



31 August 2015

Royal Commission into Institutional Responses to Child Sexual Abuse  
GPO Box 5283  
Sydney NSW 2001

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Dear Commissioners

**Issues Paper 9 – Addressing the Risk of Child Sexual Abuse in Primary and Secondary Schools**

Thank you for the opportunity to provide a submission in relation to Issues Paper 9. The AISNSW acknowledges the important work of the Commission in highlighting and seeking to alleviate the suffering of those who have been victims of historical child sexual abuse and in preventing future child sexual abuse in institutions.

The AISNSW is the peak state body representing the independent schools sector in NSW. The AISNSW represents more than 450 schools enrolling approximately 177,000 students, accounting for some 16 percent of NSW school enrolments.

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.

All independent schools in NSW are registered by the BOSTES (The Board of Studies, Teaching and Educational Standards NSW) and are educationally and financially accountable to BOSTES and the NSW government.

Over 390 independent schools in NSW are members of the AISNSW. The AISNSW provides advice, support and training in the area of child protection to its members as a core service and therefore plays a significant role in ensuring that member schools understand their obligations for establishing strong child safe principles, policies and procedures with regard to child protection and mandatory reporting.

Yours sincerely

Dr Geoff Newcombe  
Executive Director

## The Association of Independent Schools of NSW

### Submission on Issues Paper 9

#### Addressing the Risk of Child Sexual Abuse in Primary and Secondary Schools

In this submission the Association of Independent Schools of NSW (AISNSW) has chosen to respond more generally to the questions raised in each of the Topics A to F.

**Topic A** deals with the effectiveness of policies and procedures and whether or not the legislative regime should be different for government or non-government schools.

AISNSW is of the view that national legislation, or at the very least mirror legislation, in each state and territory is the best option to ensure consistency of approach in all Australian schools regardless of the sector. Any national legislative regime should:

- A. Define 'reportable conduct', or conduct that must be reported. This will result in all schools having a mandatory obligation to investigate concerns; and
- B. Delegate an external agency to scrutinise workplace investigations, assessment of risk and facilitate communication between key agencies. The agency must have the power to investigate when necessary and to receive complaints about a school's handling of concerns.

Consideration should be given to the fact that independent schools must fund the cost of complying with comprehensive legislative regimes. This cost burden can be excessive, particularly when it is necessary to conduct an investigation that is lengthy and requires a number of interviews.

**Topic B** deals with governance and leadership.

AISNSW currently provides training to Boards and Councils of member independent schools. Independent School Boards in NSW must undertake four hours of training per year to maintain the accreditation and registration of the school. The training must relate to the principles of good governance including the management of risk. Child protection is covered in the AISNSW training modules to provide Boards with an understanding of that particular risk and other risks that exist in an independent school setting. In relation to child protection, the training includes an overview of the school's legislative obligations, the nature of child sexual abuse and most importantly the characteristics of a child safe organisation. A key component of child safe organisations is a culture of reporting concerns without fear of negative repercussions for individuals or their careers.

**Topic C** deals with a schools ability to protect and support students in specific student populations. Independent schools have a limited capacity to support students outside of the school environment. This is particularly the case if parents are not engaged with the school or not in agreement with support strategies. Most well-resourced independent schools provide access to counselling and other pastoral support. However, not every independent school has that capacity or the capacity to enforce a child's attendance at such a service. Independent boarding schools implement specific strategies to manage the elevated risk that exists with boarding students. However, the draft National Boarding Standards for Australian Schools presents an opportunity to encourage best practice nationally. It is noted that funding for services targeted at child offenders is severely under-funded across Australia.

**Topic D** deals with the registration of non-government schools. In NSW all schools are accredited by BOSTES. BOSTES currently requires schools to have policies and procedures in place that support a safe and supportive school environment including child protection policies. As outlined in our

response to Topic A, a designated agency would be best placed to monitor the adequacy of an individual school's approach to child protection and legislative compliance.

**Topic E** deals with education, training, professional support and primary prevention. AISNSW is of the view that mandatory training must be incorporated into tertiary education programmes such as Bachelor of Education, Masters of teaching etc. The training must include the following:

- A. The nature of child abuse, neglect, emotional harm, domestic violence, and
- B. How those things manifest and who might be an abuser, and
- C. Who to report concerns to, and
- D. The concepts of reportable conduct, professional misconduct, professional boundaries, fiduciary relationships, the special care relationship of teachers and sexual relationships.

Teachers and all school employees who are engaging with children should be trained in the school's child protection policies, codes of conduct (outlining clear expectations of behaviour of employee's – what they can and cannot do), and the characteristics of a child safe organisation. AISNSW currently provides some of this training in self-paced online modules and face-to-face training regarding professional boundaries.

Most importantly, leaders in schools should be trained in best practice strategies to ensure the safe guarding of children. Adequate reference checking, staff inductions, creating a culture of reporting and review of an employee's ability to meet the school's expectations within the first six months' of employment are effective strategies that are not legislated but have maximum impact in terms of child protection. Safer recruitment is one of the most important pre-emptive strategies but it is often not conducted for many reasons including the presence of existing relationships between leadership and prospective employees.

**Topic F** deals with reporting, information sharing, complaints and investigations. A national employment screening process is an extremely important component of child protection in Australia. The screening process in any state, no matter how rigorous, is immediately rendered far less effective when it only considers workplace investigations conducted in that respective state. A national regime that requires schools to report to a designated national agency incidences of 'reportable conduct' will allow for screening of workplace investigations across all states and territories. This allows the screening process to go beyond a national criminal check which will provide for safer recruitment practices. Currently in NSW the Working with Children Check provides for a national criminal history check and a workplace investigation check for NSW only. This means that an employee could have engaged in sexual misconduct in a school in Victoria and the victim has not wanted to press charges so no criminal history will be found. In this scenario the employee will be able to obtain clearance to work with children in NSW. Further, school personnel in Victoria are unable to share information safely with school personnel in NSW due to privacy legislation and fear of defamation proceedings. In the meantime, a national 'not to be employed' list could be delivered that each of the state/territory background screening agencies could co-ordinate. Lastly, it is a priority that a national information sharing scheme be established to allow for certain organisations such as schools to share information legally about past employees who pose a risk to the safety, welfare and wellbeing of children. A further consideration could be the national registration of teachers. A national register to manage the accreditation of teachers nationally would increase the chance of concerning information being known to the teaching accreditation authorities in each state.