifiers as part of the review of the *Child Protection Act 1999*.

3. Blind reporting to police

A core legislative responsibility of DCCSDS (Child Safety) is to receive and respond to information about child protection concerns from government and non-government agencies, other service providers and community members. In this context, DCCSDS (Child Safety) has an interest in matters which relate to the reporting of alleged harm to children to the relevant authorities.

In the context of the Royal Commission, 'blind reporting' refers to the practice of reporting information about an allegation of child sexual abuse to police without providing the alleged victim's name or other identifying details. The information reported includes any known details of the alleged offence and identity of the alleged offender. DCCSDS (Child Safety) acknowledges this practice of blind reporting is separate to the mandatory reporting obligations of certain

professionals to child protection agencies when children are experiencing harm, or at risk of experiencing, harm.

One of the issues identified in blind reporting is that the police face limitations in taking action in the absence of identifying details. DCCSDS (Child Safety) notes should the concept of blind reporting be expanded to child protection agencies, these limitations would also apply.

4. Child-to-child sexual abuse

The consultation paper notes there is a significant level of sexual abuse committed by children on other children and that treatment is a significant priority for many children with harmful sexual behaviour (p547-48). DCCSDS would like to take this opportunity to note its use of the term 'sexually reactive behaviour' on the basis it frames the behaviour as a reaction to trauma the child has experienced.

The Royal Commission is considering the issue of treatment for children with harmful sexual behaviour in a separate project and will report on it in due course. DCCSDS notes the Royal Commission will consider the links between treatment and criminal justice responses to children with sexually reactive behaviours in this work.

The Queensland Government has previously provided the Royal Commission with details regarding the services in Queensland which support children with sexually reactive behaviours.