Royal Commission into Institutional Responses to Child Sexual Abuse
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To whom it may concern

Issues Paper 3 – Child Safe Organisations

The ACT Government supports the Royal Commission into Institutional Responses to Child Sexual Abuse. In response to the third issues paper, this letter outlines a number of the measures the ACT Government has in place to promote and improve child safe organisations.

Children and Young People Commissioner
The ACT Children and Young People Commissioner (CYP) is one of three Commissioners within the ACT Human Rights Commission. The CYP is an independent statutory office created under the Human Rights Commission Act 2005. This means that the CYP is funded by the ACT Government but is independent from the Government. The CYP has a number of roles, including:

- consulting with children and young people;
- resolving complaints and concerns about services for children and young people;
- reviewing issues of systemic concern and providing advice to government and community organisations about how to improve services for children and young people.

The current Commissioner for Children and Young People is Alasdair Roy. For further information visit www.hrc.act.gov.au/childrenyoungpeople

Working with Vulnerable People Check
The Working With Vulnerable People (Background Checking) Act 2011 commenced in November 2012. It is the primary law in the ACT which provides for background checking as part of a risk assessment of people working with, or wanting to work with, children or vulnerable adults in the ACT. Our response to Issues Paper 1 provided further details on this scheme.

Mandatory Reporting
‘Mandatory reporting’ describes the legislative requirement imposed on selected classes of people to report suspected cases of child abuse and/or neglect to government authorities.

Prior to ACT self-government, the ACT Children’s Services Act 1986 contained a provision that certain specified professionals be required by law to report suspected cases of child abuse, however this did not take effect when the law came into operation. The ACT Community Law Reform Committee, which published its findings in November 1993, was asked by the ACT Government to consider enacting this provision.
Consequently, in 1995 a graduated approach to introducing mandatory reporting was adopted in the ACT. This involved training professionals and undertaking an assessment of the impact on services, prior to full implementation of mandatory reporting provisions from June 1997.

From this time onwards doctors, dentists, nurses, police officers, teachers, school counsellors, public servants working in the child welfare field and licensed child care providers have been required to report, if during the performance of their work, they form a reasonable suspicion that a child or young person has suffered or is suffering sexual abuse or non-accidental physical injury.

These provisions were legislated in the current *Children and Young People Act 2008 (CYP Act)*, and the definition of ‘teacher’ was expanded to include a person providing home education. The *CYP Act* also specifies that persons caring for a child at a childcare centre and teachers relate to persons in paid employment, including assistants and aides.

The *CYP Act* provided exceptions to mandatory reporting where:

a) the mandated reporter reasonably believes that another person has made a report to the Director-General about the same child or young person and the same abuse or injury; and/or

b) if the mandated reporter reasonably believes that the child or young person has experienced, or is experiencing, non-accidental physical injury caused by another child or young person and the subject child or young person has a person with parental responsibility who is willing and able to protect them from further injury.

Under the *CYP Act* the reporter’s identity is protected from disclosure. In addition, the legislation provides that as long as the report is made in good faith, the reporter cannot be liable in any civil, criminal or administrative proceeding.

**Official Visitor**

The *Official Visitor Act 2012*, which came into effect in September 2013, provides for a monitoring and complaints system for residents of facilities owned and operated by the ACT Government.

Appointments of Official Visitors in the ACT date back to 1994 and previously applied to inspections of institutions for children and young people, corrections and mental health facilities. Official Visitors report directly to the relevant Minister on their observations about the standard of services, and conversations with staff and clients about any issues that are identified.

The new *Official Visitor Act 2012* expands the scheme so that it is available to people in community settings who, while not being detained against their will, cannot move elsewhere if there is a problem with their accommodation or the responsible service provider.

The *Official Visitor Act 2012* also creates additional roles in relation to:

- people with disabilities;
- people experiencing homelessness; and
- children and young people who are from an Aboriginal and Torres Strait Islander background and in a juvenile justice or care and protection facility.

Further, it increases the level of certification and safety of disability accommodation places.
An Official Visitors Board is being established. It will be chaired by the ACT Public Trustee and other members will include the ACT Public Advocate, a Commissioner from the ACT Human Rights Commission and two Official Visitors. The Board will assume responsibility for remuneration, administrative arrangements and training of Official Visitors.

School Education
The ACT Education and Training Directorate has responsibility for public schools and early intervention education programs, the regulation of early childhood education and care services, the registration of non-government schools and home education and the planning and coordination of vocational education and training.

Curriculum
All ACT schools follow the Australian Curriculum for mathematics, English, science and history. For all other curriculum areas, ACT schools use *Every chance to learn - Curriculum Framework for ACT schools - Preschool to year 10* to plan what they teach. They are required to provide opportunities for all children to learn and understand:

- recognising safe and unsafe situations and making judgements about what is necessary to seek help;
- responding to situations that make them feel unsafe and identifying people who can help;
- recognising warning signs and behaviours that are threatening;
- accessing options and consequences in responding to unsafe situations;
- evaluating standards of sexual behaviour; and
- recognising the abuse of power in relationships and identifying strategies to address the abuse of power.

All schools are required to provide the above learning opportunities and they use a variety of strategies, class combinations, resources and programs, including guest speakers and packaged programs, to support their delivery.

The Teachers Code of Professional Conduct
The teaching workforce in the ACT Government sector is guided by the *Teachers Code of Professional Conduct* (Code). The Code was developed specifically for teaching staff in schools, and is revised at the beginning of each school year with all staff, and through the year with individual staff as required.

The Code is important for all teachers including principals employed by the ACT Education and Training Directorate. As public service employees, teachers hold a special position of trust. In their respective roles, teachers exercise powers that have a significant impact on the lives of children and young people and consequently there is a community expectation that these powers will be properly and prudently used.

The Code explicitly states expectations of behaviour, including teachers are expected to ‘protect students from harm’. Explicit direction within the Code identifies that teachers protect students from harm by:

- recognising that students have a right to a safe and secure learning environment;
- reading, understanding and complying with mandatory reporting requirements;
- reporting any reasonable suspicion of harm caused to students;
• supporting students who have been harmed;
• refraining from conduct that could assault or harm a student;
• refraining from conduct that could cause psychological damage to a student; and
• refraining from sexual conduct with a student or conduct that raises an apprehension that sexual conduct has occurred or may occur with a student.

If the Education and Training Directorate believes the Code has been breached, disciplinary action may be taken. The primary aim of disciplinary action is to maintain proper standards of conduct by teachers, to protect the reputation of the ACT Public Service, the Directorate and its teachers. This includes maintaining public confidence in the integrity of the Directorate and its teachers.

Disciplinary action that may be taken in response to proven breaches of the Code can include termination of employment. This may be in addition to any penalty imposed by a court for a breach of legislative provisions.

The Code applies also to temporary, causal and probationary teachers and plays an important role in creating and maintaining child safe cultures. It is closely linked to disciplinary processes that include teachers. The value of the Code is in its explicit connection to the work that teachers do, including explanatory guidelines linking expectations about conduct to the work that occurs within schools.

Teacher Quality Institute
Teacher registration with the ACT Teacher Quality Institute (TQI) is the process that ensures teachers in all ACT schools (Catholic, Public and Independent) are appropriately qualified and suitable for employment. TQI assesses both new applications and renewal of registration or permit to teach on the basis of the applicant complying with any relevant Code of Practice relating to Professional Conduct and holding current general registration under the ACT Working with Vulnerable People Check.

When an employer becomes aware of matters relating to a teacher in their employment which give reasonable grounds for believing that the teacher may have breached a condition of their registration, or is otherwise to be subject to disciplinary action by the employer, the employer is obliged by section 67 of the ACT Teacher Quality Institute Act 2010 to notify TQI of these matters.

Teachers who contravene a condition of their registration or who become mentally or physically incapable of fulfilling their professional responsibilities as a teacher may have their registration or permit to teach suspended or cancelled. TQI is required to inform the employer and the other registration/accreditation authorities in Australia and New Zealand of any suspension or cancellation and is also required to provide the registration/accreditation authorities with the grounds for suspension or cancellation.

Regulation of Child Care
The Children’s Policy and Regulation Unit (CPRU) in the Education and Training Directorate is responsible for ensuring approved education and care services in the ACT meet the requirements of the Education and Care Services National Law (ACT) Act 2011 and the Education and Care Services National Regulations 2011. The CPRU make announced, unannounced and targeted
visits to education and care services to ensure they are operating in accordance with the national law and regulations. The CPRU also provides advice and support for families, education and care services and the community relating to the education and care of children in the ACT.

Community Services
The ACT Government Community Services Directorate has responsibility for a wide range of human services functions in the ACT and includes the Office for Children, Youth and Family Support (Office). The Office works in partnership with the community to provide care and protection services to children and young people, and family and community support to meet the needs of the people of Canberra. The Office is also responsible for youth justice services.

Child Safe Organisation Guidelines
The Community Services Directorate has incorporated the components of the National Guidelines for Building the Capacity of Child Safe Organisations into its Service Funding Agreements for out of home care programs and child, youth and family support services.

Services are required to demonstrate that there are robust systems in place to ensure adaption, innovation and continuous improvement. Details about organisational structure must satisfy criteria relating to governance and culture, human resources management and education and training. This includes compliance with relevant Care and Protection Services (CPS) policies and guidelines, the Children and Young People Act 2008 and with the Human Rights Act 2004.

Further, services must have in place the following policies:
- Criminal History Screening and Background Checks policy;
- Duty of Care policy;
- Risk Management policy;
- Occupational Health and Safety policy;
- Complaints and grievance policy;
- Confidentiality policy
- Communication policy; and
- Staff development and training policy.

Further information is available at http://www.communityservices.act.gov.au/ocys/services/child_safe_organisations

Yours sincerely

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