



**The Association of Independent Schools of New South Wales Limited**

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11 October 2013

Royal Commission into Institutional Responses to Child Sexual Abuse

GPO Box 5283

Sydney NSW 2001

By email: [solicitor@childabuseroyalcommission.gov.au](mailto:solicitor@childabuseroyalcommission.gov.au)

To whom it may concern,

The Association of Independent Schools of NSW (AISNSW) takes this opportunity to make a submission on Issues Paper 3 – Child Safe Institutions.

If you require further information or clarification please do not hesitate to contact either me or Ms Cathy Lovell, Director: Workplace Management on (02) 9299 2845 or at [clovell@aisnsw.edu.au](mailto:clovell@aisnsw.edu.au) .

Yours sincerely

A handwritten signature in black ink, appearing to read 'Newcombe', written in a cursive style.

Dr Geoff Newcombe

Executive Director

# **The Association of Independent Schools of NSW**

## **Submission on Issue Paper 3**

### **Child Safe Institutions**

**11 October 2013**

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#### **1. AISNSW and the Independent Education Sector in NSW**

The Association of Independent Schools of NSW (AISNSW) is the peak state body representing the independent schools sector in NSW. The Association represents more than 450 schools enrolling approximately 177,000 students, accounting for some 16 per cent of NSW school enrolments.

Independent schools are a diverse group of not for profit, non-government schools serving a range of different communities. Many independent schools provide a religious or values-based education. Others promote a particular educational philosophy or interpretation of mainstream education. Independent schools include:

- Schools affiliated with Christian denominations, such as Anglican, Catholic, Greek Orthodox, Lutheran, Presbyterian, Seventh Day Adventist and Uniting Church schools
- Non-denominational Christian schools
- Islamic schools
- Jewish schools
- Montessori schools
- Rudolf Steiner schools
- Schools constituted under specific Acts of Parliament, such as Grammar schools
- Community schools
- Schools that specialise in meeting the needs of students with disabilities.

Some independent schools with common aims and educational philosophies are governed and administered as systems, for example the Anglican and Seventh-day Adventist systems.

All independent schools in NSW are registered by the NSW Board of Studies and are educationally and financially accountable to the Board and to the Australian and NSW Governments.

A significant number of independent schools in NSW also operate boarding facilities. There are also 25 special schools in NSW that cater for students with disabilities and other special needs, including for students with severe and multiple physical, emotional and learning disabilities or behavioural issues. Some independent schools also cater specifically for students from indigenous backgrounds.

## 2. Submission to Issue Paper 3 Child Safe Organisations

The essential elements of establishing a 'child safe organisation' that protects children from sexual abuse in an institutional context. In particular, are there core strategies that should be present and others that are less critical?

### Safer Independent Schools

AISNSW is of the view that creating safer organisations for children is dependent upon a combination of excluding disqualified people, conducting background screening and creating a child safe organisation culture. Given that not everyone who poses a risk to children has a criminal record or any known or recorded concerning history, it is imperative that schools take other organisational steps to ensure that children in their care are safe and the individuals engaged by the school are suitable to work with children.

### Child Safe Schools

Child safe organisations are organisations that take a preventative and proactive approach to child protection and safeguarding children. Child safe organisations are organisations where children are respected, valued, supported and are encouraged to participate. Child safe organisations do not happen automatically – they must be actively created through strong leadership and strategic direction.

Importantly, creating a child safe organisation is more than just having legislative frameworks and policy and procedures in place. These aspects are incredibly important but do not in isolation keep children safe. The implementation of the legislative and policy framework is crucial but a child safe organisation requires a combination of legislative compliance, organisation specific policy and procedures, as well as child focused values, behaviours and culture.

**Diagram 1: Child Safe Organisations**



Research has identified the importance of organisational culture to child safe organisations.<sup>1</sup> Key components of child safe organisations that have a strong culture of safety include:

- Explicit safeguarding culture and ethos with values and behaviours which are both articulated and lived at all levels of the organisation.
- Clear policies and procedures which make clear to staff (paid and unpaid) what is expected of them and enables and encourages complaints being made.
- Courageous management who are prepared to act appropriately on concerns and staff who are prepared to challenge and raise concerns appropriately.
- Children and young people having a voice and mechanisms in place to enable them to raise their concerns, which are taken seriously.<sup>2</sup>

The AISNSW has identified a number of essential elements that contribute to creating a culture of safety within a child safe organisation. These essential elements are demonstrated in the diagram below:

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<sup>1</sup> Erooga, M (2009) *Towards safer organisations: Adults who pose a risk to children in the workplace and implications for recruitment and select*, NSPCC, London.

<sup>2</sup> Erooga, M (ed) (2012) *Creating Safer Organisations: Practical Steps to Prevent the Abuse of Children by Those Working With Them*, NSPCC, London, p. 126.

**Diagram 2: Essential Elements of a Culture of Safety – ‘The Culture of Safety Wheel’**



The AISNSW is of the view that all elements are integral to creating a child safe organisation. Those schools which fail to implement one or more of the elements leave gaps in their protective mechanisms that put students at risk.

Example Focus Areas:

### 1. Culture of reporting

If a school does not have a culture of reporting child protection concerns, in line with school policy and procedures, there is a chance that at risk students continue to be at risk of harm. Research in the US suggests that a culture of reporting is not always present amongst mandatory reporters. In one survey teachers were given two scenarios of abuse. In the first scenario, the teachers were asked if they would make a report to child protection services when a student tells them a stepfather has been touching their genitals. Only 26% of the teachers said they would report this scenario to the authorities. In the second scenario, the teachers were asked if they would make a report when a student tells them that another teacher was touching their genitals. Only 11% said they would report the second incident to the authorities.<sup>3</sup>

Failure of staff to report concerns to the Principal (and then the authorities) may mean the abuse of a child is likely to continue and may mean the chances an offender violating other children increases.

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<sup>3</sup> Kenny, M (2001) 'Child Abuse Reporting: Teachers' Perceived Deterrents', *Child Abuse and Neglect*, 25, p. 81.

Real Life Example – School X	
<b>Concern</b>	School employee A had concerns in relation to school employee B. School employee A believed that school employee B was engaging in grooming like behaviours of a student at the school.
<b>Actions Taken</b>	School employee A spoke to colleagues about the concerns. School employee A (and colleagues) did not report to their concerns to the Principal as they were afraid to escalate the matter in case they were wrong.
<b>Issue</b>	School employee A had concerns for over a period of one year and did not pass the information on in line with the school expectations. School employee B progressed from grooming to a more serious offence within that period of time.

A culture of reporting allows colleagues and others to report with confidence that the matter will be dealt with appropriately and sensitively with respect for the child and the employee subject of the allegations.

## 2. Safer recruitment

Further, if schools fail to do the basics well in relation to recruitment practices, the school's culture of safety is compromised. There have been some examples in the independent schools sector which have identified that some schools fail to do the basics well.

Real Life Example – School Y	
<b>Concern</b>	Individual A (with no criminal record) and employee of school Y allegedly engaged in sexual misconduct with a number of young boys. After referral to NSW Police, the employment related child protection investigation was conducted in line with NSW legislative requirements and the finding was sustained.
<b>Action Taken</b>	Individual A's name was referred to the NSW screening agency in line with NSW legislative requirements and was dismissed from the school.
<b>Issue</b>	Individual A moved to another State and applied to work in school Z. The background screening of Individual A in the new State did not consider the employment related investigation in NSW. The Principal at school Z failed to conduct referee checks on Individual A which would have identified Individual A as being unsuitable to work with children. Instead, Individual A is offered employment at school Z and takes up the offer.  Individual A is subsequently charged and convicted of child sex offences against a number of young male students at school Z.

A simple reference check could have prevented the employment of Individual A in another independent school. The failure to do the basics consistently well and with no exceptions in relation to

recruitment may result in a significant gap in a school's culture of safety which potentially exposes children to harm.

Safer recruitment in education should consider the following "basics":

- Plan for the structure the recruitment process.
- Consider clear commitment messages about safeguarding children to be included in job advertisement.
- Use applications forms, not just CVs.
- Ask about gaps in an individual's employment history.
- Consider obtaining referees prior to interview.
- Referees should be the Head or the employer.
- Check ID and qualification documents prior to the interview process.
- Check the applicant is cleared to work with children (ie WWCC) prior to offering an interview. If appropriate seek a police check in addition to the WWCC.
- Consider a selection process that involves an interview and another selection tools (e.g. presentation, role play, observation).
- Consider using probing interview questions to explore motives, attitudes and behaviours towards children and child protection as part of the interview process.
- Recognise that recruitment is only first step in the life cycle of the employee and that an ongoing culture of vigilance is required.

The evidence base for the range of strategies associated with making an organisation 'child safe'. Does this evidence base extend to the physical environment?

The AISNSW has not engaged in any research itself in relation to the strategies associated with making organisations child safe. AISNSW has relied upon the evidence base of researchers such as Professor Stephen Smallbone at Griffith University and Marcus Erooga from the UK's NSPCC.

Professor Smallbone's research identifies the physical environment as one of the strategies necessary in making organisations child safe. In particular, Professor Smallbone advises the following for schools:

- The physical environment does play a role in creating a child safe organisation and is one of the elements that must be considered when minimising risk of sexual abuse of children within schools.
- The environment includes the specific physical attributes of the school, the grounds and the neighbourhood.
- Schools should be seeking to achieve an open, transparent and well supervised environment.

- The most suitable environment is one with good natural surveillance, where there is line-of-sight to all areas of the school. Rooms should have large, unobstructed windows and observation panels, including in sensitive places.
- Random checks should be undertaken for less transparent areas (e.g. dressing, first-aid, or sporting grounds away from the main buildings).
- Formal surveillance such as CCTV may be installed in certain places.
- School review and audits should include audits of the physical environment.

How should the effectiveness of 'child safe' strategies be tested?

The AISNSW is of the view that the effectiveness of child safe strategies be tested through an audit process. The ability for schools to identify gaps in their culture of safety is central to taking a risk management approach to child protection.

#### School based audits

The AISNSW recommends schools regularly review its organisational process and its culture of safety operating at the school. This process should incorporate speaking to staff, students and members of its community to assess if practice is in line with legislative requirements, organisational policy, procedures and general best practice.

#### Independent audits – arranged by the school

There is also great merit in a school having an independent audit conducted by someone external to the school to ensure an objective, transparent and accountable approach to being a child safe organisation.

How 'child safe' policies and procedures work in practice.

Policy documents are important in every organisation, but they become meaningless if they are not a living document. Staff and students need to know what the policy documents say and need to act/ behave in line with those documents. Policy documents are the written expectations of the organisation and are statements of intent. Staff and volunteers need to be made aware that they must work in line with the school's expectations and of the potential consequences of failing to do so.

Managers need to ensure there is congruence between policy and staff behaviours and practices. If practices are not in line with the policies, management need to provide guidance and advice to staff consistently in order to establish and maintain the desired culture.

It is through the function of monitoring and supervising that policy documents and the code of conduct become part of custom and practice and part of the culture. Those who work outside of the expected behaviours (as articulated in the policies) should be dealt with in line with disciplinary processes.

Should there be a universal framework for a 'child safe organisation' or should strategies be specifically tailored to particular types of institutional settings?

The AISNSW has developed a sector specific framework for its member schools which is demonstrated in the Culture of Safety Wheel – diagram 2 above. The majority of strategies identified in this diagram should be considered in any organisation whose primary concern is the children in their care. The implementation of the strategies should be tailored to meet the needs of individual schools. For example, the ethos of the school could be incorporated into relevant strategies.

The role of staff performance management systems and disciplinary processes in a 'child safe organisation'.

The AISNSW believes that performance management and disciplinary processes are integral to creating a child safe organisation and a culture of safety. Staff performance management systems and disciplinary processes allow management to act appropriately on concerns in line with a stipulated response. Those organisations that have failed to respond appropriately to concerns in relation to staff have potentially exposed children to ongoing risk of harm.

Performance management systems are complimented by other strategies such as staff induction and use of probation periods. Staff should be inducted to the school and to the culture of safety operating within the school. This is a process by which the school can clearly articulate the standards and expectations of adults who work at the school. Induction does not have to be extensive but should be effective and should be used to cover the key school policies, procedures and expected behaviours from a child protection perspective. Schools must take measures to ensure that staff are fully aware of the school's expectations in terms of their conduct towards children. Failure to ensure that staff are adequately trained impacts on the school's ability to take disciplinary action should an issue of inappropriate conduct arise.

Probation periods also compliment performance management and disciplinary processes. Schools should closely monitor and support new staff and, if needed, deal with child protection issues early in the employment relationship. Schools should take the opportunity to provide guidance, counsel and, if necessary, direction to staff who are acting outside the expectations of the school. If issues are serious or persistently concerning, it may be an option to make use of statutory provisions for employment action. Staff who are unwilling or unable to work in line with the school's child protection expectations, should not be working in schools.

Ongoing supervision of staff is another performance management strategy integral to creating a child safe organisation. Schools need to be aware of what people are doing and look for signs of concerns so that behaviours can be addressed or reported immediately. Ongoing supervision is not just for managers. It is appropriate for everyone in the school to be alert and aware. This includes staff, students, visitors and volunteers.

The role and characteristics of governance and management leadership in creating and maintaining a 'child safe' organisational culture.

### The role of governance and management leadership in creating and maintaining a child safe organisation

Good governance and leadership plays a central role in establishing and driving a culture of safety within a school. In the independent schools sector it is the board or council of the school that is ultimately responsible for ensuring that the school complies with any legislative and common law obligations. The school leaders have authority to act as delegated by the board or council. Good governance requires a school board or council to ensure that resources are made available so that school leaders are in a position to implement strategies, policies and practices that will enable a child safe organisation. The board or council must ensure that policies exist and that the school leaders are ensuring the implementation of those policies.

### Characteristics

Therefore, good governance must involve an understanding of the issues and the measures necessary to create a culture of safety. Leadership must come from the highest level. School leaders and/or principals must be supported to implement the necessary strategies in the same way as they are resourced and supported to ensure compliance with Work Health and Safety laws, for example.

A school principal has a key role in determining school culture and in ensuring that there is a healthy marriage between the expressed school culture and the observed culture of the school participants.

School boards and councils benefit from professional development in the areas of compliance. AISNSW engages in Governance Training of its member schools. This training incorporates the concept of 'creating safer independent schools' to ensure an understanding of the issues and buy in from those in the organisation who are ultimately responsible.

Should there be any additional enforceable requirements for institutions or particular institutions to maintain a 'child safe' environment?

Schools in NSW are highly regulated. Non-government schools which include independent schools must be registered and accredited by the NSW Board of Studies. Schools must also comply with various legislation including, but not limited to, the NSW Ombudsman Act 1974, Part 3A, the NSW Child Protection (Working with Children) Act 2012, the Children and Young Person (Care and Protection) Act 1998 and the NSW Education Act. These laws govern a school's responsibility in relation to a student's education and their wellbeing.

The AISNSW supports requirements on organisations that allow for flexibility and that allow schools, their boards and staff to participate in voluntary accreditation models if they have the capacity to do so. Further legislative compliance does not necessarily enhance a school's culture of safety. Whole schools strategies that are inherent in the culture of a school are the best protection for children. Due to their diversity, independent schools must have the flexibility to implement particular strategies in a way that meets their needs and is not a one size fits all model.

### **3. AISNSW Work in Relation to Creating Safer Independent Schools**

#### AISNSW 2013 Study Tour

In 2013 the AISNSW has been focusing on the issue of creating safer independent schools. This work started in January 2013 with a study tour of the US, UK and Ireland by our Senior Advisor: Child Protection. The study tour examined the area of creating child safe organisations with a particular focus on what constitutes a culture of safety. As part of the tour, the AISNSW representative attended child protection courses, a professional boundaries course and a child protection conference. The AISNSW representative also met with the following prominent individuals:

- Justice Sean Ryan, Chair of the Irish Commission to Inquire into Child Abuse
- Lord Michael Bichard, Chair of the UK Bichard Inquiry. The inquiry focused on child protection procedures following the murders of ten year old girls, Holly Wells and Jessica Chapman, by Ian Huntley who was an employee of a school.
- Dr Anna Salter, a leading academic in the area of sexually predatory behaviour.

#### Creating Safer Independent Schools Seminar

In August 2013, the AISNSW held a *Creating Safer Independent Schools* seminar for Principals, Heads and Senior Executives of Independent Schools. Please see attached advertising flyer for further information.

#### Creating Safer Independent Schools Training Package

As a result of the study tour, the AISNSW has developed a new training package *Creating Safer Independent Schools* which is designed to give schools an overview of the necessary elements for creating safer organisations for children. The package will cover topics relevant to schools seeking to enhance their culture of safety and their preventative strategies in the area of child protection.

Participants will be given research based information along with practical strategies and tools necessary to assist the school to create a culture of safety.

This course will be available to NSW independent schools from the beginning of 2014. The AISNSW would be willing to share this course with the Royal Commission as an example of sector specific training which could be adapted to other industries who work with children.



# CREATING SAFER INDEPENDENT SCHOOLS

## GUEST SPEAKERS:

### Justice Sean Ryan

Chair, Commission to Inquire into Child Abuse in the Republic of Ireland

### Professor Stephen Smallbone

Psychologist and Professor in the School of Criminology and Criminal Justice at Griffith University, Director of Griffith Youth Forensic Service, and an Australian Research Council 'Future' Fellow

### Mr John Weeks

Headmaster, Knox Grammar School

■ **Thursday, 8<sup>th</sup> August 2013**

🕒 **8:45am for 9:00am - 3.00pm**

🏢 **MC Newth Auditorium,  
Bishop Barry Centre  
St Andrew's Cathedral School  
51 Druitt Street  
SYDNEY NSW 2000**

🚗 **Commercial parking only  
Close to Town Hall**

🎯 **Principals, deputy principals, executive staff, business managers and accredited child protection investigators**

**S Teaching Standards:  
6.3.8, 6.2.6, 6.3P, 7.2HA, 7.4P**

💰 **AIS Member: \$395  
AIS Non-Member Schools: \$495**

📅 **Closing date: 27<sup>th</sup> July 2013**

Catering: Morning tea, lunch and afternoon tea will be provided

This one day seminar will give schools an overview of the necessary elements for creating safer organisations for children. Guest speakers will provide their knowledge and expertise on topics relevant to schools seeking to enhance their culture of safety and their preventative strategies in the area of child protection.

## Seminar topics:

- What can we learn from other parts of the world?  
The Irish experience  
*Justice Sean Ryan*
- Understanding and preventing sexual abuse in schools: a situation-specific approach  
*Professor Stephen Smallbone*
- Creating a culture of safety: the essential elements  
*Kate Halloran, Assistant Director: Workplace Management*
- The importance of professional boundaries within the education sector: how to protect employees  
*Clare Morrissey, Senior Advisor: Child Protection*
- Courageous leadership and child protection:  
The Knox Grammar School experience  
*Mr John Weeks*

## Why focus on child protection?

On 12<sup>th</sup> November 2012, former Prime Minister Julia Gillard announced the establishment of The Royal Commission into Institutional Responses to Child Sexual Abuse. The Royal Commission will inquire into and report upon institutional responses to instances and allegations of child sexual abuse in Australia. The Royal Commission will also make recommendations on ways institutions can prevent child sexual abuse in the future. All schools will fall within the scope of the Royal Commission's inquiries and as such it is anticipated the recommendations will have implications for child protection practices in schools.

To register for this event please use your AIS User Profile and go to [www.aisnsw.edu.au/CoursesEvents](http://www.aisnsw.edu.au/CoursesEvents)

To establish an AIS User Profile please go to [www.aisnsw.edu.au](http://www.aisnsw.edu.au)

## GUEST SPEAKER DETAILS

### Justice Sean Ryan



Justice Sean Ryan chaired the Commission to Inquire into Child Abuse in the Republic of Ireland. The Commission's work started in 1999 and its report, commonly referred to as the Ryan Report, was published in May 2009.

The Commission's remit was to investigate all forms of child abuse in Irish institutions. The majority of allegations related to the system of sixty residential reformatory and industrial schools operated by Catholic Church orders and which were funded and supervised by the Irish Department of Education.

### Professor Stephen Smallbone



Stephen Smallbone is a psychologist and Professor in the School of Criminology and Criminal Justice at Griffith University, and an Australian Research Council Future Fellow. His publications include the books *Situational prevention of child sexual abuse* (Criminal Justice Press, 2006), *Preventing child sexual abuse: Evidence, policy and practice* (Willan, 2008), and *Internet child pornography: Causes, investigation and prevention* (Praeger, 2012). His current projects include studies of the development, onset and progression of youth and adult sexual offending, occupational health impacts on investigators of internet child exploitation, and place-based prevention of youth sexual violence and abuse.

### Mr John Weeks



John Weeks has extensive experience leading schools in the independent sector. In 1989 he was appointed Founding Headmaster of Hunter Valley Grammar School, a K-12 co-educational school. In 1997 John then moved to be Headmaster of The Illawarra Grammar School in Wollongong where he remained for seven years. In 2004 John moved to Knox Grammar School in Sydney where he has overseen a transformation of the school with major changes to the educational opportunities for boys and significant upgrades to facilities. His current project focuses on the implementation of the principles of positive psychology into the fabric of the entire school community which he sees as essential for wellbeing and optimal functioning in the 21st Century.

To register for this event please use your AIS User Profile and go to [www.aisnsw.edu.au/CoursesEvents](http://www.aisnsw.edu.au/CoursesEvents)

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