THE ACT GOVERNMENT RESPONSE (PART 2)

TO THE
ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

Final Report (December 2017)
Working with Children Checks (August 2015)
Redress and Civil Litigation (September 2015)
Criminal justice (August 2017)
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ACT GOVERNMENT RESPONSE TO RECOMMENDATIONS CONTAINED IN THE FINAL REPORT (2017)

VOLUME 2, NATURE AND CAUSE RECOMMENDATIONS

Measuring extent in the future

Recommendation 2.1
The Australian Government should conduct and publish a nationally representative prevalence study on a regular basis to establish the extent of child maltreatment in institutional and non-institutional contexts in Australia.

Response
Noted. The ACT Government notes that this recommendations falls within the jurisdiction of the Commonwealth.

VOLUME 6, MAKING INSTITUTIONS CHILD SAFE RECOMMENDATIONS

Creating child safe communities through prevention

Recommendation 6.1
The Australian Government should establish a mechanism to oversee the development and implementation of a national strategy to prevent child sexual abuse. This work should be undertaken by the proposed National Office for Child Safety (see recommendations 6.16 and 6.17) and be included in the National Framework for Child Safety (see Recommendation 6.15).

Response
Noted. The ACT Government agrees to prioritise collaboration with other jurisdictions to progress a new National Framework on Child Safety. The new framework will focus on prevention, education, evaluation and cultural change.

Recommendation 6.2
The national strategy to prevent child sexual abuse should encompass the following complementary initiatives:

- a. social marketing campaigns to raise general community awareness and increase knowledge of child sexual abuse, to change problematic attitudes and behaviour relating to such abuse, and to promote and direct people to related prevention initiatives, information and help-seeking services
- b. prevention education delivered through preschool, school and other community institutional settings that aims to increase children’s knowledge of child sexual abuse and build practical skills to assist in strengthening self-protective skills and strategies. The education should be integrated into existing school curricula and link with related areas such as respectful relationships education and sexuality education. It should be mandatory for all preschools and schools
- c. prevention education for parents delivered through day care, preschool, school, sport and recreational settings, and other institutional and community settings. The education should aim to increase knowledge of child sexual abuse and its impacts, and build skills to help reduce the risks of child sexual abuse
d. online safety education for children, delivered via schools. Ministers for education, through the Council of Australian Governments, should establish a nationally consistent curriculum for online safety education in schools. The Office of the eSafety Commissioner should be consulted on the design of the curriculum and contribute to the development of course content and approaches to delivery (see Recommendation 6.19)

e. online safety education for parents and other community members to better support children’s safety online. Building on their current work, the Office of the eSafety Commissioner should oversee the delivery of this education nationally (see Recommendation 6.20)

f. prevention education for tertiary students studying university, technical and further education, and vocational education and training courses before entering child related occupations. This should aim to increase awareness and understanding of the prevention of child sexual abuse and potentially harmful sexual behaviours in children

g. information and help-seeking services to support people who are concerned they may be at risk of sexually abusing children. The design of these services should be informed by the Stop It Now! model implemented in Ireland and the United Kingdom

h. information and help seeking services for parents and other members of the community concerned that:
   i. an adult they know may be at risk of perpetrating child sexual abuse
   ii. a child or young person they know may be at risk of sexual abuse or harm
   iii. a child they know may be displaying harmful sexual behaviours.

Response
Noted. The ACT Government notes that this recommendations falls within the jurisdiction of the Commonwealth.

The ACT Government provides a range of resources and supports to parents, educators and the community in relation to protecting children from sexual abuse. This includes fact sheets provided through ParentLink, which are available in both printed form and online, and are distributed through numerous physical locations. In addition, the ACT Government publication *Keeping Children and Young People Safe* provides guidance to the community on defining and responding to sexual abuse, while public schools are guided by the Australian Curriculum to teach content that builds students’ knowledge and skills to develop a range of protective behaviours. The ACT Government will work collaboratively to implement relevant initiatives arising from the strategy.

Recommendation 6.3

The design and implementation of these initiatives should consider:

a. aligning with and linking to national strategies for preventing violence against adults and children, and strategies for addressing other forms of child maltreatment

b. tailoring and targeting initiatives to reach, engage and provide access to all communities, including children, Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse communities, people with disability, and regional and remote communities

c. involving children and young people in the strategic development, design, implementation and evaluation of initiatives

d. using research and evaluation to:
   i. build the evidence base for using best practices to prevent child sexual abuse and harmful sexual behaviours in children
   ii. guide the development and refinement of interventions, including the piloting and testing of initiatives before they are implemented.

Response
Noted. The ACT Government notes that this recommendations falls within the jurisdiction of the Commonwealth.
What makes institutions safer for children

**Recommendation 6.4**

All institutions should uphold the rights of the child. Consistent with Article 3 of the United Nations Convention on the Rights of the Child, all institutions should act with the best interests of the child as a primary consideration. In order to achieve this, institutions should implement the Child Safe Standards identified by the Royal Commission.

**Response**

Accept in principle. All Australian Governments will continue to work together to consider how to best achieve the objectives of this recommendation.

The ACT is a human rights jurisdiction, with relevant rights enshrined in the ACT's Human Rights Act 2004 (HR Act). The HR Act imposes direct obligations on ACT government institutions, and other institutions that are considered to be functional public authorities for the purposes of the HR Act, to act and make decisions consistently with human rights. The HR Act specifically provides in s 11(2) that 'every child has the right to the protection needed by the child because of being a child, without distinction or discrimination of any kind'. This is a right to special or positive measures, which also requires a higher standard to be adopted in relation to children when the application of other human rights are considered. The UN Convention on the Rights of the Child, including the best interests principle in Article 3, assists to elucidate the content of children’s rights protected in the HR Act, and is able to be used as a guide to interpretation under s 31 of the HR Act. The recommendations of the Royal Commission address a legitimate objective in seeking to protect children and young people from sexual abuse, giving effect to the right of children to the protection they need, as guaranteed in s 11(2) of the HR Act. To the extent that the recommendation (or its implementation) limit other human rights, it will be necessary to carefully consider these limitations and include appropriate safeguards to ensure that they are reasonable and proportionate.

The ACT Government supports the intent of the recommendation and notes the ongoing work undertaken by National Children’s Commissioners to develop the National Principles for Child Safe Organisations which builds on previous 'Standards' developed by Australian Children’s Commissioners and Guardians.

The ACT Government will work with stakeholders to identify options across government and non-government sectors and explore how the Child Safe Standards will interact with existing oversight functions. This should involve consideration of the role of the Commonwealth, for instance, as the majority funder of non-government institutions in the education sector and the appropriate balance of responsibilities between the Commonwealth and states/territories.

**Recommendation 6.5**

The Child Safe Standards are:

1. child safety is embedded in institutional leadership, governance and culture
2. children participate in decisions affecting them and are taken seriously
3. families and communities are informed and involved
4. equity is upheld and diverse needs are taken into account
5. people working with children are suitable and supported
6. processes to respond to complaints of child sexual abuse are child focused
7. staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training
8. physical and online environments minimise the opportunity for abuse to occur
9. implementation of the Child Safe Standards is continuously reviewed and improved
Policies and procedures document how the institution is child safe.

Response
Accept in principle. The ACT Government notes the Royal Commission’s child safe standards. Jurisdictions may differ in their implementation due to their existing systems and instruments but consistency will be achieved over time, where possible.

Jurisdictions will continue to work together to provide leadership on Child Safe Standards.

Recommendation 6.6
Institutions should be guided by the following core components when implementing the Child Safe Standards:

Standard 1: Child safety is embedded in institutional leadership, governance and culture
a. The institution publicly commits to child safety and leaders champion a child safe culture.
   b. Child safety is a shared responsibility at all levels of the institution.
   c. Risk management strategies focus on preventing, identifying and mitigating risks to children.
   d. Staff and volunteers comply with a code of conduct that sets clear behavioural standards towards children.
   e. Staff and volunteers understand their obligations on information sharing and recordkeeping.

Standard 2: Children participate in decisions affecting them and are taken seriously
a. Children are able to express their views and are provided opportunities to participate in decisions that affect their lives.
   b. The importance of friendships is recognised and support from peers is encouraged, helping children feel safe and be less isolated.
   c. Children can access sexual abuse prevention programs and information.
   d. Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to communicate and raise their concerns.

Standard 3: Families and communities are informed and involved
a. Families have the primary responsibility for the upbringing and development of their child and participate in decisions affecting their child.
   b. The institution engages in open, two-way communication with families and communities about its child safety approach and relevant information is accessible.
   c. Families and communities have a say in the institution’s policies and practices.
   d. Families and communities are informed about the institution’s operations and governance.

Standard 4: Equity is upheld and diverse needs are taken into account
a. The institution actively anticipates children’s diverse circumstances and responds effectively to those with additional vulnerabilities.
   b. All children have access to information, support and complaints processes.
   c. The institution pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds.

Standard 5: People working with children are suitable and supported
a. Recruitment, including advertising and screening, emphasises child safety.
   b. Relevant staff and volunteers have Working With Children Checks.
   c. All staff and volunteers receive an appropriate induction and are aware of their child safety responsibilities, including reporting obligations.
   d. Supervision and people management have a child safety focus.

Standard 6: Processes to respond to complaints of child sexual abuse are child focused
a. The institution has a child-focused complaint handling system that is understood by children, staff, volunteers and families.

b. The institution has an effective complaint handling policy and procedure which clearly outline roles and responsibilities, approaches to dealing with different types of complaints and obligations to act and report.

c. Complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met.

**Standard 7: Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training**

a. Relevant staff and volunteers receive training on the nature and indicators of child maltreatment, particularly institutional child sexual abuse.

b. Staff and volunteers receive training on the institution’s child safe practices and child protection.

c. Relevant staff and volunteers are supported to develop practical skills in protecting children and responding to disclosures.

**Standard 8: Physical and online environments minimise the opportunity for abuse to occur**

a. Risks in the online and physical environments are identified and mitigated without compromising a child’s right to privacy and healthy development.

b. The online environment is used in accordance with the institution’s code of conduct and relevant policies.

**Standard 9: Implementation of the Child Safe Standards is continuously reviewed and improved**

a. The institution regularly reviews and improves child safe practices.

b. The institution analyses complaints to identify causes and systemic failures to inform continuous improvement.

**Standard 10: Policies and procedures document how the institution is child safe**

a. Policies and procedures address all Child Safe Standards.

b. Policies and procedures are accessible and easy to understand.

c. Best practice models and stakeholder consultation inform the development of policies and procedures.

d. Leaders champion and model compliance with policies and procedures.

e. Staff understand and implement the policies and procedures.

**Response**

**Accept in principle.** The ACT Government notes the Royal Commission’s child safe standards. Jurisdictions may differ in their implementation due to their existing systems and instruments but consistency will be achieved over time, where possible.

Jurisdictions will continue to work together to provide leadership on Child Safe Standards.

**Council of Australian Governments**

**Recommendation 6.7**

The national Child Safe Standards developed by the Royal Commission and listed at Recommendation 6.5 should be adopted as part of the new National Statement of Principles for Child Safe Organisations described by the Community Services Ministers’ Meeting in November 2016. The National Statement of Principles for Child Safe Organisations should be endorsed by the Council of Australian Governments.

**Response**

**Accept.** The ACT Government notes the Royal Commission’s Child Safe Standards.
All jurisdictions will be asked to endorse the National Statement of Principles for Child Safe Organisations, which incorporates the Royal Commission’s Child Safe Standards.

State and territory governments

Recommendation 6.8

State and territory governments should require all institutions in their jurisdictions that engage in child-related work to meet the Child Safe Standards identified by the Royal Commission at Recommendation 6.5.

Response

Accept in principle. All Australian Governments will continue to work together to consider how to best achieve the objectives of this recommendation.

The ACT Government supports the intent of the recommendation and will work with stakeholders to identify options across government and non-government sectors and explore how the Child Safe Standards will interact with existing arrangements and oversight functions. For example, Education has a strong approach to upholding the rights of the child, and child safety and wellbeing, with the Child Safe Standards embedded in Education Directorate policy and procedures (in the main).

The ACT Government will introduce arrangements to require the non-government education sector to achieve this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between the Commonwealth and states/territories.

The Education and Care Services National Law that covers early childhood addresses most of recommendation 6.8. The national Early Childhood Policy Group, which sits under Education Council, has established a working group to facilitate the Royal Commission recommendations.

Recommendation 6.9

Legislative requirements to comply with the Child Safe Standards should cover institutions that provide:

- a. accommodation and residential services for children, including overnight excursions or stays;
- b. activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children;
- c. childcare or childminding services;
- d. child protection services, including out-of-home care;
- e. activities or services where clubs and associations have a significant membership of, or involvement by, children;
- f. coaching or tuition services for children;
- g. commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions;
- h. services for children with disability;
- i. education services for children;
- j. health services for children;
- k. justice and detention services for children, including immigration detention facilities; and transport services for children, including school crossing services.

Response

Accept in principle. All Australian Governments will continue to work together to consider how to best achieve the objectives of this recommendation.

The ACT Government supports the intent of the recommendation and will work with stakeholders to identify options across government and non-government sectors and explore how the Child Safe Standards will interact with existing oversight functions. This should involve consideration of the role of the Commonwealth, for
instance, as the majority funder of non-government institutions in the education sector and the appropriate balance of responsibilities between the Commonwealth and states/territories.

**Recommendation 6.10**

State and territory governments should ensure that:

- an independent oversight body in each state and territory is responsible for monitoring and enforcing the Child Safe Standards. Where appropriate, this should be an existing body.
- the independent oversight body is able to delegate responsibility for monitoring and enforcing the Child Safe Standards to another state or territory government body, such as a sector regulator.
- regulators take a responsive and risk-based approach when monitoring compliance with the Child Safe Standards and, where possible, utilise existing regulatory frameworks to monitor and enforce the Child Safe Standards.

**Response**

*Accept in principle.* The ACT Government supports the intent of the recommendation and notes the ongoing work undertaken by National Children’s Commissioners to develop the National Principles for Child Safe Organisations which builds on previous ‘Standards’ developed by Australian Children’s Commissioners and Guardians.

A range of oversight bodies exist in the ACT with responsibility for aspects of protecting children and young people, including the:

- Public Advocate, responsible for oversight and monitoring of the provision of services for the protection of children and young people; fostering the provision of services and facilities for children and young people; promoting the protection of children and young people from abuse and exploitation; and listening to and investigating concerns from children and young people about the provision of services for their protection;
- Children & Young People Commissioner, who consults with, and advocates for children and young people in the ACT to ensure their voices are heard;
- ACT Ombudsman, who oversees the Reportable Conduct Scheme;
- Human Services Registrar; and
- Teacher Quality Institute.

The ACT Government will work with stakeholders to identify options across government and non-government sectors and explore how the Child Safe Standards will interact with existing oversight functions.

**Recommendation 6.11**

Each independent state and territory oversight body should have the following additional functions:

- provide advice and information on the Child Safe Standards to institutions and the community
- collect, analyse and publish data on the child safe approach in that jurisdiction and provide that data to the proposed National Office for Child Safety
- partner with peak bodies, professional standards bodies and/or sector leaders to work with institutions to enhance the safety of children
- provide, promote or support education and training on the Child Safe Standards to build the capacity of institutions to be child safe
- coordinate ongoing information exchange between oversight bodies relating to institutions’ compliance with the Child Safe Standards.

**Response**

*Accept in principle.* The ACT Government supports the intent of the recommendation and notes the existing functions of oversight bodies’ alignment with the recommended functions. ACT Government will work with
stakeholders to identify options across government and non-government sectors and explore how the Child Safe Standards will interact with these existing oversight functions.

**Recommendation 6.12**

With support from governments at the national, state and territory levels, local governments should designate child safety officer positions from existing staff profiles to carry out the following functions:

a. developing child safe messages in local government venues, grounds and facilities
b. assisting local institutions to access online child safe resources
c. providing child safety information and support to local institutions on a needs basis
d. supporting local institutions to work collaboratively with key services to ensure child safe approaches are culturally safe, disability aware and appropriate for children from diverse backgrounds.

**Response**

*Accept in principle.* The ACT Government supports the intent of the recommendations and has commenced an assessment of current arrangements within the ACT to identify responsibilities of all agencies who deliver municipal services in line with the intent of the recommendation.

Work to establish child safety officer positions relates to recommendation 6.15, which the Commonwealth has agreed to lead. This recommendation also has dependencies with recommendations 6.4 and 6.7.

**AUSTRALIAN GOVERNMENT**

**Recommendation 6.13**

The Australian Government should require all institutions that engage in child-related work for the Australian Government, including Commonwealth agencies, to meet the Child Safe Standards identified by the Royal Commission at Recommendation 6.5.

**Response**

*Noted.* The ACT Government notes that this recommendations falls within the jurisdiction of the Commonwealth.

**Recommendation 6.14**

The Australian Government should be responsible for the following functions:

a. evaluate, publicly report on, and drive the continuous improvement of the implementation of the Child Safe Standards and their outcomes
b. coordinate the direct input of children and young people into the evaluation and continuous improvement of the Child Safe Standards
c. coordinate national capacity building and support initiatives and opportunities for collaboration between jurisdictions and institutions
d. develop and promote national strategies to raise awareness and drive cultural change in institutions and the community to support child safety.

**Response**

*Noted.* The ACT Government notes that this recommendations falls within the jurisdiction of the Commonwealth.

**National Framework for Child Safety**

**Recommendation 6.15**

The Australian Government should develop a new National Framework for Child Safety in collaboration with state and territory governments. The Framework should:
a. commit governments to improving the safety of all children by implementing long-term child safety initiatives, with appropriate resources, and holding them to account
b. be endorsed by the Council of Australian Governments and overseen by a joint ministerial body
c. commence after the expiration of the current National Framework for Protecting Australia’s Children, no later than 2020
d. cover broader child safety issues, as well as specific initiatives to better prevent and respond to institutional child sexual abuse including initiatives recommended by the Royal Commission
e. include links to other related policy frameworks.

**Response**

**Noted.** The ACT Government agrees to prioritise collaboration with other jurisdictions to progress a new National Framework on Child Safety. The new framework will focus on prevention, education, evaluation and cultural change.

The ACT Government supports these aspirational principles as the architecture for the National Framework.

**National Office for Child Safety**

**Recommendation 6.16**

The Australian Government should establish a National Office for Child Safety in the Department of the Prime Minister and Cabinet, to provide a response to the implementation of the Child Safe Standards nationally, and to develop and lead the proposed National Framework for Child Safety. The Australian Government should transition the National Office for Child Safety into an Australian Government statutory body within 18 months of this Royal Commission’s Final Report being tabled in the Australian Parliament.

**Response**

**Noted.** The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

**Recommendation 6.17**

The National Office for Child Safety should report to Parliament and have the following functions:

a. develop and lead the coordination of the proposed National Framework for Child Safety, including national coordination of the Child Safe Standards
b. collaborate with state and territory governments to lead capacity building and continuous improvement of child safe initiatives through resource development, best practice material and evaluation
c. promote the participation and empowerment of children and young people in the National Framework and child safe initiatives
d. perform the Australian Government’s Child Safe Standards functions as set out at Recommendation 6.14
e. lead the community prevention initiatives as set out in Recommendation 6.2.

**Response**

**Noted.** The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

**Recommendation 6.18**

The Australian Government should create a ministerial portfolio with responsibility for children’s policy issues, including the National Framework for Child Safety.

**Response**

**Noted.** The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.
**Preventing and responding to online child sexual abuse**

**Recommendation 6.19**

Ministers for education, through the Council of Australian Governments, should establish a nationally consistent curriculum for online safety education in schools. The Office of the eSafety Commissioner should be consulted on the design of the curriculum and contribute to the development of course content and approaches to delivery. The curriculum should:

a. be appropriately staged from Foundation year to Year 12 and be linked with related content areas to build behavioural skills as well as technical knowledge to support a positive and safe online culture
b. involve children and young people in the design, delivery and piloting of new online safety education, and update content annually to reflect evolving technologies, online behaviours and evidence of international best practice approaches
c. be tailored and delivered in ways that allow all Australian children and young people to reach, access and engage with online safety education, including vulnerable groups that may not access or engage with the school system.

**Response**

**Accept.** The ACT Government expects that all Australian Governments will accept this recommendation and will work together towards implementation. The ACT Government will participate in the development of a national approach by consideration of this recommendation through COAG Education Council processes. This work will guide the approach to be agreed locally.

**Recommendation 6.20**

Building on its current work, the Office of the eSafety Commissioner should oversee the delivery of national online safety education aimed at parents and other community members to better support children’s safety online. These communications should aim to:

a. keep the community up to date on emerging risks and opportunities for safeguarding children online
b. build community understanding of responsibilities, legalities and the ethics of children’s interactions online
c. encourage proactive responses from the community to make it ‘everybody’s business’ to intervene early, provide support or report issues when concerns for children’s safety online are raised
d. increase public awareness of how to access advice and support when online incidents occur.

**Response**

**Noted.** The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

**Recommendation 6.21**

Pre-service education and in-service staff training should be provided to support child-related institutions in creating safe online environments. The Office of the eSafety Commissioner should advise on and contribute to program design and content. These programs should be aimed at:

a. tertiary students studying university, technical and further education, and vocational education and training courses, before entering child-related occupations; and could be provided as a component of a broader program of child sexual abuse prevention education (see Recommendation 6.2)
b. staff and volunteers in schools and other child-related organisations, and could build on the existing web-based learning programs of the Office of the eSafety Commissioner.

**Response**

**Accept in principle.** The ACT Government supports the intent of the recommendation and acknowledges the importance of eSafety programs to ensure children and young people are armed with the right skills to have positive online experiences.
Programs about online safety already form part of initial teacher education programs and teacher in-service professional learning. The ACT Government is developing a comprehensive induction program for staff in government schools. The ACT Government will, through the ACT’s Teacher Regulatory Authority which accredits initial teacher education programs, require the inclusion of eSafety programs in initial education programs. The Teacher Regulatory Authority also accredits teacher professional learning programs. The Authority will continue to encourage the development and inclusion of eSafety programs as part of its responsibility in accrediting teacher professional learning.

The ACT Government will also consider development of appropriate material and programs for volunteers.

The ACT Government will introduce arrangements to require the non-government education sector to achieve this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between the Commonwealth and states/territories.

**Recommendation 6.22**

In partnership with the proposed National Office of Child Safety (see Recommendations 6.16 and 6.17), the Office of the eSafety Commissioner should oversee the development of an online safety framework and resources to support all schools in creating child safe online environments. This work should build on existing school-based eSafety frameworks and guidelines, drawing on Australian and international models.

The school-based online safety framework and resources should be designed to:

a. support schools in developing, implementing and reviewing their online codes of conduct, policies and procedures to help create an online culture that is safe for children

b. guide schools in their response to specific online incidents, in coordination with other agencies. This should include guidance in complaint handling, understanding reporting requirements, supporting victims to minimise further harm, and preserving digital evidence to support criminal justice processes.

**Response**

*Noted.* The ACT Government notes that this recommendations falls within the jurisdiction of the Commonwealth.

**Recommendation 6.23**

State and territory education departments should consider introducing centralised mechanisms to support government and non-government schools when online incidents occur. This should result in appropriate levels of escalation and effective engagement with all relevant entities, such as the Office of the eSafety Commissioner, technical service providers and law enforcement.

Consideration should be given to:

a. adopting the promising model of the Queensland Department of Education and Training’s Cyber Safety and Reputation Management Unit, which provides advice and a centralised coordination function for schools, working in partnership with relevant entities to remove offensive online content and address other issues

b. strengthening or re-establishing multi-stakeholder forums and case-management for effective joint responses involving all relevant agencies, such as police, education, health and child protection.

**Response**

*Accept in principle.* The ACT Government generally supports the intent of this recommendation, and will need to assess what additional work will be required to implement the recommendation in government schools, including consideration of the Queensland model and supports that may be available to small jurisdictions.
The ACT Government will introduce arrangements to require the non-government education sector to achieve this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between states and territories and the Commonwealth.

**Recommendation 6.24**

In consultation with the eSafety Commissioner, police commissioners from states and territories and the Australian Federal Police should continue to ensure national capability for coordinated, best practice responses by law enforcement agencies to online child sexual abuse. This could include through:

a. establishing regular meetings of the heads of cybersafety units in all Australian police departments to ensure a consistent capacity to respond to emerging incidents and share best practice approaches, tools and resources
b. convening regular forums and conferences to bring together law enforcement, government, the technology industry, the community sector and other relevant stakeholders to discuss emerging issues, set agendas and identify solutions to online child sexual abuse and exploitation
c. building capability across police departments, through in-service training for:
   i. frontline police officers to respond to public complaints relating to issues of online child sexual abuse or harmful sexual behaviours
   ii. police officers who liaise with young people in school and community settings.

**Response**

Accept in principle. The ACT Government generally supports the intent of this recommendation and will need to engage with the eSafety Commissioner and other state and territory police commissioners.

A key outcome of this engagement will be identification of the most appropriate mechanisms to achieve a coordinated national capability for best-practice responses.

**VOLUME 7 – IMPROVING INSTITUTIONAL RESPONDING AND REPORTING RECOMMENDATIONS**

**Reporting institutional child sexual abuse**

**Recommendation 7.1**

State and territory governments that do not have a mandatory reporter guide should introduce one and require its use by mandatory reporters.

**Response**

Accept. The ACT Government accepts all elements of the recommendation noting that operationalising the recommendation may require investment in an online guides and other materials.

**Recommendation 7.2**

Institutions and state and territory governments should provide mandatory reporters with access to experts who can provide timely advice on child sexual abuse reporting obligations.

**Response**

Accept. The ACT Government accepts all elements of the recommendation noting that operationalising the recommendation will require ongoing learning and development of Child and Youth Protection Services (CYPS) Intake staff to align to any future changes to mandatory reporting guidelines.
**Recommendation 7.3**
State and territory governments should amend laws concerning mandatory reporting to child protection authorities to achieve national consistency in reporter groups. At a minimum, state and territory governments should also include the following groups of individuals as mandatory reporters in every jurisdiction:

- a. out-of-home care workers (excluding foster and kinship/relative carers)
- b. youth justice workers
- c. early childhood workers
- d. registered psychologists and school counsellors
- e. people in religious ministry.

**Response**
Accept in principle. The ACT Government supports the intent of the recommendation and consider how best to:

- undertake further work to extend the mandatory reporter groups to include non-government employees and religious ministries;
- clarify roles and responsibilities of each directorate for reports that do not meet the stated threshold for mandatory reporting;
- coordinate of a whole of government policy position; and
- progress amendments to legislation once groups are agreed.

**Recommendation 7.4**
Laws concerning mandatory reporting to child protection authorities should not exempt persons in religious ministry from being required to report knowledge or suspicions formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession.

**Response**
Accept in principle. The ACT Government supports the intent of the recommendation and will need to consult with key stakeholders including all states and territories. Further, the ACT Government will consult on the recommendation about religious confessions as part of its work on the Reportable Conduct Scheme. Allegations that are disclosed in religious confessionals are excluded from the Reportable Conduct Scheme until 31 March 2019 to allow time for that consultation to occur.

**Recommendation 7.5**
The Australian Government and state and territory governments should ensure that legislation provides comprehensive protection for individuals who make reports in good faith about child sexual abuse in institutional contexts. Such individuals should be protected from civil and criminal liability and from reprisals or other detrimental action as a result of making a complaint or report, including in relation to:

- a. mandatory and voluntary reports to child protection authorities under child protection legislation
- b. notifications concerning child abuse under the Health Practitioner Regulation National Law.

**Response**
Accept. The ACT Government accepts all elements of the recommendation, noting that protections are currently in place that meet the outcome sought. These include:

- Sections 874 and 875 of the Children and Young People Act 2008 provide comprehensive protection for people giving information under child protection legislation.
• Section 237 of the Health Practitioner Regulation National Law (ACT) provides that a person who in good
faith makes a notification or gives information is not liable, civilly, criminally or under an administrative
process for giving the information.

Recommendation 7.6
State and territory governments should amend child protection legislation to provide adequate protection for
individuals who make complaints or reports in good faith to any institution engaging in child-related work about:

a. child sexual abuse within that institution or
b. the response of that institution to child sexual abuse.

Such individuals should be protected from civil and criminal liability and from reprisals or other detrimental
action as a result of making a complaint or report.

Response
Accept. The ACT Government accepts the recommendation and notes that this will be considered in the context
of existing legislation and operational contexts.

Sections 874 and 875 of the Children and Young People Act 2008 provide comprehensive protection for people
lodging child concern reports, regardless of whether that person is a mandatory reporter or is reporting
voluntarily. Similarly, the Ombudsman Act 1989 offers protections for people who honestly and without
recklessness provide information under the Reportable Conduct Scheme.

Improving institutional responses to complaints

Recommendation 7.7
Consistent with Child Safe Standard 6: Processes to respond to complaints of child sexual abuse are child
focused, institutions should have a clear, accessible and child-focused complaint handling policy and procedure
that sets out how the institution should respond to complaints of child sexual abuse. The complaint  handling
policy and procedure should cover:

a. making a complaint
b. responding to a complaint
c. investigating a complaint
d. providing support and assistance
e. achieving systemic improvements following a complaint.

Response
Accept. The ACT Government supports the intent of the recommendation and notes this will be considered in
the context of existing legislation and operational contexts.

For example, the Education Directorate will undertake additional work to implement the recommendation in
schools. This will involve an update of the existing guide and procedure on complaints handling in government
schools to contemporise the information and to strengthen it in respect to child-focused content, provision of
support and systemic improvement processes. This may also involve consideration of any need for additional
inter-agency referral mechanisms.

The ACT Government will introduce arrangements to require the non-government education sector to achieve
this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate
balance of responsibilities between the Commonwealth and states/territories.

Recommendation 7.8
Consistent with Child Safe Standard 1: Child safety is embedded in institutional leadership, governance and
culture, institutions should have a clear code of conduct that:
a. outlines behaviours towards children that the institution considers unacceptable, including concerning conduct, misconduct or criminal conduct
b. includes a specific requirement to report any concerns, breaches or suspected breaches of the code to a person responsible for handling complaints in the institution or to an external authority when required by law and/or the institution’s complaint handling policy
c. outlines the protections available to individuals who make complaints or reports in good faith to any institution engaging in child-related work (see Recommendation 7.6 on reporter protections).

Response
Accept. The ACT Government accepts the recommendation and notes that many sectors are currently regulated in line with this recommendation. For example the ACT’s reportable conduct scheme requires misconduct involving children be reported in employment-related contexts. The scheme includes protections for reports made in good faith, and ensures that appropriate action is taken following receipt of an allegation.

Oversight and institutional complaint handling

Recommendation 7.9
State and territory governments should establish nationally consistent legislative schemes (reportable conduct schemes), based on the approach adopted in New South Wales, which oblige heads of institutions to notify an oversight body of any reportable allegation, conduct or conviction involving any of the institution’s employees.

Response
Accept. The ACT Government accepts the recommendation and notes the ACT Reportable Conduct Scheme commenced on 1 July 2017. The ACT is currently one of three jurisdictions with a scheme in place. Following extensive community consultation, the ACT Government closely modelled its scheme the one that has been in place in NSW since 1999. From 1 July 2018 the scope of the ACT Scheme will be expanded beyond the NSW approach to include religious bodies.

Recommendation 7.10
Reportable conduct schemes should provide for:

a. an independent oversight body
b. obligatory reporting by heads of institutions
c. a definition of reportable conduct that covers any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child
d. a definition of reportable conduct that includes the historical conduct of a current employee
e. a definition of employee that covers paid employees, volunteers and contractors
f. protection for persons who make reports in good faith
g. oversight body powers and functions that include:
   i. scrutinising institutional systems for preventing reportable conduct and for handling and responding to reportable allegations, or reportable convictions
   ii. monitoring the progress of investigations and the handling of complaints by institutions
   iii. conducting, on its own motion, investigations concerning any reportable conduct of which it has been notified or otherwise becomes aware
   iv. power to exempt any class or kind of conduct from being reportable conduct
   v. capacity building and practice development, through the provision of training, education and guidance to institutions
   vi. public reporting, including annual reporting on the operation of the scheme and trends in reports and investigations, and the power to make special reports to parliaments.
Response

Accept. The ACT Government accepts the recommendation. As noted above, the ACT's Reportable Conduct Scheme commenced on 1 July 2017. The ACT Scheme provides for all the functions, responsibilities and powers in this recommendation.

Recommendation 7.11

State and territory governments should periodically review the operation of reportable conduct schemes, and in that review determine whether the schemes should cover additional institutions that exercise a high degree of responsibility for children and involve a heightened risk of child sexual abuse.

Response

Accept. The ACT Government accepts this recommendation and notes following a periodic review, legislation has been passed to expand the ACT’s Reportable Conduct Scheme from 1 July 2018.

Recommendation 7.12

Reportable conduct schemes should cover institutions that:

- exercise a high degree of responsibility for children
- engage in activities that involve a heightened risk of child sexual abuse, due to institutional characteristics, the nature of the activities involving children, or the additional vulnerability of the children the institution engages with.

At a minimum, these should include institutions that provide:

a. accommodation and residential services for children, including:
   i. housing or homelessness services that provide overnight beds for children and young people
   ii. providers of overnight camps
b. activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children
c. childcare services, including:
   i. approved education and care services under the Education and Care Services National Law
   ii. approved occasional care services
d. child protection services and out-of-home care, including:
   i. child protection authorities and agencies
   ii. providers of foster care, kinship or relative care
   iii. providers of family group homes
   iv. providers of residential care
e. disability services and supports for children with disability, including:
   i. disability service providers under state and territory legislation
   ii. registered providers of supports under the National Disability Insurance Scheme
f. education services for children, including:
   i. government and non-government schools
   ii. TAFEs and other institutions registered to provide senior secondary education or training, courses for overseas students or student exchange programs
g. health services for children, including:
   i. government health departments and agencies, and statutory corporations
   ii. public and private hospitals
   iii. providers of mental health and drug or alcohol treatment services that have inpatient beds for children and young people
h. justice and detention services for children, including:
   i. youth detention centres
   ii. immigration detention facilities.
Response
Accept in principle. The ACT Reportable Conduct Scheme was introduced on 1 July 2017. Currently in scope of the scheme are:

- all ACT directorates;
- hospital and public health services;
- out of home care, kinship and foster care;
- residential care organisations;
- government and non-government schools;
- child care services;
- education and care service providers (e.g. after school care); and
- religious bodies (from 1 July 2018).

VOLUME 8, RECORDKEEPING AND INFORMATION SHARING RECOMMENDATIONS

Records and record keeping

Minimum retention periods

Recommendation 8.1
To allow for delayed disclosure of abuse by victims and take account of limitation periods for civil actions for child sexual abuse, institutions that engage in child-related work should retain, for at least 45 years, records relating to child sexual abuse that has occurred or is alleged to have occurred.

Response
Accept. The ACT Government supports a consistent approach across all Australian jurisdictions and will prioritise collaboration with other jurisdictions, led by archives and records authorities, to develop advice about records retention. Existing retention periods for relevant records are often more than 45 years, and where there is a longer retention period, this will be retained.

The ACT Government will encourage non-government institutions to comply with this record retention standard and jurisdictions will consider whether it is necessary to introduce additional regulatory measures to bring about greater compliance.

Recommendation 8.2
The National Archives of Australia and state and territory public records authorities should ensure that records disposal schedules require that records relating to child sexual abuse that has occurred or is alleged to have occurred be retained for at least 45 years.

Response
Accept. Many of these categories of records are already retained for 99 years in the ACT Government. Some types of relevant records, such as student files, are not currently retained for long periods. The Territory Records Office will apply its normal records disposal authorisation processes under the Territory Records Act to ensure that all relevant types of records are considered and retained appropriately.

Recommendation 8.3
The National Archives of Australia and state and territory public records authorities should provide guidance to government and non-government institutions on identifying records which, it is reasonable to expect,
become relevant to an actual or alleged incident of child sexual abuse; and on the retention and disposal of such records.

Response

Accept. Many of these categories of records are already retained for 99 years in the ACT Government. Some types of relevant records, such as student files, are not currently retained for long periods. The Territory Records Office will apply its normal records disposal authorisation processes under the Territory Records Act to ensure that all relevant types of records are considered and retained appropriately.

Record and recordkeeping principles

Recommendation 8.4

All institutions that engage in child-related work should implement the following principles for records and recordkeeping, to a level that responds to the risk of child sexual abuse occurring within the institution.

Principle 1: Creating and keeping full and accurate records relevant to child safety and wellbeing, including child sexual abuse, is in the best interests of children and should be an integral part of institutional leadership, governance and culture.

Institutions that care for or provide services to children must keep the best interests of the child uppermost in all aspects of their conduct, including recordkeeping. It is in the best interest of children that institutions foster a culture in which the creation and management of accurate records are integral parts of the institution’s operations and governance.

Principle 2: Full and accurate records should be created about all incidents, responses and decisions affecting child safety and wellbeing, including child sexual abuse.

Institutions should ensure that records are created to document any identified incidents of grooming, inappropriate behaviour (including breaches of institutional codes of conduct) or child sexual abuse and all responses to such incidents.

Records created by institutions should be clear, objective and thorough. They should be created at, or as close as possible to, the time the incidents occurred, and clearly show the author (whether individual or institutional) and the date created.

Principle 3: Records relevant to child safety and wellbeing, including child sexual abuse, should be maintained appropriately.

Records relevant to child safety and wellbeing, including child sexual abuse, should be maintained in an indexed, logical and secure manner. Associated records should be collocated or cross-referenced to ensure that people using those records are aware of all relevant information.

Principle 4: Records relevant to child safety and wellbeing, including child sexual abuse, should only be disposed of in accordance with law or policy.

Records relevant to child safety and wellbeing, including child sexual abuse, must only be destroyed in accordance with records disposal schedules or published institutional policies.

Records relevant to child sexual abuse should be subject to minimum retention periods that allow for delayed disclosure of abuse by victims, and take account of limitation periods for civil actions for child sexual abuse.

Principle 5: Individuals’ existing rights to access, amend or annotate records about themselves should be recognised to the fullest extent.
Individuals whose childhoods are documented in institutional records should have a right to access records made about them. Full access should be given unless contrary to law. Specific, not generic, explanations should be provided in any case where a record, or part of a record, is withheld or redacted.

Individuals should be made aware of, and assisted to assert, their existing rights to request that records containing their personal information be amended or annotated, and to seek review or appeal of decisions refusing access, amendment or annotation.

Response
Accept in principle. The ACT Governments will prioritise collaboration with relevant agencies and organisations to develop appropriate guidance on assessing risk and developing recordkeeping principles.

Records of non-government schools

Recommendation 8.5
State and territory governments should ensure that non-government schools operating in the state or territory are required to comply, at a minimum, with standards applicable to government schools in relation to the creation, maintenance and disposal of records relevant to child safety and wellbeing, including child sexual abuse.

Response
Accept in principle. The ACT Government generally supports the intent of the recommendation and will introduce arrangements to require the non-government education sector to achieve this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between the Commonwealth and states/territories.

Improving information sharing across sectors

Elements of a national information exchange scheme

Recommendation 8.6
The Australian Government and state and territory governments should make nationally consistent legislative and administrative arrangements, in each jurisdiction, for a specified range of bodies (prescribed bodies) to share information related to the safety and wellbeing of children, including information relevant to child sexual abuse in institutional contexts (relevant information). These arrangements should be made to establish an information exchange scheme to operate in and across Australian jurisdictions.

Response
Accept in principle. The ACT Government will prioritise collaboration with other jurisdictions to promote legislative and administrative arrangements for information sharing.

Recommendation 8.7
In establishing the information exchange scheme, the Australian Government and state and territory governments should develop a minimum of nationally consistent provisions to:

a. enable direct exchange of relevant information between a range of prescribed bodies, including service providers, government and non-government agencies, law enforcement agencies, and regulatory and oversight bodies, which have responsibilities related to children’s safety and wellbeing
b. permit prescribed bodies to provide relevant information to other prescribed bodies without a request, for purposes related to preventing, identifying and responding to child sexual abuse in institutional contexts
c. require prescribed bodies to share relevant information on request from other prescribed bodies, for purposes related to preventing, identifying and responding to child sexual abuse in institutional contexts, subject to limited exceptions
d. explicitly prioritise children’s safety and wellbeing and override laws that might otherwise prohibit or restrict disclosure of information to prevent, identify and respond to child sexual abuse in institutional contexts
e. provide safeguards and other measures for oversight and accountability to prevent unauthorised sharing and improper use of information obtained under the information exchange scheme
f. require prescribed bodies to provide adversely affected persons with an opportunity to respond to untested or unsubstantiated allegations, where such information is received under the information exchange scheme, prior to taking adverse action against such persons, except where to do so could place another person at risk of harm.

Response
Accept in principle. The ACT Government will work with other jurisdictions to identify and remove barriers to information sharing and to develop methods to promote and enable information sharing. Governments will seek to build on existing arrangements within jurisdictions and across jurisdictions in preparation for developing an agreed information sharing scheme.

Supporting implementation and operation

Recommendation 8.8
The Australian Government, state and territory governments and prescribed bodies should work together to ensure that the implementation of our recommended information exchange scheme is supported with education, training and guidelines. Education, training and guidelines should promote understanding of, and confidence in, appropriate information sharing to better prevent, identify and respond to child sexual abuse in institutional contexts, including by addressing:

a. impediments to information sharing due to limited understanding of applicable laws
b. unauthorised sharing and improper use of information.

Response
Accept in principle. The ACT Government will continue to collaborate with other jurisdictions to provide awareness raising, education and training around information sharing obligations and requirements. Governments will work with relevant bodies and government agencies, such as the Office of the Australian Information Commissioner, children's commissioners and advocates, and relevant or prescribed bodies.

The ACT Government supports using training, education or guidelines to help develop a fuller understanding of presently applicable laws, such as privacy laws, in order to facilitate a greater awareness how information can be properly shared under present regimes.

Improved information sharing in key sectors

Sharing information about teachers and students

Recommendation 8.9
The Council of Australian Governments (COAG) Education Council should consider the need for nationally consistent state and territory legislative requirements about the types of information recorded on teacher registers. Types of information that the council should consider, with respect to a person’s registration and employment as a teacher, include:

a. the person’s former names and aliases
b. the details of former and current employers
c. where relating to allegations or incidents of child sexual abuse:
i. current and past disciplinary actions, such as conditions on, suspension of, and cancellation of registration
ii. grounds for current and past disciplinary actions
iii. pending investigations
iv. findings or outcomes of investigations where allegations have been substantiated
v. resignation or dismissal from employment.

Response
Accept. The ACT Government accepts this recommendation and notes this recommendation has been referred to the COAG Education Council.

Recommendation 8.10
The COAG Education Council should consider the need for nationally consistent provisions in state and territory teacher registration laws providing that teacher registration authorities may, and/or must on request, make information on teacher registers available to:

a. teacher registration authorities in other states and territories
b. teachers’ employers.

Response
Accept. The ACT Government accepts this recommendation and notes this recommendation has been referred to the COAG Education Council.

Recommendation 8.11
The COAG Education Council should consider the need for nationally consistent provisions

a. in state and territory teacher registration laws or
b. in administrative arrangements, based on legislative authorisation for information sharing under our recommended information exchange scheme
c. providing that teacher registration authorities may or must notify teacher registration authorities in other states and territories and teachers’ employers of information they hold or receive about the following matters where they relate to allegations or incidents of child sexual abuse:
   d. disciplinary actions, such as conditions or restrictions on, suspension of, and cancellation of registration, including with notification of grounds
e. investigations into conduct, or into allegations or complaints
f. findings or outcomes of investigations
g. resignation or dismissal from employment.

Response
Accept. The ACT Government accepts this recommendation and notes this recommendation has been referred to the COAG Education Council

Recommendation 8.12
In considering improvements to teacher registers and information sharing by registration authorities, the COAG Education Council should also consider what safeguards are necessary to protect teachers’ personal information.

Response
Accept. All Australian Governments will continue to work together to consider how to best achieve this objectives of this recommendation.

The ACT Government agrees that the protection of the privacy of individuals and the responsible and transparent handling of personal information by public sector agencies is essential. At the same time, it
recognises the protection of the privacy of an individual needs to be balanced with the interests of public sector agencies in carrying out their functions.

The ACT Government will work with stakeholders to ensure the protection of teachers’ privacy and ensure that they are able to exercise their right to correct records.

A nationally consistent ethical framework should be developed to ensure appropriate protocols and sanctions around the use of teachers’ personal information.

**Recommendation 8.13**
State and territory governments should ensure that policies provide for the exchange of a student’s information when they move to another school, where:

a. the student may pose risks to other children due to their harmful sexual behaviours or may have education or support needs due to their experiences of child sexual abuse and

b. the new school needs this information to address the safety and wellbeing of the student or of other students at the school.

State and territory governments should give consideration to basing these policies on our recommended information exchange scheme (Recommendations 8.6 to 8.8).

**Response**
Accept in principle. The ACT Government supports the intent of the recommendation and has commenced work to consider possible amendments to the Education Act 2004. This is, however, a complex area of law.

**Recommendation 8.14**
State and territory governments should ensure that policies for the exchange of a student’s information when they move to another school:

a. provide that the principal (or other authorised information sharer) at the student’s previous school is required to share information with the new school in the circumstances described in Recommendation 8.13 and

b. apply to schools in government and non-government systems.

**Response**
Accept in principle. The ACT Government supports the intent of the recommendation and will ensure that the arrangements to be developed will consider these elements.

The ACT Government notes that independent schools are not a non-government system per se, but takes the view that this recommendation would apply equally to independent schools.

**Recommendation 8.15**
State and territory governments should ensure that policies about the exchange of a student’s information (as in Recommendations 8.13 and 8.14) provide the following safeguards, in addition to any safeguards attached to our recommended information exchange scheme:

a. information provided to the new school should be proportionate to its need for that information to assist it in meeting the student’s safety and wellbeing needs, and those of other students at the school

b. information should be exchanged between principals, or other authorised information sharers, and disseminated to other staff members on a need-to-know basis.

**Response**
Accept in principle. The ACT Government supports the intent of the recommendation and will ensure that the arrangements to be developed will consider these elements.
The ACT Government notes that independent schools are not a non-government system per se, but takes the view that this recommendation would apply equally to independent schools.

**Recommendation 8.16**

The COAG Education Council should review the Interstate Student Data Transfer Note and Protocol in the context of the implementation of our recommended information exchange scheme (Recommendations 8.6 to 8.8).

**Response**

The ACT Government accepts this recommendation and notes this recommendation has been referred to the COAG Education Council.

**Carers Register**

**Recommendation 8.17**

State and territory governments should introduce legislation to establish carers registers in their respective jurisdictions, with national consistency in relation to:

a. the inclusion of the following carer types on the carers register:
   i. foster carers
   ii. relative/kinship carers
   iii. residential care staff

b. the types of information which, at a minimum, should be recorded on the register

c. the types of information which, at a minimum, must be made available to agencies or bodies with responsibility for assessing, authorising or supervising carers, or other responsibilities related to carer suitability and safety of children in out-of-home care.

**Response**

*Accept in principle.* The ACT Government supports the intent of the recommendation and has commenced a carers register for all foster and relative/kinship carers in the ACT, and will need to:

- undertake further work with the Human Services Registrar about information held on residential care workers for the purpose of inclusion in a carers register or similar;
- undertake further work to include residential care staff on the carers register; and
- work with the Office for Disability to consider requirements for disability service provision and full-time carers for people with disability under the age of 18 years.

**Recommendation 8.18**

Carers registers should be maintained by state and territory child protection agencies or bodies with regulatory or oversight responsibility for out-of-home care in that jurisdiction.

**Response**

*Accept.* The ACT Government accepts the recommendation and notes that this will be considered in the context of operational requirements and fulfilling the elements of Recommendation 8.17.

**Recommendation 8.19**

State and territory governments should consider the need for carers registers to include, at a minimum, the following information (register information) about, or related to, applicant or authorised carers, and persons residing on the same property as applicant/authorised home-based carers (household members):

a. lodgement or grant of applications for authorisation
b. status of the minimum checks set out in Recommendation 12.6 as requirements for authorisation, indicating their outcomes as either satisfactory or unsatisfactory

c. withdrawal or refusal of applications for authorisation in circumstances of concern (including in relation to child sexual abuse)

d. cancellation or surrender of authorisation in circumstances of concern (including in relation to child sexual abuse)

e. previous or current association with an out-of-home care agency, whether by application for authorisation, assessment, grant of authorisation, or supervision

f. the date of reportable conduct allegations, and their status as either current, finalised with ongoing risk-related concerns, and/or requiring contact with the reportable conduct oversight body.

Response

- Accept in principle. The ACT Government supports the intent of the recommendations and has commenced a carers register for all foster and relative/kinship carers in the ACT.

Recommendation 8.20

State and territory governments should consider the need for legislative and administrative arrangements to require responsible agencies to:

- record register information in minimal detail
- record register information as a mandatory part of carer authorisation
- update register information about authorised carers.

Response

Accept. The ACT Government accepts the recommendation and notes that this will be considered in the context of existing legislation and operational arrangements.

Recommendation 8.21

State and territory governments should consider the need for legislative and administrative arrangements to require responsible agencies:

- before they authorise or recommend authorisation of carers, to:
  - undertake a check for relevant register information, and
  - seek further relevant information from another out-of-home care agency where register information indicates applicant carers, or their household members (in the case of prospective home-based carers) have a prior or current association with that other agency
- in the course of their assessment, authorisation, or supervision of carers, to:
  - seek further relevant information from other agencies or bodies, where register information indicates they hold, or may hold, additional information relevant to carer suitability, including reportable conduct information.

State and territory governments should give consideration to enabling agencies to seek further information for these purposes under our recommended information exchange scheme (Recommendations 8.6 to 8.8).

Response

Accept. The ACT Government accepts the recommendation and notes that this will be considered in the context of existing legislation and operational arrangements, however; noting policy work will be required to define access to, and usage of, information shared.

Recommendation 8.22

State and territory governments should consider the need for effective mechanisms to enable agencies and bodies to obtain relevant information from registers in any state or territory holding such information.
Consideration should be given to legislative and administrative arrangements, and digital platforms, which will enable:

- agencies responsible for assessing, authorising or supervising carers
- other agencies, including jurisdictional child protection agencies and regulatory and oversight bodies, with responsibilities related to the suitability of persons to be carers and the safety of children in out-of-home care to obtain relevant information from their own and other jurisdictions’ registers for the purpose of exercising their responsibilities and functions.

**Response**

**Accept in principle.** The ACT Government supports the intent of the recommendations and has commenced work to establish a carers register for all foster and relative/kinship carers in the ACT, and will consider how best to:

- further improve information sharing between CSD and non-government providers in the context of the new integrated client management system that will be operational in 2018-19;
- consider the functionality of the new system with respect to possible changes to information sharing mechanisms under recommendation 8.21 and 8.22; and
- undertake further analysis of other agencies and organisations required to participate in the information sharing systems to support a comprehensive carers register.

**Recommendation 8.23**

In considering the legislative and administrative arrangements required for carers registers in their jurisdiction, state and territory governments should consider the need for guidelines and training to promote the proper use of carers registers for the protection of children in out-of-home care. Consideration should also be given to the need for specific safeguards to prevent inappropriate use of register information.

**Response**

**Accept in principle.** The ACT Government supports the intent of the recommendation and has commenced a carers register for all foster and relative/kinship carers in the ACT. The recommendation should be read in conjunction to response for recommendation 8.22 above.

**VOLUME 9 - ADVOCACY, SUPPORT AND THERAPEUTIC TREATMENT SERVICES RECOMMENDATIONS**

**Dedicated community support services for victims and survivors**

**Recommendation 9.1**

The Australian Government and state and territory governments should fund dedicated community support services for victims and survivors in each jurisdiction, to provide an integrated model of advocacy and support and counselling to children and adults who experienced childhood sexual abuse in institutional contexts. Funding and related agreements should require and enable these services to:

- be trauma-informed and have an understanding of institutional child sexual abuse
- be collaborative, available, accessible, acceptable and high quality
- use case management and brokerage to coordinate and meet service needs
- support and supervise peer-led support models.
Response
Accept. The ACT Government accepts all elements of the recommendation noting that further analysis is needed to determine scale of unmet demand and most appropriate model. Services currently funded include: Canberra Rape Crisis Centre, Service Assisting Male Survivors of Sexual Assault, Relationships Australia Canberra & Region and Victim Support ACT.

Recommendation 9.2
The Australian Government and state and territory governments should fund Aboriginal and Torres Strait Islander healing approaches as an ongoing, integral part of advocacy and support and therapeutic treatment service system responses for victims and survivors of child sexual abuse. These approaches should be evaluated in accordance with culturally appropriate methodologies, to contribute to evidence of best practice.

Response
Accept in principle. The ACT Government supports the intent of the recommendation noting that further analysis is needed to determine scale of unmet demand and most appropriate model. Relationships Australia Canberra and Region currently provides the Dhunlung Yarra Service which is a dedicated Aboriginal and Torres Strait Islander therapeutic service staffed by Aboriginal professionals. Members of the team work across a range of programs to deliver a range of culturally appropriate services, including counselling, family dispute resolution and other relationship support services.

Recommendation 9.3
The Australian Government and state and territory governments should fund support services for people with disability who have experienced sexual abuse in childhood as an ongoing, integral part of advocacy and support and therapeutic treatment service system responses for victims and survivors of child sexual abuse.

Response
Accept in principle. The ACT Government supports the intent of the recommendation noting that further analysis is needed to determine scale of unmet demand and most appropriate model. Currently, People with Disability Australia (PWDA) is supporting people with disability who may be affected by the Royal Commission into Institutional Responses to Child Sexual Abuse. PWDA provides individual advocacy to those who are affected and are also running a comprehensive training program across Australia, developing awareness of the sexual and human rights of people with disability.

National service to navigate legal processes

Recommendation 9.4
The Australian Government should establish and fund a legal advice and referral service for victims and survivors of institutional child sexual abuse. The service should provide advice about accessing, amending and annotating records from institutions, and options for initiating police, civil litigation or redress processes as required. Support should include advice, referrals to other legal services for representation and general assistance for people to navigate the legal service system.

a. trauma-informed and have an understanding of institutional child sexual abuse
b. collaborative, available, accessible, acceptable and high quality.

Response
Noted. The ACT Government notes that this recommendations falls within the jurisdiction of the Commonwealth.
National telephone helpline and website

**Recommendation 9.5**

The Australian Government should fund a national website and helpline as a gateway to accessible advice and information on childhood sexual abuse. This should provide information for victims and survivors, particularly victims and survivors of institutional child sexual abuse, the general public and practitioners about supporting children and adults who have experienced sexual abuse in childhood and available services. The gateway may be operated by an existing service with appropriate experience and should:

a. be trauma-informed and have an understanding of institutional child sexual abuse
b. be collaborative, available, accessible, acceptable and high quality
c. provide telephone and online information and initial support for victims and survivors, including independent legal information and information about reporting to police
d. provide assisted referrals to advocacy and support and therapeutic treatment services.

**Response**

**Noted.** The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

Enhancing the capacity of specialist sexual assault services

**Recommendation 9.6**

The Australian Government and state and territory governments should address existing specialist sexual assault service gaps by increasing funding for adult and child sexual assault services in each jurisdiction, to provide advocacy and support and specialist therapeutic treatment for victims and survivors, particularly victims and survivors of institutional child sexual abuse. Funding agreements should require and enable services to:

a. be trauma-informed and have an understanding of institutional child sexual abuse
b. be collaborative, available, accessible, acceptable and high quality
c. use collaborative community development approaches
d. provide staff with supervision and professional development.

**Response**

**Accept in principle.** The ACT Government will undertake further analysis and consultation with key stakeholders in the next 12 months and provide a further response at the annual update.

**Recommendation 9.7**

Primary Health Networks, within their role to commission joined up local primary care services, should support sexual assault services to work collaboratively with key services such as disability-specific services, Aboriginal and Torres Strait Islander services, culturally and linguistically diverse services, youth justice, aged care and child and youth services to better meet the needs of victims and survivors.

**Response**

**Noted.** The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

Responsive mainstream services

**Recommendation 9.8**

The Australian Government and state and territory government agencies responsible for the delivery of human services should ensure relevant policy frameworks and strategies recognise the needs of victims and survivors and the benefits of implementing trauma-informed approaches.
Response

Accept. The ACT Government supports the intent of the recommendation and has commenced work to develop a proposed Charter of Rights for Victims in the ACT. Work is required to review policy frameworks and strategies to ensure that the needs of victims and survivors are recognised.

In government schools, trauma informed approaches are currently being implemented and training for staff is being undertaken. Similarly, Maternal and Child Health (MACH) staff undergo training for implementing the trauma informed approaches in service delivery and Child and Adolescent Mental Health Service (CAHMS) has trauma informed care in their Future Model of Care.

National leadership to reduce stigma, promote help-seeking and support good practice

Recommendation 9.9

The Australian Government, in conjunction with state and territory governments, should establish and fund a national centre to raise awareness and understanding of the impacts of child sexual abuse, support help-seeking and guide best practice advocacy and support and therapeutic treatment. The national centre’s functions should be to:

a. raise community awareness and promote destigmatising messages about the impacts of child sexual abuse
b. increase practitioners’ knowledge and competence in responding to child and adult victims and survivors by translating knowledge about the impacts of child sexual abuse and the evidence on effective responses into practice and policy. This should include activities to:
   i. identify, translate and promote research in easily available and accessible formats for advocacy and support and therapeutic treatment practitioners
   ii. produce national training materials and best practice clinical resources
   iii. partner with training organisations to conduct training and workforce development programs
   iv. influence national tertiary curricula to incorporate child sexual abuse and trauma-informed care
   vi. inform government policy making

c. lead the development of better service models and interventions through coordinating a national research agenda and conducting high-quality program evaluation.

The national centre should partner with survivors in all its work, valuing their knowledge and experience.

Response

For further consideration. All Australian Governments will continue to together to consider how to best achieve the objectives of this recommendation

The ACT Government notes that other work will intersect with this recommendation including revenge porn legislation (Commonwealth), Cyber Safety and youth justice.
**VOLUME 10, CHILDREN WITH HARMFUL SEXUAL BEHAVIOURS**

**A framework for improving responses**

**Recommendation 10.1**

The Australian Government and state and territory governments should ensure the issue of children’s harmful sexual behaviours is included in the national strategy to prevent child sexual abuse that we have recommended (see Recommendations 6.1 to 6.3).

Harmful sexual behaviours by children should be addressed through each of the following:

a. primary prevention strategies to educate family, community members, carers and professionals (including mandatory reporters) about preventing harmful sexual behaviours

b. secondary prevention strategies to ensure early intervention when harmful sexual behaviours are developing

c. tertiary intervention strategies to address harmful sexual behaviours.

**Response**

**Accept.** The ACT Government will work with other jurisdictions to prioritise the inclusion of the complex issue of children’s harmful sexual behaviours in the national strategy to prevent child sexual abuse to support the wellbeing and safety of all children.

**Improving assessment and therapeutic intervention**

**Recommendation 10.2**

The Australian Government and state and territory governments should ensure timely expert assessment is available for individual children with problematic and harmful sexual behaviours, so they receive appropriate responses, including therapeutic interventions, which match their particular circumstances.

**Response**

**Accept in principle.** The ACT Government supports the intent of the recommendation and will need to undertake further analysis to determine the scale of unmet demand and the most appropriate model for treatment options.

Existing child sexual assault services in the ACT include:

- Canberra Rape Crisis Centre
- Child at Risk Health Unit
- Melaleuca Place

Approximately 110 children (aged 0-12) access these services annually.

The ACT seeks specialist support for children with problematic and harmful sexual behaviours interstate services (NSW).

**Recommendation 10.3**

The Australian Government and state and territory governments should adequately fund therapeutic interventions to meet the needs of all children with harmful sexual behaviours. These should be delivered through a network of specialist and generalist therapeutic services. Specialist services should also be adequately resourced to provide expert support to generalist services.
Response

Accept in principle. The ACT Government supports the intent of the recommendation and will need to undertake further analysis to develop costings and models to deliver the required interventions and supports. It should be noted that this is a very specialised area of therapeutic service delivery.

Recommendation 10.4

State and territory governments should ensure that there are clear referral pathways for children with harmful sexual behaviours to access expert assessment and therapeutic intervention, regardless of whether the child is engaging voluntarily, on the advice of an institution or through their involvement with the child protection or criminal justice systems.

Response

Accept in principle. The ACT Government supports the intent of the recommendation and will undertake further analysis of the evidence base for the efficacy of involuntary programs and the need for developmentally appropriate interventions.

Recommendation 10.5

Therapeutic intervention for children with harmful sexual behaviours should be based on the following principles:

a. a contextual and systemic approach should be used
b. family and carers should be involved
c. safety should be established
d. there should be accountability and responsibility for the harmful sexual behaviours
e. there should be a focus on behaviour change
f. developmentally and cognitively appropriate interventions should be used
g. the care provided should be trauma-informed
h. therapeutic services and interventions should be culturally safe
i. therapeutic interventions should be accessible to all children with harmful sexual behaviours.

Response

Accept in principle. The ACT Government accepts the recommendation and notes that this will be considered in the context of operational contexts.

Strengthening the workforce

Recommendation 10.6

The Australian Government and state and territory governments should ensure that all services funded to provide therapeutic intervention for children with harmful sexual behaviours provide professional training and clinical supervision for their staff.

Response

Accept in principle. The ACT Government supports the intent of the recommendation. Further to the response to recommendation 10.5, any specialised service of this nature would need to be supported with appropriate professional teaching and clinical supervision.

Improving evaluation

Recommendation 10.7

The Australian Government and state and territory governments should fund and support evaluation of services providing therapeutic interventions for problematic and harmful sexual behaviours by children.
Response

Accept in principle. The ACT Government supports the intent of the recommendation but notes that, at present, there is limited expertise globally in the evaluation of such services.

The ACT Government agrees that increased research and evaluation in this area is critical to ensuring any education or therapeutic interventions are effective.

VOLUME 12. CONTEMPORARY OUT-OF-HOME CARE RECOMMENDATIONS

Data collection and reporting

Recommendation 12.1
The Australian Government and state and territory governments should develop nationally agreed key terms and definitions in relation to child sexual abuse for the purpose of data collection and reporting by the Australian Institute of Health and Welfare (AIHW) and the Productivity Commission.

Response

Accept in principle. The ACT Government will work with other jurisdictions to achieve nationally agreed key terms and definitions in relation to child sexual abuse through relevant agencies and portfolios.

Governments will work together to agree research priorities and timeframes, noting the complexity and importance of establishing nationally agreed terms and definitions to provide a basis for further national research.

Recommendation 12.2
The Australian Government and state and territory governments should prioritise enhancements to the Child Protection National Minimum Data Set to include:

a. data identifying children with disability, children from culturally and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander children
b. the number of children who were the subject of a substantiated report of sexual abuse while in out-of-home care
c. the demographics of those children
d. the type of out-of-home care placement in which the abuse occurred
e. information about when the abuse occurred
f. information about who perpetrated the abuse, including their age and their relationship to the victim, if known.

Response

Accept in principle. The ACT Government will work with other jurisdictions to achieve enhancements to the Child Protection National Minimum Data Set through relevant agencies and portfolios.

Recommendation 12.3
State and territory governments should agree on reporting definitions and data requirements to enable reporting in the Report on government services on outcome indicators for ‘improved health and wellbeing of the child’, ‘safe return home’ and ‘permanent care’.

Response

Accept in principle. The ACT Government will work with other jurisdictions to agree on reporting definitions and data requirements through relevant agencies and portfolios.
Accreditation of out-of-home care service providers

**Recommendation 12.4**
Each state and territory government should revise existing mandatory accreditation schemes to:

a. incorporate compliance with the Child Safe Standards identified by the Royal Commission
b. extend accreditation requirements to both government and non-government out-of-home care service providers.

**Response**
*Accept in principle.* The ACT Government supports the intent of the recommendation and has commenced an assessment of the current regulatory frameworks in place that can be leveraged to develop a comprehensive accreditation program. Any accreditation program would be similar to those in other states and territories but particularly aligned to the NSW model, given the crossover of service providers operating the two jurisdictions. The ACT Government will consider how best to:

- undertake further analysis of establishing an accreditation program that is based on audit and critical assessment across both government and non-government service delivery;
- define the scope of approach to establishing accreditation and not regulation of the standards, as per the intent of the recommendation;
- work with NSW to identify options to leverage the NSW Accreditation Framework to reduce duplication for ACT providers who also are providers in NSW; and
- progress amendments to legislation.

The ACT Care and Protection Organisation (CAPO) Standards were developed incorporating the ACT Out of Home Care Standards and the Child Safe Standards. The CAPO Standards are currently being implemented and applied to registration and compliance assessments.

**Recommendation 12.5**
In each state and territory, an existing statutory body or office that is independent of the relevant child protection agency and out-of-home care service providers, for example a children’s guardian, should have responsibility for:

a. receiving, assessing and processing applications for accreditation of out-of-home care service providers
b. conducting audits of accredited out-of-home care service providers to ensure ongoing compliance with accreditation standards and conditions.

**Response**
*Accept.* The ACT Government supports the intent of the recommendation. Non-government out-of-home care service providers in the ACT are currently regulated by the Human Services Registrar, which is functionally independent from Child and Youth Protection Services, but sits within the same Directorate. The ACT Government has commenced an assessment of the current regulatory frameworks in place that can be leveraged to develop a comprehensive accreditation program similar to other states and territories but particularly aligned to the NSW model given the cross over between the two jurisdictions of service providers.

Given the extra reach required to meet the intent of the recommendation a review will be undertaken to identify areas for enhancement or change to capture both government and non-government service delivery.

For further detail refer to the response to recommendation 12.4.
Carer authorisation

Recommendation 12.6
In addition to a National Police Check, Working With Children Check and referee checks, authorisation of all foster and kinship/relative carers and all residential care staff should include:

a. community services checks of the prospective carer and any adult household members of home-based carers
b. documented risk management plans to address any risks identified through community services checks
c. at least annual review of risk management plans as part of carer reviews and more frequently as required.

Response
Accept. The ACT Government accepts all elements of the recommendation noting that further consideration to operationalise the recommendation will need to occur to determine risk management plan actions and follow up as outlined in the recommendation.

Recommendation 12.7
All out-of-home care service providers should conduct annual reviews of authorised carers that include interviews with all children in the placement with the carer under review, in the absence of the carer.

Response
Accept in principle. The ACT Government supports the intent of the recommendation, and will consider how best to deliver the outcomes sought in the context of its out-of-home-care strategy, A Step Up for Our Kids, including by:

- undertaking further analysis to embed annual reviews of carers within CYPS and ACT Together practice and case management; and
- clarifying roles and responsibilities and establish a quality assurance process to ensure all children and young people’s voices are included as part of the carer assessment.

Recommendation 12.8
Each state and territory government should adopt a model of assessment appropriately tailored for kinship/relative care. This type of assessment should be designed to:

a. better identify the strengths as well as the support and training needs of kinship/relative carers
b. ensure holistic approaches to supporting placements that are culturally safe
c. include appropriately resourced support plans.

Response
Accept. The ACT Government accepts the recommendation and notes that this will be considered in the context of existing legislation and operational arrangements.

Recommendation 12.9
All state and territory governments should collaborate in the development of a sexual abuse prevention education strategy, including online safety, for children in out-of-home care that includes:

a. input from children in out-of-home care and care-leavers
b. comprehensive, age-appropriate and culture-appropriate education about sexuality and healthy relationships that is tailored to the needs of children in out-of-home care
c. resources tailored for children in care, for foster and kinship/relative carers, for residential care staff and for caseworkers
d. resources that can be adapted to the individual needs of children with disability and their carers.
Response

Accept in principle. All Australian Governments have agreed and are working towards implementation. Given cross-portfolio implications, the Commonwealth is best placed to lead the development of a national sexual abuse prevention education strategy.

ACT Government is participating in the development of a national approach through the Commonwealth Department of Education and Training National Safe Schools Framework.

The Commonwealth Department of Health is also progressing work to promote e-Safety.

This work will guide the approach to be agreed locally. The strategy will need to address the specific needs and vulnerabilities of children in residential care – these children often have limited access to positive role models and information about sex and respectful relationships.

Creating a culture that supports disclosure and identification of child sexual abuse

Recommendation 12.10

State and territory governments, in collaboration with out-of-home care service providers and peak bodies, should develop resources to assist service providers to:

a. provide appropriate support and mechanisms for children in out-of-home care to communicate, either verbally or through behaviour, their views, concerns and complaints
b. provide appropriate training and support to carers and caseworkers to ensure they hear and respond to children in out-of-home care, including ensuring children are involved in decisions about their lives
c. regularly consult with the children in their care as part of continuous improvement processes.

Response

Accept. The ACT Government accepts all elements of the recommendation noting that further analysis may be required to complete scoping work to undertake an internal review to determine extent of work needed to meet the intent of the recommendation. The review would include contract inclusions, best practice model approval, implementation of practice change, and training and change management.

Strengthening the capacity of carers, staff and caseworkers to support children

Recommendation 12.11

State and territory governments and out-of-home care service providers should ensure that training for foster and relative/kinship carers, residential care staff and child protection workers includes an understanding of trauma and abuse, the impact on children and the principles of trauma-informed care to assist them to meet the needs of children in out-of-home care, including children with harmful sexual behaviours.

Response

Accept. The ACT Government accepts all elements of the recommendation noting that:

- further analysis may be required to collaborate with ACT Together to develop appropriate training and development resources and learning modules for carers/staff specifically on preventing and responding to harmful sexual behaviours in children;
- expansion of training to cover interim relative/kinship carers is required; and
- evaluation of current delivery of training to the NGO sector is required.
**Response to the Royal Commission into Institutional Responses to Child Sexual Abuse (Part 2)**

**Recommendation 12.12**

When placing a child in out-of-home care, state and territory governments and out-of-home care service providers should take the following measures to support children with harmful sexual behaviours:

- a. undertake professional assessments of the child with harmful sexual behaviours, including identifying their needs and appropriate supports and interventions
- b. to ensure their safety
- c. establish case management and a package of support services
- d. undertake careful placement matching that includes:
  - i. providing sufficient relevant information to the potential carer/s and residential care staff to ensure they are equipped to support the child, and additional training as necessary
  - ii. rigorously assessing potential threats to the safety of other children, including the child’s siblings, in the placement.

**Response**

**Accept.** The ACT Government accepts all elements of the recommendation noting that:

- further analysis may be required to extend specialist services to adolescents with harmful sexual behaviours; and
- develop a paper on the skills and expertise needed to undertake the assessment of risk of harmful sexual behaviours given it is a highly specialised area of child and adolescent mental health and the requisite skills in this discipline is a niche field that is in short supply in the ACT region.

**Recommendation 12.13**

State and territory governments and out-of-home care service providers should provide advice, guidelines and ongoing professional development for all foster and kinship/relative carers and residential care staff about preventing and responding to the harmful sexual behaviours of some children in out-of-home care.

**Response**

**Accept in principle.** The ACT Government supports the intent of the recommendation, and will need to work with stakeholders including the AFP and Health to identify option to provide advice and support to carers and staff and to children and young people in out of home care about preventing and responding to harmful sexual behaviours.

**Preventing and responding to child sexual exploitation**

**Recommendation 12.14**

All state and territory governments should develop and implement coordinated and multi-disciplinary strategies to protect children in residential care by:

- a. identifying and disrupting activities that indicate risk of sexual exploitation
- b. supporting agencies to engage with children in ways that encourage them to assist in the investigation and prosecution of sexual exploitation offences.

**Response**

**Accept in principle.** The ACT Government supports the intent of the recommendation and will need to work with stakeholders including the AFP and Health to identify option to provide advice and support to carers and staff and to children and young people in out of home care about preventing and responding to harmful sexual behaviours.
Recommendation 12.15
Child protection departments in all states and territories should adopt a nationally consistent definition for child sexual exploitation to enable the collection and reporting of data on sexual exploitation of children in out-of-home care as a form of child sexual abuse.

Response
Accept.
The ACT Government will work with other jurisdictions to adopt a nationally consistent definition for child sexual exploitation through relevant agencies and portfolios.

Increasing the stability of placements

Recommendation 12.16
All institutions that provide out-of-home care should develop strategies that increase the likelihood of safe and stable placements for children in care. Such strategies should include:

a. improved processes for ‘matching’ children with carers and other children in a placement, including in residential care
b. the provision of necessary information to carers about a child, prior to and during their placement, to enable carers to properly support the child
c. support and training for carers to deal with the different developmental needs of children as well as managing difficult situations and challenging behaviour.

Response
Accept in principle.
The ACT Government supports the intent of the recommendation, and will consider how best to deliver the outcomes sought in the context of continued implementation of its out-of-home-care strategy, A Step Up for Our Kids, which is currently subject to mid-term evaluation and mid-contract review.

Supporting kinship-relative care placements

Recommendation 12.17
Each state and territory government should ensure that:

a. the financial support and training provided to kinship-relative carers is equivalent to that provided to foster carers
b. the need for any additional supports are identified during kinship-relative carer assessments and are funded
c. additional casework support is provided to maintain birth family relationships.

Response
Accept in principle.
The ACT Government supports the intent of the recommendation, and will consider how best to deliver the outcomes sought in the context of continued implementation of its out-of-home-care strategy, A Step Up for Our Kids, which is currently subject to mid-term evaluation and mid-contract review. Post the evaluation and mid-term review findings an assessment of actions will be conducted against Recommendation 12.17 to cover any elements not captured through the evaluation or review.

Residential care

Recommendation 12.18
The key focus of residential care for children should be based on an intensive therapeutic model of care framework designed to meet the complex needs of children with histories of abuse and trauma.
Response
Accept. The ACT Government accepts all elements of the recommendation, noting that its out-of-home care strategy, A Step Up for Our Kids, is predicated on the delivery of a therapeutic, trauma-informed system of care. The ACT Government recognises that children and young people in residential care are often in particular need of intensive therapeutic support and will continue its work to deliver the outcomes sought under this recommendation in the context of ongoing implementation of A Step Up for Our Kids, which is currently subject to mid-term evaluation and mid-contract review. Post the evaluation and mid-term review findings an assessment of actions will be conducted against Recommendation 12.18 to cover any elements not captured through the evaluation or review.

Recommendation 12.19
All residential care staff should be provided with regular training and professional supervision by appropriately qualified clinicians.

Response
Accept. The ACT Government accepts all elements of the recommendation and will work to deliver the outcomes sought under this recommendation in the context of ongoing implementation of its out-of-home care strategy, A Step Up for Our Kids, which is currently subject to mid-term evaluation and mid-contract review.

Aboriginal and Torres Strait Islander children

Recommendation 12.20
Each state and territory government, in consultation with appropriate Aboriginal and Torres Strait Islander organisations and community representatives, should develop and implement plans to:

a. fully implement the Aboriginal and Torres Strait Islander Child Placement Principle
b. improve community and child protection sector understanding of the intent and scope of the principle
c. develop outcome measures that allow quantification and reporting on the extent of the full application of the principle, and evaluation of its impact on child safety and the reunification of Aboriginal and Torres Strait Islander children with their families
d. invest in community capacity building as a recognised part of kinship care, in addition to supporting individual carers, in recognition of the role of Aboriginal and Torres Strait Islander communities in bringing up children.

Response
Accept in principle. The ACT Government supports the intent of the recommendation and notes that a Review into Aboriginal and Torres Strait Islander Children and Young People involved with child protection is currently underway to consider how the Aboriginal and Torres Strait Islander Child Placement Principle can be fully implemented in the ACT. The ACT Government will seek advice from the Steering Committee for the Our Booris, Our Way review on development and implementation of plans to deliver on the identified objectives.

Children with disability

Recommendation 12.21
Each state and territory government should ensure:

a. the adequate assessment of all children with disability entering out-of-home care
b. the availability and provision of therapeutic support
c. support for disability-related needs
d. the development and implementation of care plans that identify specific risk-management and safety strategies for individual children, including the identification of trusted and safe adults in the child’s life.
Response

Accept. The ACT Government accepts all elements of the recommendation noting that:

- further work is required to appropriately respond to recommendation 12.21 that requires collaboration with the NDIS;
- further work is required to appropriately respond to recommendations around children with disability at risk of entering out of home care; and
- current policies and procedures will be reviewed to assess how the ACT can best align with recommendation 12.21.

Care-leavers

Recommendation 12.22

State and territory governments should ensure that the supports provided to assist all care-leavers to safely and successfully transition to independent living include:

a. strategies to assist care-leavers who disclose that they were sexually abused while in out-of-home care to access general post-care supports the development of targeted supports to address the specific needs of sexual abuse survivors, such as help in accessing therapeutic treatment to deal with impacts of abuse, and for these supports to be accessible until at least the age of 25.

Response

Accept. The ACT Government accepts the recommendation and notes the following work has been undertaken that meets the outcome sought:

- current work on the ACT Redress Scheme;
- TILA payments being transferred from the Commonwealth to the ACT; and
- under A Step Up for Our Kids, support for all young people transitioning from care has been extended to 25 years.

VOLUME 13, SCHOOLS RECOMMENDATIONS

Child Safe Standards

Recommendation 13.1

All schools should implement the Child Safe Standards identified by the Royal Commission.

Response

Accept. The ACT Government accepts the recommendation and notes that there is already a strong approach to upholding the rights of the child, and child safety and wellbeing in the ACT. The Child Safe Standards are embedded in Education Directorate policy and procedures (in the main). The ACT Government will consider what additional work might be required to implement the Standards.

The ACT Government will introduce arrangements to require the non-government education sector to achieve this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between the Commonwealth and states/territories.

Recommendation 13.2

State and territory independent oversight authorities responsible for implementing the Child Safe Standards (see Recommendation 6.10) should delegate to school registration authorities the responsibility for monitoring and enforcing the Child Safe Standards in government and non-government schools.
Response

Accept in principle. The ACT Government supports the intent of the recommendation and will ensure that the arrangements to be developed will consider these elements. The ACT Government will also introduce arrangements to require the non-government education sector to achieve this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between the Commonwealth and states/territories.

Recommendation 13.3

School registration authorities should place particular emphasis on monitoring government and non-government boarding schools to ensure they meet the Child Safe Standards. Policy guidance and practical support should be provided to all boarding schools to meet these standards, including advice on complaint handling.

Response

Accept in principle. The ACT Government supports the intent of the recommendation and will ensure that the arrangements to be developed will consider these elements. The ACT Government will also introduce arrangements to require the non-government education sector to achieve this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between the Commonwealth and states/territories.

Supporting boarding schools

Recommendation 13.4

The Australian Government and state and territory governments should ensure that needs-based funding arrangements for Aboriginal and Torres Strait Islander boarding students are sufficient for schools and hostels to create child safe environments.

Response

Accept in principle. The ACT Government supports the intent of the recommendation and will ensure that the arrangements to be developed will consider these elements. The ACT Government will also introduce arrangements to require the non-government education sector to achieve this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between the Commonwealth and states/territories.

Recommendation 13.5

Boarding hostels for children and young people should implement the Child Safe Standards identified by the Royal Commission. State and territory independent oversight authorities should monitor and enforce the Child Safe Standards in these institutions.

Response

Accept in principle. The ACT Government supports the intent of the recommendation and notes that there is already a strong approach in the ACT to upholding the rights of the child including the right to safety and wellbeing. The Child Safe Standards are embedded in Education Directorate policy and procedures (in the main). The ACT Government will consider what additional work might be required to implement the Standards.

Responding to complaints relating to children with harmful sexual behaviours

Recommendation 13.6

Consistent with the Child Safe Standards, complaint handling policies for schools (see Recommendation 7.7) should include effective policies and procedures for managing complaints about children with harmful sexual behaviours.
Response
Accept. The ACT Government accepts all elements of the recommendation, noting that additional work in government schools will involve an update of the existing guide and procedure on complaints handling. In addition, policy and actions on managing complaints about children with harmful sexual behaviours in government schools will be developed to inform the broader complaints handling materials.

The ACT Government will introduce arrangements to require the non-government education sector to achieve this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between the Commonwealth and states/territories.

Guidance for teachers and principals

Recommendation 13.7
State and territory governments should provide nationally consistent and easily accessible guidance to teachers and principals on preventing and responding to child sexual abuse in all government and non-government schools.

Response
Accept. The ACT Government accepts all elements of the recommendation, noting that the recommendation is consistent with existing ACT Government policy.

The ACT Government will introduce arrangements to require the non-government education sector to achieve this recommendation. This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between the Commonwealth and states/territories.

Teacher registration

Recommendation 13.8
The Council of Australian Governments (COAG) should consider strengthening teacher registration requirements to better protect children from sexual abuse in schools. In particular, COAG should review minimum national requirements for assessing the suitability of teachers, and conducting disciplinary investigations.

Response
Accept. The ACT Government accepts this recommendation.

VOLUME 14, SPORT, RECREATION, ARTS, CULTURE, COMMUNITY AND HOBBY GROUPS RECOMMENDATIONS

Child Safe Standards

Recommendation 14.1
All sport and recreation institutions, including arts, culture, community and hobby groups, that engage with or provide services to children should implement the Child Safe Standards identified by the Royal Commission.

Response
For further consideration. The ACT Government will undertake further analysis and consultation with key stakeholders in 2018 and will provide further advice on the outcome of this consultation as part of annual reporting.
A representative voice for the sector

**Recommendation 14.2**
The National Office for Child Safety should establish a child safety advisory committee for the sport and recreation sector with membership from government and non-government peak bodies to advise the national office on sector-specific child safety issues.

**Response**
**Noted.** The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

Expanding Play by the Rules

**Recommendation 14.3**
The education and information website known as Play by the Rules should be expanded and funded to develop resources – in partnership with the National Office for Child Safety – that are relevant to the broader sport and recreation sector.

**Response**
**Noted.** The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

Improving communication

**Recommendation 14.4**
The independent state and territory oversight bodies that implement the Child Safe Standards should establish a free email subscription function for the sport and recreation sector so that all providers of these services to children can subscribe to receive relevant child safe information and links to resources.

**Response**
**For further consideration.** The ACT Government will undertake further analysis and consultation with key stakeholders in 2018 and will provide further advice on the outcome of this consultation as part of annual reporting.

VOLUME 15, CONTEMPORARY DETENTION ENVIRONMENTS RECOMMENDATIONS

Contemporary detention environments

**Recommendation 15.1**
All institutions engaged in child-related work, including detention institutions and those involving detention and detention-like practices, should implement the Child Safe Standards identified by the Royal Commission.

**Response**
**Accept.** The ACT Government accepts the recommendation and notes that this will be considered in the context of existing legislation and operational arrangements.

**Recommendation 15.2**
Given the Australian Government’s commitment to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the National Preventive Mechanism(s) should be provided with the expertise to consider and make recommendations relating to...
preventing and responding to child sexual abuse as part of regularly examining the treatment of persons deprived of their liberty in places of detention.

**Response**  
**Accept.** The ACT Government accepts this recommendation and will work with the Commonwealth and other jurisdictions to implement it.

**Youth detention**

**Creating a safer physical environment**

**Recommendation 15.3**

Youth justice agencies in each state and territory should review the building and design features of youth detention to identify and address elements that may place children at risk. This should include consideration of how to most effectively use technology, such as closed-circuit television (CCTV) cameras and body-worn cameras, to capture interactions between children and between staff and children without unduly infringing children’s privacy.

**Response**  
**Accept.** The ACT Government accepts the recommendation and notes that this will be considered in the context of existing legislation and operational arrangements.

**Recommendation 15.4**

As part of efforts to mitigate risks of child sexual abuse in the physical environment of youth detention, state and territory governments should review legislation, policy and procedures to ensure:

a. appropriate and safe placements of children in youth detention, including a risk assessment process before placement decisions that identifies if a child may be vulnerable to child sexual abuse or if a child is displaying harmful sexual behaviours

b. children are not placed in adult prisons

c. frameworks take into account the importance of children having access to trusted adults, including family, friends and community, in the prevention and disclosure of child sexual abuse and provide for maximum contact between children and trusted adults through visitation, and use of the telephone and audio-visual technology

d. best practice processes are in place for strip searches and other authorised physical contact between staff and children, including sufficient safeguards to protect children such as:
   i. adequate communication between staff and the child before, during and after a search is conducted or other physical contact occurs
   ii. clear protocols detailing when such practices are permitted and how they should be performed. The key elements of these protocols should be provided to children in an accessible format
   iii. staff training that highlights the potential for strip searching to re-traumatise children who have been sexually abused and how the misuse of search powers can lead to sexual humiliation or abuse.

State and territory governments should consider implementing strategies for detecting contraband, such as risk assessments or body scanners, to minimise the need for strip searching children.

**Response**  
**Accept.** The ACT Government accepts the recommendation and notes that this will be considered in the context of existing legislation and operational arrangements.
Responding to children’s different needs

**Recommendation 15.5**

State and territory governments should consider further strategies that provide for the cultural safety of Aboriginal and Torres Strait Islander children in youth detention including:

a. recruiting and developing Aboriginal and Torres Strait Islander staff to work at all levels of the youth justice system, including in key roles in complaint handling systems
b. providing access to interpreters, particularly with respect to induction and education programs, and accessing internal and external complaint handling systems
c. ensuring that all youth detention facilities have culturally appropriate policies and procedures that facilitate connection with family, community and culture, and reflect an understanding of, and respect for, cultural practices in different clan groups
d. employing, training and professionally developing culturally competent staff who understand the particular needs and experiences of Aboriginal and Torres Strait Islander children, including the specific barriers that Aboriginal and Torres Strait Islander children face in disclosing sexual abuse.

**Response**

**Accept.** The ACT Government accepts the recommendation and notes that this will be considered in the context of existing legislation and operational arrangements.

**Recommendation 15.6**

All staff should receive appropriate training on the needs and experiences of children with disability, mental health problems, and alcohol or other drug problems, and children from culturally and linguistically diverse backgrounds that highlights the barriers these children may face in disclosing sexual abuse.

**Response**

**Accept.** The ACT Government accepts the recommendation and notes that this will be considered in the context of existing legislation and operational arrangements.

**Recommendation 15.7**

State and territory governments should improve access to therapeutic treatment for survivors of child sexual abuse who are in youth detention, including by assessing their advocacy, support and therapeutic treatment needs and referring them to appropriate services, and ensure they are linked to ongoing treatment when they leave detention.

**Response**

**Accept.** The ACT Government accepts the recommendation and notes that this will be considered in the context of existing legislation and operational arrangements.

**Support and training for staff**

**Recommendation 15.8**

State and territory governments should ensure that all staff in youth detention are provided with training and ongoing professional development in trauma-informed care to assist them to meet the needs of children in youth detention, including children at risk of sexual abuse and children with harmful sexual behaviours.

**Response**

**Accept in principle.** The ACT Government supports the intent of the recommendation. Staff at the Bimberi Youth Justice Centre already receive training on the impact of trauma on young people, and the Government will consider enhancements to training as part of its current work to refresh the Blueprint on Youth Justice in the ACT 2012-2022 (the Blueprint).
Improving complaint handling systems

**Recommendation 15.9**

State and territory governments should review the current internal and external complaint handling systems concerning youth detention to ensure they are capable of effectively dealing with complaints of child sexual abuse, including so that:

a. children can easily access child-appropriate information about internal complaint processes and external oversight bodies that may receive or refer children's complaints, such as visitor's schemes, ombudsmen, inspectors of custodial services, and children's commissioners or guardians

b. children have confidential and unrestricted access to external oversight bodies

c. staff involved in managing complaints both internally and externally include Aboriginal and Torres Strait Islander peoples and professionals qualified to provide trauma-informed care

d. complaint handling systems are accessible for children with literacy difficulties or who speak English as a second language

e. children are regularly consulted about the effectiveness of complaint handling systems and systems are continually improved.

**Response**

Accept in principle. The ACT Government supports the intent of the recommendation and will need to ensure children are regularly consulted about the effectiveness of complaint handling systems and systems are continually improved.

Independent oversight of youth detention

**Recommendation 15.10**

State and territory governments should ensure they have an independent oversight body with the appropriate visitation, complaint handling and reporting powers, to provide oversight of youth detention. This could include an appropriately funded and independent Inspector of Custodial Services or similar body. New and existing bodies should have expertise in child-trauma, and the prevention and identification of child sexual abuse.

**Response**

Accept. The ACT Government accepts the recommendation and notes that this will be considered in the context of existing legislation and operational arrangements.

Immigration detention

Child Protection Panel recommendations

**Recommendation 15.11**

The Department of Immigration and Border Protection should publicly report within 12 months on how it has implemented the Child Protection Panel’s recommendations.

**Response**

Noted. The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

Implementing the Child Safe Standards in immigration detention

**Recommendation 15.12**

a. The Australian Government should establish a mechanism to regularly audit the implementation of the Child Safe Standards in immigration detention by staff, contractors and agents of the Department of Immigration and Border Protection. The outcomes of each audit should be publicly reported.
b. The Department of Immigration and Border Protection should contractually require its service providers to comply with the Child Safe Standards identified by the Royal Commission, as applied to immigration detention.

Response
Noted. The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

Therapeutic support for victims in immigration detention

Recommendation 15.13
The Department of Immigration and Border Protection should identify the scope and nature of the need for support services for victims in immigration detention. The Department of Immigration and Border Protection should ensure that appropriate therapeutic and other specialist and support services are funded to meet the identified needs of victims in immigration detention and ensure they are linked to ongoing treatment when they leave detention.

Response
Noted. The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

Training and supporting department and service provider staff

Recommendation 15.14
The Department of Immigration and Border Protection should designate appropriately qualified child safety officers for each place in which children are detained. These officers should assist and build the capacity of staff and service providers at the local level to implement the Child Safe Standards.

Response
Noted. The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

Recommendation 15.15
The Department of Immigration and Border Protection should implement an independent visitors program in immigration detention.

Response
Noted. The ACT Government notes that this recommendation falls within the jurisdiction of the Commonwealth.

VOLUME 16, RELIGIOUS INSTITUTIONS RECOMMENDATIONS

Recommendations to the Anglican Church

Recommendation 16.1
The Anglican Church of Australia should adopt a uniform episcopal standards framework that ensures that bishops and former bishops are accountable to an appropriate authority or body in relation to their response to complaints of child sexual abuse.

Response
Noted. The ACT Government notes this recommendation is a matter for the Anglican Church.
**Recommendation 16.2**
The Anglican Church of Australia should adopt a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse, which expressly covers:

- a. members of professional standards bodies
- b. members of diocesan councils (otherwise known as bishop-in-council or standing committee of synod)
- c. members of the Standing Committee of the General Synod
- d. chancellors and legal advisers for dioceses.

**Response**
*Noted.* The ACT Government notes this recommendation is a matter for the Anglican Church.

**Recommendation 16.3**
The Anglican Church of Australia should amend Being together and any other statement of expectations or code of conduct for lay members of the Anglican Church to expressly refer to the importance of child safety.

**Response**
*Noted.* The ACT Government notes this recommendation is a matter for the Anglican Church.

**Recommendation 16.4**
The Anglican Church of Australia should develop a national approach to the selection, screening and training of candidates for ordination in the Anglican Church.

**Response**
*Noted.* The ACT Government notes this recommendation is a matter for the Anglican Church.

**Recommendation 16.5**
The Anglican Church of Australia should develop and each diocese should implement mandatory national standards to ensure that all people in religious or pastoral ministry (bishops, clergy, religious and lay personnel):

- a. undertake mandatory, regular professional development, compulsory components being professional responsibility and boundaries, ethics in ministry and child safety
- b. undertake mandatory professional/pastoral supervision
- c. undergo regular performance appraisals.

**Response**
*Noted.* The ACT Government notes this recommendation is a matter for the Anglican Church.

**Recommendations to the Catholic Church**

**Recommendation 16.6**
The bishop of each Catholic Church diocese in Australia should ensure that parish priests are not the employers of principals and teachers in Catholic schools.

**Response**
*Noted.* The ACT Government notes this recommendation is a matter for the Catholic Church.

**Recommendation 16.7**
The Australian Catholic Bishops Conference should conduct a national review of the governance and management structures of dioceses and parishes, including in relation to issues of transparency, accountability, consultation and the participation of lay men and women. This review should draw from the approaches to governance of Catholic health, community services and education agencies.
Response
Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.8
In the interests of child safety and improved institutional responses to child sexual abuse, the Australian Catholic Bishops Conference should request the Holy See to:

a. publish criteria for the selection of bishops, including relating to the promotion of child safety
b. establish a transparent process for appointing bishops which includes the direct participation of lay people.

Response
Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.9
The Australian Catholic Bishops Conference should request the Holy See to amend the 1983 Code of Canon Law to create a new canon or series of canons specifically relating to child sexual abuse, as follows:

a. All delicts relating to child sexual abuse should be articulated as canonical crimes against the child, not as moral failings or as breaches of the ‘special obligation’ of clerics and religious to observe celibacy.
b. All delicts relating to child sexual abuse should apply to any person holding a ‘dignity, office or responsibility in the Church’ regardless of whether they are ordained or not ordained.
c. In relation to the acquisition, possession, or distribution of pornographic images, the delict (currently contained in Article 6 §2 1° of the revised 2010 norms attached to the motu proprio Sacramentorum sanctitatis tutela) should be amended to refer to minors under the age of 18, not minors under the age of 14.

Response
Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.10
The Australian Catholic Bishops Conference should request the Holy See to amend canon law so that the pontifical secret does not apply to any aspect of allegations or canonical disciplinary processes relating to child sexual abuse.

Response
Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.11
The Australian Catholic Bishops Conference should request the Holy See to amend canon law to ensure that the ‘pastoral approach’ is not an essential precondition to the commencement of canonical action relating to child sexual abuse.

Response
Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.12
The Australian Catholic Bishops Conference should request the Holy See to amend canon law to remove the time limit (prescription) for commencement of canonical actions relating to child sexual abuse. This amendment should apply retrospectively.
Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.13

The Australian Catholic Bishops Conference should request the Holy See to amend the ‘imputability’ test in canon law so that a diagnosis of paedophilia is not relevant to the prosecution of or penalty for a canonical offence relating to child sexual abuse.

Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.14

The Australian Catholic Bishops Conference should request the Holy See to amend canon law to give effect to Recommendations 16.55 and 16.56.

Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.15

The Australian Catholic Bishops Conference and Catholic Religious Australia, in consultation with the Holy See, should consider establishing an Australian tribunal for trying canonical disciplinary cases against clergy, whose decisions could be appealed to the Apostolic Signatura in the usual way.

Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.16

The Australian Catholic Bishops Conference should request the Holy See to introduce measures to ensure that Vatican Congregations and canonical appeal courts always publish decisions in disciplinary matters relating to child sexual abuse, and provide written reasons for their decisions. Publication should occur in a timely manner. In some cases it may be appropriate to suppress information that might lead to the identification of a victim.

Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.17

The Australian Catholic Bishops Conference should request the Holy See to amend canon law to remove the requirement to destroy documents relating to canonical criminal cases in matters of morals, where the accused cleric has died or ten years have elapsed from the condemnatory sentence. In order to allow for delayed disclosure of abuse by victims and to take account of the limitation periods for civil actions for child sexual abuse, the minimum requirement for retention of records in the secret archives should be at least 45 years.

Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.18

The Australian Catholic Bishops Conference should request the Holy See to consider introducing voluntary celibacy for diocesan clergy.
Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.19

All Catholic religious institutes in Australia, in consultation with their international leadership and the Holy See as required, should implement measures to address the risks of harm to children and the potential psychological and sexual dysfunction associated with a celibate rule of religious life. This should include consideration of whether and how existing models of religious life could be modified to facilitate alternative forms of association, shorter terms of celibate commitment, and/or voluntary celibacy (where that is consistent with the form of association that has been chosen).

Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.20

In order to promote healthy lives for those who choose to be celibate, the Australian Catholic Bishops Conference and all Catholic religious institutes in Australia should further develop, regularly evaluate and continually improve, their processes for selecting, screening and training of candidates for the clergy and religious life, and their processes of ongoing formation, support and supervision of clergy and religious.

Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.21

The Australian Catholic Bishops Conference and Catholic Religious Australia should establish a national protocol for screening candidates before and during seminary or religious formation, as well as before ordination or the profession of religious vows.

Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.22

The Australian Catholic Bishops Conference and Catholic Religious Australia should establish a mechanism to ensure that diocesan bishops and religious superiors draw upon broad-ranging professional advice in their decision-making, including from staff from seminaries or houses of formation, psychologists, senior clergy and religious, and lay people, in relation to the admission of individuals to:

a. seminaries and houses of religious formation
b. ordination and/or profession of vows.

Response

Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.23

In relation to guideline documents for the formation of priests and religious:

a. the Australian Catholic Bishops Conference should review and revise the Ratio nationalis institutionis sacerdotalis: Programme for priestly formation (current version December 2015), and all other guideline documents relating to the formation of priests, permanent deacons, and those in pastoral ministry, to explicitly address the issue of child sexual abuse by clergy and best practice in relation to its prevention
b. all Catholic religious institutes in Australia should review and revise their particular norms and guideline documents relating to the formation of priests, religious brothers, and religious sisters, to explicitly address the issue of child sexual abuse and best practice in relation to its prevention.

Response
Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.24
The Australian Catholic Bishops Conference and Catholic Religious Australia should conduct a national review of current models of initial formation to ensure that they promote pastoral effectiveness, (including in relation to child safety and pastoral responses to victims and survivors) and protect against the development of clericalist attitudes.

Response
Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.25
The Australian Catholic Bishops Conference and Catholic Religious Australia should develop and each diocese and religious institute should implement mandatory national standards to ensure that all people in religious or pastoral ministry (bishops, provincials, clergy, religious, and lay personnel):

a. undertake mandatory, regular professional development, compulsory components being professional responsibility and boundaries, ethics in ministry, and child safety
b. undertake mandatory professional/pastoral supervision
c. undergo regular performance appraisals.

Response
Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendation 16.26
The Australian Catholic Bishops Conference should consult with the Holy See, and make public any advice received, in order to clarify whether:

a. information received from a child during the sacrament of reconciliation that they have been sexually abused is covered by the seal of confession
b. if a person confesses during the sacrament of reconciliation to perpetrating child sexual abuse, absolution can and should be withheld until they report themselves to civil authorities.

Response
Noted. The ACT Government notes this recommendation is a matter for the Catholic Church.

Recommendations to the Jehovah's Witness organisation

Recommendation 16.27
The Jehovah’s Witness organisation should abandon its application of the two-witness rule in cases involving complaints of child sexual abuse.

Response
Noted. The ACT Government notes this recommendation is a matter for the Jehovah’s Witness organisation.

Recommendation 16.28
The Jehovah’s Witness organisation should revise its policies so that women are involved in processes related to investigating and determining allegations of child sexual abuse.
Response

**Noted.** The ACT Government notes this recommendation is a matter for the Jehovah’s Witness organisation.

**Recommendation 16.29**
The Jehovah’s Witness organisation should no longer require its members to shun those who disassociate from the organisation in cases where the reason for disassociation is related to a person being a victim of child sexual abuse.

Response

**Noted.** The ACT Government notes this recommendation is a matter for the Jehovah’s Witness organisation.

Recommendations to Jewish institutions

**Recommendation 16.30**
All Jewish institutions in Australia should ensure that their complaint handling policies explicitly state that the halachic concepts of mesirah, moser and loshon horo do not apply to the communication and reporting of allegations of child sexual abuse to police and other civil authorities.

Response

**Noted.** The ACT Government notes this recommendation is a matter for Jewish institutions in Australia.

Recommendations to all religious institutions in Australia

**Recommendation 16.31**
All institutions that provide activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children, should implement the 10 Child Safe Standards identified by the Royal Commission.

Response

**Noted.** The ACT Government notes this recommendation is a matter for religious organisations in Australia.

**Recommendation 16.32**
Religious organisations should adopt the Royal Commission’s 10 Child Safe Standards as nationally mandated standards for each of their affiliated institutions.

Response

**Noted.** The ACT Government notes this recommendation is a matter for religious organisations in Australia.

**Recommendation 16.33**
Religious organisations should drive a consistent approach to the implementation of the Royal Commission’s 10 Child Safe Standards in each of their affiliated institutions.

Response

**Noted.** The ACT Government notes this recommendation is a matter for religious organisations in Australia.

**Recommendation 16.34**
Religious organisations should work closely with relevant state and territory oversight bodies to support the implementation of and compliance with the Royal Commission’s 10 Child Safe Standards in each of their affiliated institutions.
Response

Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.35

Religious institutions in highly regulated sectors, such as schools and out-of-home care service providers, should report their compliance with the Royal Commission’s 10 Child Safe Standards, as monitored by the relevant sector regulator, to the religious organisation to which they are affiliated.

Response

Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.36

Consistent with Child Safe Standard 1, each religious institution in Australia should ensure that its religious leaders are provided with leadership training both pre- and post-appointment, including in relation to the promotion of child safety.

Response

Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.37

Consistent with Child Safe Standard 1, leaders of religious institutions should ensure that there are mechanisms through which they receive advice from individuals with relevant professional expertise on all matters relating to child sexual abuse and child safety. This should include in relation to prevention, policies and procedures and complaint handling. These mechanisms should facilitate advice from people with a variety of professional backgrounds and include lay men and women.

Response

Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.38

Consistent with Child Safe Standard 1, each religious institution should ensure that religious leaders are accountable to an appropriate authority or body, such as a board of management or council, for the decisions they make with respect to child safety.

Response

Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.39

Consistent with Child Safe Standard 1, each religious institution should have a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse. The policy should cover all individuals who have a role in responding to complaints of child sexual abuse.

Response

Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.40

Consistent with Child Safe Standard 2, wherever a religious institution has children in its care, those children should be provided with age-appropriate prevention education that aims to increase their knowledge of child sexual abuse and build practical skills to assist in strengthening self-protective skills and strategies. Prevention
education in religious institutions should specifically address the power and status of people in religious ministry and educate children that no one has a right to invade their privacy and make them feel unsafe.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.41
Consistent with Child Safe Standard 3, each religious institution should make provision for family and community involvement by publishing all policies relevant to child safety on its website, providing opportunities for comment on its approach to child safety, and seeking periodic feedback about the effectiveness of its approach to child safety.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.42
Consistent with Child Safe Standard 5, each religious institution should require that candidates for religious ministry undergo external psychological testing, including psychosexual assessment, for the purposes of determining their suitability to be a person in religious ministry and to undertake work involving children.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.43
Each religious institution should ensure that candidates for religious ministry undertake minimum training on child safety and related matters, including training that:

a. equips candidates with an understanding of the Royal Commission’s 10 Child Safe Standards
b. educates candidates on:
   i. professional responsibility and boundaries, ethics in ministry and child safety
   ii. policies regarding appropriate responses to allegations or complaints of child sexual abuse, and how to implement these policies
   iii. how to work with children, including childhood development
   iv. identifying and understanding the nature, indicators and impacts of child sexual abuse.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.44
Consistent with Child Safe Standard 5, each religious institution should ensure that all people in religious or pastoral ministry, including religious leaders, are subject to effective management and oversight and undertake annual performance appraisals.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.45
Consistent with Child Safe Standard 5, each religious institution should ensure that all people in religious or pastoral ministry, including religious leaders, have professional supervision with a trained professional or pastoral supervisor who has a degree of independence from the institution within which the person is in ministry.
Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.46
Religious institutions which receive people from overseas to work in religious or pastoral ministry, or otherwise within their institution, should have targeted programs for the screening, initial training and professional supervision and development of those people. These programs should include material covering professional responsibility and boundaries, ethics in ministry and child safety.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.47
Consistent with Child Safe Standard 7, each religious institution should require that all people in religious or pastoral ministry, including religious leaders, undertake regular training on the institution’s child safe policies and procedures. They should also be provided with opportunities for external training on best practice approaches to child safety.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.48
Religious institutions which have a rite of religious confession for children should implement a policy that requires the rite only be conducted in an open space within the clear line of sight of another adult. The policy should specify that, if another adult is not available, the rite of religious confession for the child should not be performed.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.49
Codes of conduct in religious institutions should explicitly and equally apply to people in religious ministry and to lay people.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.50
Consistent with Child Safe Standard 7, each religious institution should require all people in religious ministry, leaders, members of boards, councils and other governing bodies, employees, relevant contractors and volunteers to undergo initial and periodic training on its code of conduct. This training should include:

a. what kinds of allegations or complaints relating to child sexual abuse should be reported and to whom
b. identifying inappropriate behaviour which may be a precursor to abuse, including grooming
c. recognising physical and behavioural indicators of child sexual abuse
d. that all complaints relating to child sexual abuse must be taken seriously, regardless of the perceived severity of the behaviour.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.
Recommendation 16.51
All religious institutions’ complaint handling policies should require that, upon receiving a complaint of child sexual abuse, an initial risk assessment is conducted to identify and minimise any risks to children.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.52
All religious institutions’ complaint handling policies should require that, if a complaint of child sexual abuse against a person in religious ministry is plausible, and there is a risk that person may come into contact with children in the course of their ministry, the person be stood down from ministry while the complaint is investigated.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.53
The standard of proof that a religious institution should apply when deciding whether a complaint of child sexual abuse has been substantiated is the balance of probabilities, having regard to the principles in Briginshaw v Briginshaw.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.54
Religious institutions should apply the same standards for investigating complaints of child sexual abuse whether or not the subject of the complaint is a person in religious ministry.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.55
Any person in religious ministry who is the subject of a complaint of child sexual abuse which is substantiated on the balance of probabilities, having regard to the principles in Briginshaw v Briginshaw, or who is convicted of an offence relating to child sexual abuse, should be permanently removed from ministry. Religious institutions should also take all necessary steps to effectively prohibit the person from in any way holding himself or herself out as being a person with religious authority.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.56
Any person in religious ministry who is convicted of an offence relating to child sexual abuse should:

a. in the case of Catholic priests and religious, be dismissed from the priesthood and/or dispensed from his or her vows as a religious
b. in the case of Anglican clergy, be deposed from holy orders
c. in the case of Uniting Church ministers, have his or her recognition as a minister withdrawn
d. in the case of an ordained person in any other religious denomination that has a concept of ordination, holy orders and/or vows, be dismissed, deposed or otherwise effectively have their religious status removed.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.57
Where a religious institution becomes aware that any person attending any of its religious services or activities is the subject of a substantiated complaint of child sexual abuse, or has been convicted of an offence relating to child sexual abuse, the religious institution should:

a. assess the level of risk posed to children by that perpetrator’s ongoing involvement in the religious community
b. take appropriate steps to manage that risk.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

Recommendation 16.58
Each religious organisation should consider establishing a national register which records limited but sufficient information to assist affiliated institutions identify and respond to any risks to children that may be posed by people in religious or pastoral ministry.

Response
Noted. The ACT Government notes this recommendation is a matter for religious organisations in Australia.

VOLUME 17, BEYOND THE ROYAL COMMISSION RECOMMENDATIONS

Monitoring and reporting on implementation

An initial government response

Recommendation 17.1
The Australian Government and state and territory governments should each issue a formal response to this Final Report within six months of it being tabled, indicating whether our recommendation are accepted, accepted in principle, rejected or subject to further consideration.

Response

Recommendation 17.2
The Australian Government and state and territory governments should, beginning 12 months after this Final Report is tabled, report on their implementation of the Royal Commission’s recommendations made in this Final Report and its earlier Working With Children Checks, Redress and civil litigation and Criminal justice reports, through five consecutive annual reports tabled before their respective parliaments.
Response

Accept. The ACT Government agrees to report on progress in implementing the Royal Commission’s recommendations from the Final Report, the Working with Children Checks, Redress and civil litigation and Criminal Justice reports.

These progress reports will be tabled before the ACT Legislative Assembly. Information will also be shared with the public with a focus on ensuring information is accessible to survivors, families, children and institutions.

Recommendation 17.3

Major institutions and peak bodies of institutions that engage in child-related work should, beginning 12 months after this Final Report is tabled, report on their implementation of the Royal Commission’s recommendations to the National Office for Child Safety through five consecutive annual reports. The National Office for Child Safety should make these reports publicly available. At a minimum, the institutions reporting should include those that were the subject of the Royal Commission’s institutional review hearings held from 5 December 2016 to 10 March 2017.

Response

Noted. The ACT Government notes this recommendation is for major non-government institutions and peak bodies engaged in child-related work.

10-year review

Recommendation 17.4

The Australian Government should initiate a review to be conducted 10 years after the tabling of this Final Report. This review should:

a. establish the extent to which the Royal Commission’s recommendations have been implemented 10 years after the tabling of the Final Report
b. examine the extent to which the measures taken in response to the Royal Commission have been effective in preventing child sexual abuse, improving the responses of institutions to child sexual abuse and ensuring that victims and survivors of child sexual abuse obtain justice, treatment and support

c. advise on what further steps should be taken by governments and institutions to ensure continuing improvement in policy and service delivery in relation to child sexual abuse in institutional contexts.

Response

Noted. The ACT Government notes that this recommendations falls within the jurisdiction of the Commonwealth.

Preserving the records of the Royal Commission

Recommendation 17.5

The Australian Government should host and maintain the Royal Commission website for the duration of the national redress scheme for victims and survivors of institutional child sexual abuse.

Response

Noted. The ACT Government notes that this recommendations falls within the jurisdiction of the Commonwealth.
A national memorial to victims and survivors of child sexual abuse in institutional contexts

Recommendation 17.6
A national memorial should be commissioned by the Australian Government for victims and survivors of child sexual abuse in institutional contexts. Victims and survivors should be consulted on the memorial design and it should be located in Canberra.

Response
Noted. The ACT Government notes that this recommendations falls within the jurisdiction of the Commonwealth.
ACT GOVERNMENT RESPONSE TO RECOMMENDATIONS CONTAINED WITHIN THE WORKING WITH CHILDREN CHECKS REPORT (2015)

Recommendation 1
State and territory governments should:

a. within 12 months of the publication of this report, amend their WWCC laws to implement the standards identified in this report
b. once the standards are implemented, obtain agreement from the Council of Australian Governments (COAG), or a relevant ministerial council, before deviating from or altering the standards in this report, adopting changes across all jurisdictions
c. within 18 months from the publication of this report, amend their WWCC laws to enable clearances from other jurisdictions to be recognised and accepted.

Response
Accept in principle. All Australian Governments have agreed and are working toward implementation.

Recommendation 2
The South Australian Government should, within 12 months of the publication of this report, replace its criminal history assessments with a WWCC scheme that incorporates the standards set out in this report.

Response
Noted. The ACT Government notes the recommendation falls within the jurisdiction of South Australia.

Recommendation 3
The Commonwealth Government should, within 12 months of the publication of this report:

a. facilitate a national model for WWCCs by:
   i. establishing a centralised database, operated by CrimTrac, that is readily accessible to all jurisdictions to record WWCC decisions
   ii. together with state and territory governments, identifying consistent terminology to capture key WWCC decisions (for example, refusal, cancellation, suspension and grant) for recording into the centralised database
   iii. enhancing CrimTrac’s capacity to continuously monitor WWCC cardholders’ national criminal history records
b. explore avenues to make international records more accessible for the purposes of WWCCs
c. identify and require all Commonwealth Government personnel, including contractors, undertaking child-related work, as defined by the child-related work standards set out in this report, to obtain WWCCs.

Response
Accept in principle. The ACT Government supports the intent of this recommendation and is participating in the development of a national approach to standards for WWCC through an Interjurisdictional Working Group chaired by the Commonwealth Attorney-General’s Department. This work will guide the approach to be agreed locally.
Recommendation 4
The Commonwealth, state and territory governments should, within 12 months of the publication of this report:

a. agree on a set of standards or guidelines to enhance the accurate and timely recording of information by state and territory police into CrimTrac’s system

b. review the information they have agreed to exchange under the National Exchange of Criminal History Information for People Working with Children (ECHIPWC), and Recommendations 6 Working with Children Checks Royal Commission into Institutional Responses to Child Sexual Abuse 7 establish a set of definitions for the key terms used to describe the different types of criminal history records so they are consistent across the jurisdictions (these key terms include pending charges, non-conviction charges and information about the circumstances of an offence)

c. take immediate action to record into CrimTrac’s system historical criminal records that are in paper form or on microfilm and which are not currently identified by CrimTrac’s initial database search

d. once these historical criminal history records are entered into CrimTrac’s system by all jurisdictions, check all WWCC cardholders against them through the expanded continuous monitoring process.

Response
Accept in principle. The ACT Government supports the intent of this recommendation and is participating in ECHIPWC work to establish definitions and national harmonisation.

The ACT Government is also participating in the development of a national approach to standards for WWCC through the Interjurisdictional Working Group. This work will guide the approach to be agreed locally.

Further analysis will be required to consider how best to incorporate historical records and to allow for continuous monitoring of WWVP registrations.

Recommendation 5
State and territory governments should amend their WWCC laws to incorporate a consistent and simplified definition of child-related work, in line with the recommendations below.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation and is participating in the development of a national approach to WWCC standards through the Interjurisdictional Working Group. This work will guide the approach to be agreed locally, noting:

• the broader scope of the ACT Scheme which includes vulnerable people; and
• the ACT scheme captures employees aged 16 and older.

Recommendation 6
State and territory governments should amend their WWCC laws to provide that work must involve contact between an adult and one or more children to qualify as child-related work.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation and is participating in the development of a national approach to WWCC standards through the Interjurisdictional Working Group. This work will guide the approach to be agreed locally, noting:

• the broader scope of the ACT Scheme which includes vulnerable people; and
• the ACT scheme captures employees aged 16 and older.

Recommendation 7
State and territory governments should:
a. amend their WWCC laws to provide that the phrase ‘contact with children’ refers to physical contact, face-to-face contact, oral communication, written communication or electronic communication
b. through COAG, or a relevant ministerial council, agree on standard definitions for each kind of contact and amend their WWCC laws to incorporate those definitions.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation and is participating in the development of a national approach to WWCC standards through an Interjurisdictional Working Group. This work will guide the approach to be agreed locally, noting further work is required to incorporate electronic communication.

Recommendation 8
State and territory governments should:

a. amend their WWCC laws to provide that contact with children must be a usual part of, and more than incidental to, the child-related work
b. through COAG, or a relevant ministerial council, agree on standard definitions for the phrases ‘usual part of work’ and ‘more than incidental to the work’, and amend their WWCC laws to incorporate those definitions.

Response
Accept. The ACT Government accepts all elements of the recommendation noting that the ACT Government is participating in the development of a national approach to WWCC standards through an Interjurisdictional Working Group.

Recommendation 9
State and territory governments should amend their WWCC laws to specify that it is irrelevant whether the contact with children is supervised or unsupervised.

Response
For further consideration. The ACT Government will undertake further analysis and consultation with key stakeholders and provide a further response at the annual update.

Recommendation 10
State and territory governments should amend their WWCC laws to provide that a person is engaged in child-related work if they are engaged in the work in any capacity and whether or not for reward.

Response
Accept. The ACT Government accepts all elements of the recommendation noting that the ACT Scheme includes volunteers.

Recommendation 11
State and territory governments should amend their WWCC laws to provide that work that is undertaken under an arrangement for a personal or domestic purpose is not child-related, even if it would otherwise be so considered.

Response
Accept in principle. The ACT Government supports the intent of the recommendation and is participating in the development of a national approach to WWCC standards through an Interjurisdictional Working Group, noting that further work is required to improve consistency in definitions, which may require legislative amendment.
**Recommendation 12**

State and territory governments should amend their WWCC laws to:

- define the following as child-related work:
  - accommodation and residential services for children, including overnight excursions or stays
  - activities or services provided by religious leaders, officers or personnel of religious organisations
  - childcare or minding services
  - child protection services, including out-of-home care (OOHC)
  - clubs and associations with a significant membership of, or involvement by, children
  - coaching or tuition services for children
  - commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions
  - disability services for children
  - education services for children
  - health services for children
  - justice and detention services for children, including immigration detention facilities where children are regularly detained
  - transport services for children, including school crossing services
  - other work or roles that involve contact with children that is a usual part of, and more than incidental to, the work or roles.

- require WWCCs for adults residing in the homes of authorised carers of children

- remove all other remaining categories of work or roles

**Response**

**Accept in principle.** The ACT Government supports the intent of the recommendation, noting that:

- further analysis is required with respect to recommendation 12(a)(x); and
- the scope of the ACT Scheme includes vulnerable people. This means that the ACT Government cannot accept recommendation 12(c) as some work will relate to vulnerable people and they may not be child-related.

**Recommendation 13**

State and territory governments, through COAG, or a relevant ministerial council, should agree on standard definitions for each category of child-related work and amend their WWCC laws to incorporate those definitions.

**Response**

**For further consideration.** The ACT Government will undertake further analysis and consultation with key stakeholders and provide a further response at the annual update. Further work is required to improve consistency in definitions, which may require legislative amendment.

**Recommendation 14**

State and territory governments should amend their WWCC laws to:

- exempt:
  - children under 18 years of age, regardless of their employment status
  - employers and supervisors of children in a workplace, unless the work is child-related
  - people who engage in child-related work for seven days or fewer in a calendar year, except in respect of overnight excursions or stays
  - people who engage in child-related work in the same capacity as the child v. police officers, including members of the Australian Federal Police
v. parents or guardians who volunteer for services or activities that are usually provided to their children, in respect of that activity, except in respect of:
   (a) overnight excursions or stays
   (b) providing services to children with disabilities, where the services involve close, personal contact with those children
b. remove all other exemptions and exclusions
c. prohibit people who have been denied a WWCC, and subsequently not granted one, from relying on any exemption.

Response
For further consideration. The ACT Government is participating in the development of a national approach WWCC standards through an Interjurisdictional Working Group. This work will guide the approach to be agreed locally, noting that:

- the scope of the ACT Scheme includes exemptions and exclusions with respect to vulnerable people;
- the ACT Scheme captures employees aged 16 and older; and
- the ACT Scheme is consistent with recommendation 14(c).

Recommendation 15
State and territory governments, through COAG, or a relevant ministerial council, should agree on standard definitions for each exemption category and amend their WWCC laws to incorporate those definitions.

Response
For further consideration. The ACT Government will undertake further analysis and consultation with key stakeholders and provide a further response at the annual update. Further work is required to improve consistency in definitions, which may require legislative amendment.

Recommendation 16
State and territory governments should amend their WWCC laws to incorporate a consistent and simplified list of offences, including:

a. engaging in child-related work without holding, or having applied for, a WWCC
b. engaging a person in child-related work without them holding, or having applied for, a WWCC
c. providing false or misleading information in connection with a WWCC application
d. applicants and/or WWCC cardholders failing to notify screening agencies of relevant changes in circumstances
e. unauthorised disclosure of information gathered during the course of a WWCC.

Response
Accept. The ACT Government accepts all elements of the recommendation, noting that work is currently underway to include new offence provisions for:

- applicants who fail to disclose a charge, conviction or finding of guilt for relevant offence; and
- registered persons who fail to disclose a charge, conviction or finding of guilt for relevant offence.

Recommendation 17
State and territory governments should amend their WWCC laws to include a standard definition of criminal history, for WWCC purposes, comprised of:

a. convictions, whether or not spent b. findings of guilt that did not result in a conviction being recorded
   a. charges, regardless of status or outcome, including:
      i. pending charges – that is, charges laid but not finalised
      ii. charges disposed of by a court, or otherwise, other than by way of conviction (for example, withdrawn, set aside or dismissed)
iii. charges that led to acquittals or convictions that were quashed or otherwise over-turned on appeal for all offences, irrespective of whether or not they concern the person’s history as an adult or a child and/or relate to offences outside Australia.

Response

Accept. The ACT Government accepts all elements of the recommendation and is participating in the development of a national approach to WWCC standards through an Interjurisdictional Working Group.

Recommendation 18

State and territory governments should amend their WWCC laws to require police services to provide screening agencies with records that meet the definition of criminal history records for WWCC purposes and any other available information relating to the circumstances of such offences.

Response

Accept. The ACT Government accepts all elements of the recommendation, noting that the ACT Government will:

- participate in the development of a national approach to standards for WWCC through an AGD-led Interjurisdictional Working Group. This work will guide the approach to be agreed locally.
- work with stakeholders including ACT Policing to ensure the ACT aligns to WWCC schemes nationwide.

Recommendation 19

State and territory governments should amend their WWCC laws to:

a. require that relevant disciplinary and/or misconduct information is checked for all WWCC applicants
b. include a standard definition of disciplinary and/or misconduct information that encompasses disciplinary action and/or findings of misconduct where the conduct was against, or involved, a child, irrespective of whether this information arises from reportable conduct schemes or other systems or bodies responsible for disciplinary or misconduct proceedings
c. require the bodies responsible for the relevant disciplinary and/or misconduct information to notify their respective screening agencies of relevant disciplinary and/or misconduct information that meets the definition.

Response

Accept in principle. The ACT Government supports the intent of the recommendation and will need to:

- undertake further work to define relevancy given that the ACT is a Human Rights jurisdiction;
- continue work to ensure the scheme fully aligns with the Reportable Conduct Scheme; and
- undertake legislative change to include new offence provisions as outlined in the response to Recommendation 16, to enable the Commissioner to take enforcement action if an individual fails to disclose new relevant information during the application process or while holding an active registration.

Recommendation 20

State and territory governments should amend their WWCC laws to respond to records in the same way, specifically that:

a. the absence of any relevant criminal history, disciplinary or misconduct information in an applicant’s history leads to an automatic grant of a WWCC
b. any conviction and/or pending charge in an applicant’s criminal history for the following categories of offence leads to an automatic WWCC refusal, provided the applicant was at least 18 years old at the time of the offence:
   i. murder of a child
   ii. manslaughter of a child
   iii. indecent or sexual assault of a child
iv. child pornography–related offences v. incest where the victim was a child
v. abduction or kidnapping of a child
vi. animal-related sexual offences.

c. all other relevant criminal, disciplinary or misconduct information should trigger an assessment of the person’s suitability for a WWCC (consistent with the risk assessment factors set out below).

Response

Accept. The ACT Government accepts all elements of the recommendation, noting it has agreed to implement the recommendations made by the Legislative Review of the Working with Vulnerable People (Background Checking) Act 2011, subject to further consultation with the ACT community. This would include legislative change to establish disqualifying offences that will exclude people from applying for the ACT Scheme who present an unacceptable level of risk to vulnerable people due to prior criminal history.

Recommendation 21

State and territory governments should amend their WWCC laws to specify that relevant criminal records for the purposes of recommendation 20(c) include but are not limited to the following:

a. juvenile records and/or non-conviction charges for the offence categories specified in recommendation 20(b)
b. sexual offences, regardless of whether the victim was a child and including offences not already covered in recommendation 20(b)
c. violent offences, including assaults, arson and other fire-related offences, regardless of whether the victim was a child and including offences not already covered in recommendation 20(b)
d. child welfare offences
e. offences involving cruelty to animals
f. drug offences.

Response

Accept. The ACT Government accepts all elements of the recommendation, noting that no legislative change is anticipated and work is underway to improve risk assessments.

Recommendation 22

The Commonwealth Government, through COAG, or a relevant ministerial council, should take a lead role in identifying the specific criminal offences that fall within the categories specified in recommendations 20(b) and 21.

Response

Accept in principle. The ACT Government is participating in the development of a national approach to standards for WWCC through the Interjurisdictional Working Group. This work will guide the approach to be agreed locally.

Recommendation 23

State and territory governments should amend their WWCC laws to specify that the criteria for assessing risks to children include:

a. the nature, gravity and circumstances of the offence and/or misconduct, and how this is relevant to children or child-related work
b. the length of time that has passed since the offence and/or misconduct occurred
c. the age of the child
d. the age difference between the person and the child
e. the person’s criminal and/or disciplinary history, including whether there is a pattern of concerning conduct
f. all other relevant circumstances in respect of their history and the impact on their suitability to be engaged in child-related work.

Response
Accept. The ACT Government accepts all elements of the recommendation, noting that no legislative change is anticipated and work is underway to improve risk assessments.

Recommendation 24
State and territory governments should amend their WWCC laws to expressly provide that, in weighing up the risk assessment criteria, the paramount consideration must always be the best interests of children, having regard to their safety and protection.

Response
Accept. The ACT Government accepts all elements of the recommendation, noting that no legislative change is anticipated and work is underway to improve risk assessments.

Recommendation 25
State and territory governments should amend their WWCC laws to permit WWCC applicants to begin child-related work before the outcome of their application is determined, provided the safeguards listed below are introduced.

Applicants
a. applicants must submit a WWCC application to the appropriate screening agency before beginning child-related work and not withdraw the application while engaging in child-related work
b. applicants must provide a WWCC application receipt to their employers before beginning child-related work

Other safeguards
c. employers must cite application receipts, record application numbers and verify applications with the relevant screening agency
d. there must be capacity to impose interim bars on applicants where records are identified that may indicate a risk and require further assessment.

Response
Accept. The ACT Government accepts all elements of the recommendation, noting that:

- the ACT Scheme currently does not allow applicants to begin a regulated activity prior to the outcome of an assessment with the necessary safeguards in place to protect vulnerable people, including the use of receipts; and
- the risk to vulnerable people is currently mitigated by the ACT Scheme by imposing conditions or issuing a negative notice to people identified as posing an unacceptable level of risk to the Scheme.

Recommendation 26
State and territory governments that do not have an online WWCC processing system should establish one.

Response
Accept in principle. The ACT Government supports the intent of the recommendation and has established an online WWVP platform as part of Access Canberra.
Recommendation 27
State and territory governments should process WWCC applications within five working days, and no longer than 21 working days for more complex cases.

Response
Noted. The ACT Government supports the intent of the recommendation, noting that:
- on average, the time to process applications is 18 days; and
- a criminal history check may take up to 20 working days to complete.

Recommendation 28
All state and territory governments should amend their WWCC laws to specify that:

a. WWCC decisions are based on the circumstances of the individual and are detached from the employer the person is seeking to work for, or the role or organisation the person is seeking to work in
b. the outcome of a WWCC is either that a clearance is issued or it is not; there should be no conditional or different types of clearances
c. volunteers and employees are issued with the same type of clearance.

Response
For further consideration. The ACT Government is exploring options to improve the operation of its scheme, noting it protects other vulnerable people in addition to children. Further, the ACT notes:
- the ACT Scheme allows decisions to be made within the context of the applicant’s employer and their role
- the ACT Scheme allows for conditional and role-based registration to ensure the scheme is compliant with the Human Rights Act 2004.

Recommendation 29
All state and territory governments should ensure that any person the subject of an adverse WWCC decision can appeal to a body independent of the WWCC screening agency, but within the same jurisdiction, for a review of the decision, except persons who have been convicted of one of the following categories of offences:

- murder of a child
- indecent or sexual assault of a child
- child pornography-related offences
- incest where the victim was a child

and

a. received a sentence of full time custody for the conviction, such persons being permanently excluded from an appeal
or

b. by virtue of that conviction, the person is subject to an order that imposes any control on the person’s conduct or movement, or excludes the person from working with children, such persons being excluded from an appeal for the duration of that order.

Notwithstanding the above any person may bring an appeal in which they allege that offences have been mistakenly recorded as applying to that person.

Response
Accept. The ACT Government accepts all elements of the recommendation, noting it has agreed to implement the recommendations made by the Legislative Review of the Working with Vulnerable People (Background
Checking) Act 2011, subject to further consultation with the ACT community. In doing so, the ACT Government will:

- consider and address any relevant human rights implications;
- undertake legislative change to establish disqualifying offences that will exclude people from applying for the ACT Scheme who present an unacceptable level of risk to vulnerable people due to prior criminal history.

Recommendation 30
Subject to the implementation of the standards set out in this report, all state and territory governments should amend their WWCC laws to enable WWCCs from other jurisdictions to be recognised and accepted.

Response
Accept in principle. The ACT Government supports the intent of the recommendation, noting that:

- participate in the development of a national approach to WWCC standards through an Interjurisdictional Working Group;
- work with other jurisdictions to increase information sharing within and between jurisdictions; and
- prioritise collaboration with other jurisdictions to promote legislative and administrative arrangements for information sharing.

Recommendation 31
Subject to the commencement of continuous monitoring of national criminal history records, state and territory governments should amend their WWCC laws to specify that:

a. WWCCs are valid for five years
b. employers and WWCC cardholders engaged in child-related work must inform the screening agency when a person commences or ceases being engaged in specific child-related work
c. screening agencies are required to notify a person’s employer of any change in the person’s WWCC status.

Response
Accept in principle. The ACT Government supports the intent of this recommendation, noting that:

- the ACT is unable to introduce continuous monitoring at this time;
- legislative amendments are currently in development to expand the registration period to 5 years and establish the ability to notify an employer of any change to a person’s WWVP status;
- The ACT Scheme is partially portable. This means:
  o a registered person may take their registration to a new employer;
  o a person with conditional or role-based registration is unable to port their registration to a new employer;
  o a role-based registered person must notify Access Canberra when they cease work with employer;
  o the ACT Government will work with stakeholders to identify options, and progress legislative amendments if required.

Recommendation 32
All state and territory governments should grant screening agencies, or another suitable regulatory body, the statutory power to monitor compliance with WWCC laws.

Response
Accept. The ACT Government accepts all elements of the recommendation, noting that the Commissioner may monitor registered people for the purposes of compliance with the WWVP Act.
**Recommendation 33**

All state and territory governments should ensure their WWCC laws include powers to compel the production of relevant information for the purposes of compliance monitoring.

**Response**

Accept. The ACT Government accepts all elements of the recommendation, noting that the Commissioner for Fair Trading may request information or advice from an entity that is relevant to whether a registered person continues to pose no risk or an acceptable risk of harm to a vulnerable person. An entity must, as far as practicable, comply with the request.

**Recommendation 34**

The Commonwealth, state and territory governments should:

a. through COAG, or a relevant ministerial council, adopt the standards and set a timeframe within which all jurisdictions must report back to COAG, or a relevant ministerial council, on implementation

b. establish a process whereby changes to the standards or to state and territory schemes need to be agreed to by COAG, or a relevant ministerial council, and must be adopted across all jurisdictions.

**Response**

Accept in principle. The ACT Government is participating in the development of a national approach to standards for WWCC through an AGD-led Interjurisdictional Working Group. This work will guide the approach to be agreed locally.

**Recommendation 35**

The Commonwealth, state and territory governments should provide an annual report to COAG, or a relevant ministerial council, for three years following the publication of this report, to be tabled in the parliaments of all nine jurisdictions, detailing their progress in implementing the recommendations in this report and achieving a nationally consistent approach to WWCCs.

**Response**

Accept in principle. The ACT Government is participating in the development of a national approach. This work will guide the approach to be agreed locally.

**Recommendation 36**

COAG, or a relevant ministerial council, should ensure a review is made after three years of the publication of this report, of the state and territory governments’ progress in achieving consistency across the WWCC schemes, with a view to assessing whether they have implemented the Royal Commission’s recommendations.

**Response**

Accept in principle. The ACT Government is participating in the development of a national approach. This work will guide the approach to be agreed locally.
ACT GOVERNMENT RESPONSE TO RECOMMENDATIONS CONTAINED IN THE REDRESS AND CIVIL LITIGATION REPORT (2015)

Justice for victims

Recommendation 1
A process for redress must provide equal access and equal treatment for survivors – regardless of the location, operator, type, continued existence or assets of the institution in which they were abused – if it is to be regarded by survivors as being capable of delivering justice.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the National Redress Scheme for Institutional Child Sexual Abuse (the national scheme) which is designed to address this recommendation.

Redress elements and principles

Recommendation 2
Appropriate redress for survivors should include the elements of:

a. direct personal response
b. counselling and psychological care
c. monetary payments.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 3
Funders or providers of existing support services should maintain their current resourcing for existing support services, without reducing or diverting resources in response to the Royal Commission’s recommendations on redress and civil litigation.

Response
Accept. The ACT Government accepts this recommendation. The redress scheme is being funded independently of existing support services.

Recommendation 4
Any institution or redress scheme that offers or provides any element of redress should do so in accordance with the following principles:

a. Redress should be survivor focused.
b. There should be a ‘no wrong door’ approach for survivors in gaining access to redress.
c. All redress should be offered, assessed and provided with appropriate regard to what is known about the nature and impact of child sexual abuse – and institutional child sexual abuse in particular – and to the cultural needs of survivors.

All redress should be offered, assessed and provided with appropriate regard to the needs of particularly vulnerable survivors.
Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Direct personal response

Recommendation 5

Institutions should offer and provide a direct personal response to survivors in accordance with the following principles:

a. Re-engagement between a survivor and an institution should only occur if, and to the extent that, a survivor desires it.

b. Institutions should make clear what they are willing to offer and provide by way of direct personal response to survivors of institutional child sexual abuse. Institutions should ensure that they are able to provide the direct personal response they offer to survivors.

c. At a minimum, all institutions should offer and provide on request by a survivor:
   i. an apology from the institution
   ii. the opportunity to meet with a senior institutional representative and receive an acknowledgement of the abuse and its impact on them
   iii. an assurance or undertaking from the institution that it has taken, or will take, steps to protect against further abuse of children in that institution.

d. In offering direct personal responses, institutions should try to be responsive to survivors’ needs.

e. Institutions that already offer a broader range of direct personal responses to survivors and others should consider continuing to offer those forms of direct personal response.

f. Direct personal responses should be delivered by people who have received some training about the nature and impact of child sexual abuse and the needs of survivors, including cultural awareness and sensitivity training where relevant.

g. Institutions should welcome feedback from survivors about the direct personal response they offer and provide.

Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 6

Those who operate a redress scheme should offer to facilitate the provision of a written apology, a written acknowledgement and/or a written assurance of steps taken to protect against further abuse for survivors who seek these forms of direct personal response but who do not wish to have any further contact with the institution.

Response

Accept in principle. The ACT Government accepts the intent of this recommendation and has committed to join the national scheme in the interest of equal access and equal treatment of survivors.

Recommendation 7

Those who operate a redress scheme should facilitate the provision of these forms of direct personal response by conveying survivors’ requests for these forms of direct personal response to the relevant institution.

Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.
Recommendation 8
Institutions should accept a survivor’s choice of intermediary or representative to engage with the institution on behalf of the survivor, or with the survivor as a support person, in seeking or obtaining a direct personal response.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Counselling and psychological care

Recommendation 9
Counselling and psychological care should be supported through redress in accordance with the following principles:

a. counselling and psychological care should be available throughout a survivor’s life
b. counselling and psychological care should be available on an episodic basis
c. survivors should be allowed flexibility and choice in relation to counselling and psychological care
d. there should be no fixed limits on the counselling and psychological care provided to a survivor
e. without limiting survivor choice, counselling and psychological care should be provided by practitioners with appropriate capabilities to work with clients with complex trauma
f. treating practitioners should be required to conduct ongoing assessment and review to ensure treatment is necessary and effective. If those who fund counselling and psychological care through redress have concerns about services provided by a particular practitioner, they should negotiate a process of external review with that practitioner and the survivor. Any process of assessment and review should be designed to ensure it causes no harm to the survivor
g. counselling and psychological care should be provided to a survivor’s family members if necessary for the survivor’s treatment.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation and will deliver counselling and psychological care services to survivors in accordance with the principles outlined in the recommendation. Further, survivors’ family members may access counselling and psychological care through existing services, including Victim Support ACT.

State and territory governments

Recommendation 10
To facilitate the provision of counselling and psychological care by practitioners with appropriate capabilities to work with clients with complex trauma:

a. the Australian Psychological Society should lead work to design and implement a public register to enable identification of practitioners with appropriate capabilities to work with clients with complex trauma
b. the public register and the process to identify practitioners with appropriate capabilities to work with clients with complex trauma should be designed and implemented by a group that includes representatives of the Australian Psychological Society, the Australian Association of Social Workers, the Royal Australian and New Zealand College of Psychiatrists, Adults Surviving Child Abuse, a specialist sexual assault service, and a non-government organisation with a suitable understanding of the counselling and
c. psychological care needs of Aboriginal and Torres Strait Islander survivors
d. the funding for counselling and psychological care under redress should be used to provide financial support for the public register if required

e. those who operate a redress scheme should ensure that information about the public register is made available to survivors who seek counselling and psychological care through the redress scheme.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation but notes the national scheme may differ in some respects.

Recommendation 11
Those who administer support for counselling and psychological care through redress should ensure that counselling and psychological care are supported through redress in accordance with the following principles:

a. Counseling and psychological care provided through redress should supplement, and not compete with, existing services.

b. Redress should provide funding for counselling and psychological care services and should not itself provide counselling and psychological care services.

c. Redress should fund counselling and psychological care as needed by survivors rather than providing a lump sum payment to survivors for their future counselling and psychological care needs.

Response
Accept. The ACT Government accepts this recommendation. The ACT will elect to provide counselling and psychological care directly to survivors resident in the ACT, rather than providing lump sum payments.

Recommendation 12
The Australian Government should remove any restrictions on the number of sessions of counselling and psychological care, whether in a particular period of time or generally, for which Medicare funding is available for survivors who are assessed as eligible for redress under a redress scheme.

Response
Noted. The ACT Government notes this recommendation falls within the jurisdiction of the Commonwealth.

Recommendation 13
The Australian Government should expand the range of counselling and psychological care services for which Medicare funding is available for survivors who are assessed as eligible for redress under a redress scheme to include longer-term interventions that are suitable for treating complex trauma, including through non-cognitive approaches.

Response
Noted. The ACT Government notes this recommendation falls within the jurisdiction of the Commonwealth.

Recommendation 14
The funding obtained through redress to ensure that survivors’ needs for counselling and psychological care are met should be used to fund measures that help to meet those needs, including:

a. measures to improve survivors’ access to Medicare by:

i. funding case management style support to help survivors to understand what is available through the Better Access initiative and Access to Allied Psychological Services and why a GP diagnosis and referral is needed

ii. maintaining a list of GPs who have mental health training, are familiar with the existence of the redress scheme and are willing to be recommended to survivors as providers of GP services, including referrals, in relation to counselling and psychological care
iii. supporting the establishment and use of the public register that provides details of practitioners who have been identified as having appropriate capabilities to treat survivors and who are registered practitioners for Medicare purposes

b. providing funding to supplement existing services provided by state-funded specialist services to increase the availability of services and reduce waiting times for survivors

c. measures to address gaps in expertise and geographical and cultural gaps by:

i. supporting the establishment and promotion of the public register that provides details of practitioners who have been identified as having appropriate capabilities to treat survivors

ii. funding training in cultural awareness for practitioners who have the capabilities to work with survivors but have not had the necessary training or experience in working with Aboriginal and Torres Strait Islander survivors

iii. funding rural and remote practitioners, or Aboriginal and Torres Strait Islander practitioners, to obtain appropriate capabilities to work with survivors

iv. providing funding to facilitate regional and remote visits to assist in establishing therapeutic relationships; these could then be maintained largely by online or telephone counselling. There could be the potential to fund additional visits if required from time to time

d. providing funding for counselling and psychological care for survivors whose needs for counselling and psychological care cannot otherwise be met, including by paying reasonable gap fees charged by practitioners if survivors are unable to afford these fees.

Response

Accept in principle. The ACT Government accepts the intent of this recommendation and notes its counselling and psychological care program will ensure that survivors can access appropriately qualified counsellors, many of whom are registered to deliver services through the Medicare Better Access initiative. The ACT Governments also notes it has no regional or remote areas within its jurisdiction.

Elements b) and d) are fully accepted, and the ACT Government will work with local and interjurisdictional stakeholders to achieve the outcomes sought in a) and c).

Monetary Payments

Recommendation 15

The purpose of a monetary payment under redress should be to provide a tangible recognition of the seriousness of the hurt and injury suffered by a survivor.

Response

Accept. The ACT Government accepts this recommendation.

Recommendation 16

Monetary payments should be assessed and determined by using the following matrix:

<table>
<thead>
<tr>
<th>Factor</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Severity of abuse</td>
<td>1-40</td>
</tr>
<tr>
<td>Impact of abuse</td>
<td>1-40</td>
</tr>
<tr>
<td>Additional elements</td>
<td>1-20</td>
</tr>
</tbody>
</table>

Response

Accept in principle. The ACT Government accepts the intent of this recommendation and notes it has committed to join the national scheme which is designed to address this recommendation.

Recommendation 17

The ‘Additional elements’ factor should recognise the following elements:
a. whether the applicant was in state care at the time of the abuse – that is, as a ward of the state or under the guardianship of the relevant Minister or government agency
b. whether the applicant experienced other forms of abuse in conjunction with the sexual abuse – including physical, emotional or cultural abuse or neglect
c. whether the applicant was in a ‘closed’ institution or without the support of family or friends at the time of the abuse
d. whether the applicant was particularly vulnerable to abuse because of his or her disability.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation and notes it has committed to join the national scheme which is designed to address this recommendation.

Recommendation 18
Those establishing a redress scheme should commission further work to develop this matrix and the detailed assessment procedures and guidelines required to implement it:

a. in accordance with our discussion of the factors
b. taking into account expert advice in relation to institutional child sexual abuse, including child development, medical, psychological, social and legal perspectives
c. with the benefit of actuarial advice in relation to the actuarial modelling on which the level and spread of monetary payments and funding expectations are based.

Response
Accept. The ACT Government accepts this recommendation and notes the Commonwealth Government has developed the assessment framework in consultation with stakeholders, including government, institutions and survivor groups.

Recommendation 19
The appropriate level of monetary payments under redress should be:

a. a minimum payment of $10,000
b. a maximum payment of $200,000 for the most severe case
c. an average payment of $65,000.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation. The ACT notes the national scheme offers a maximum payment of $150,000 for the most severe cases and higher estimated average payments than recommended. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment of survivors.

Recommendation 20
Monetary payments should be assessed and paid without any reduction to repay past Medicare expenses, which are to be repaid (if required) as part of the administration costs of a redress scheme.

Response
Noted. The ACT Government notes this recommendation falls within the jurisdiction of the Commonwealth.

Recommendation 21
Consistent with our view that monetary payments under redress are not income for the purposes of social security, veterans’ pensions or any other Commonwealth payments, those who operate a redress scheme should seek a ruling to this effect to provide certainty for survivors.
Response

Noted. The ACT Government notes this recommendation falls within the jurisdiction of the Commonwealth.

Recommendation 22

Those who operate a redress scheme should give consideration to offering monetary payments by instalments at the option of eligible survivors, taking into account the likely demand for this option from survivors and the cost to the scheme of providing it.

Response

Accept in principle. The ACT Government accepts the intent of this recommendation, but notes the national scheme may differ in some respects. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment of survivors.

Recommendation 23

Survivors who have received monetary payments in the past – whether under other redress schemes, statutory victims of crime schemes, through civil litigation or otherwise – should be eligible to be assessed for a monetary payment under redress.

Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 24

The amount of the monetary payments that a survivor has already received for institutional child sexual abuse should be determined as follows:

a. monetary payments already received should be counted on a gross basis, including any amount the survivor paid to reimburse Medicare or in legal fees
b. no account should be taken of the cost of providing any services to the survivor, such as counselling services
c. any uncertainty as to whether a payment already received related to the same abuse for which the survivor seeks a monetary payment through redress should be resolved in the survivor’s favour.

Response

Accept in principle. The ACT Government accepts the intent of this recommendation, but notes the national scheme may differ in some respects. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment of survivors.

Recommendation 25

The monetary payments that a survivor has already received for institutional child sexual abuse should be taken into account in determining any monetary payment under redress by adjusting the amount of the monetary payments already received for inflation and then deducting that amount from the amount of the monetary payment assessed under redress.

Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.
Redress structure and funding

Redress scheme structure

Recommendation 26
In order to provide redress under the most effective structure for ensuring justice for survivors, the Australian Government should establish a single national redress scheme.

Response
Noted. The ACT Government notes this recommendation falls within the jurisdiction of the Commonwealth.

Recommendation 27
If the Australian Government does not establish a single national redress scheme, as the next best option for ensuring justice for survivors, each state and territory government should establish a redress scheme covering government and non-government institutions in the relevant state or territory.

Response
Noted. The ACT Government notes this recommendation, and that the Commonwealth has established a national redress scheme.

Recommendation 28
The Australian Government should determine and announce by the end of 2015 that it is willing to establish a single national redress scheme.

Response
Noted. The ACT Government notes this recommendation.

Recommendation 29
If the Australian Government announces that it is willing to establish a single national redress scheme, the Australian Government should commence national negotiations with state and territory governments and all parties to the negotiations should seek to ensure that the negotiations proceed as quickly as possible to agree the necessary arrangements for a single national redress scheme.

Response
Noted. The ACT notes this recommendations falls within the jurisdiction of the Commonwealth, and has participated in negotiations prior to the ACT’s commitment to join the scheme.

Recommendation 30
If the Australian Government does not announce that it is willing to establish a single national redress scheme, each state and territory government should establish a redress scheme for the relevant state or territory that covers government and non-government institutions. State and territory governments should undertake national negotiations as quickly as possible to agree the necessary matters of detail to provide the maximum possible consistency for survivors between the different state and territory schemes.

Response
Noted. The ACT Government notes this recommendation, and that the Commonwealth has established a national redress scheme.
Recommendation 31
Whether there is a single national redress scheme or separate state and territory redress schemes, the scheme or schemes should be established and ready to begin inviting and accepting applications from survivors by no later than 1 July 2017.

Response
Noted. The ACT Government notes this recommendation, and is working with the Commonwealth to ensure the scheme commences in the ACT on 1 July 2018.

Recommendation 32
The Australian Government (if it announces that it is willing to establish a single national redress scheme) or state and territory governments should establish a national redress advisory council to advise all participating governments on the establishment and operation of the redress scheme or schemes.

Response
Noted. The ACT Government notes this recommendation falls within the jurisdiction of the Commonwealth, and the Independent Advisory Council on Redress was established on 22 December 2016.

Recommendation 33
The national redress advisory council should include representatives:

a. of survivor advocacy and support groups
b. of non-government institutions, particularly those that are expected to be required to respond to a significant number of claims for redress
c. with expertise in issues affecting survivors with disabilities
d. with expertise in issues of particular importance to Aboriginal and Torres Strait Islander survivors
e. with expertise in psychological and legal issues relevant to survivors
f. with any other expertise that may assist in advising on the establishment and operation of the redress scheme or schemes.

Response
Noted. The ACT Government notes this recommendation falls within the jurisdiction of the Commonwealth, and that Independent Advisory Council on Redress included representatives who met the criteria outlined in this recommendation.

Redress scheme funding

Recommendation 34
For any application for redress made to a redress scheme, the cost of redress in respect of the application should be:

a. a proportionate share of the cost of administration of the scheme
b. if the applicant is determined to be eligible, the cost of any contribution for counselling and psychological care in respect of the applicant
c. if the applicant is determined to be eligible, the cost of any monetary payment to be made to the applicant.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.
Recommendation 35
The redress scheme or schemes should be funded as much as possible in accordance with the following principles:

a. The institution in which the abuse is alleged or accepted to have occurred should fund the cost of redress.
b. Where an applicant alleges or is accepted to have experienced abuse in more than one institution, the redress scheme or schemes should apportion the cost of funding redress between the relevant institutions, taking account of the relative severity of the abuse in each institution and any other features relevant to calculating a monetary payment.
c. Where the institution in which the abuse is alleged or accepted to have occurred no longer exists but the institution was part of a larger group of institutions or where there is a successor to the institution, the group of institutions or the successor institution should fund the cost of redress.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 36
The Australian Government and state and territory governments should provide ‘funder of last resort’ funding for the redress scheme or schemes so that the governments will meet any shortfall in funding for the scheme or schemes.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation. The ACT has committed to join the national scheme which is designed such that government institutions can become the funder of last resort for a defunct institution if the Operator has determined that the government institution is equally responsible with the defunct institution for the abuse and the defunct institution is listed for the jurisdiction that the government institution belongs to.

Recommendation 37
Regardless of whether there is a single national redress scheme or separate state and territory redress schemes, the Australian Government and each state or territory government should negotiate and agree their respective shares of or contributions to ‘funder of last resort’ funding in respect of applications alleging abuse in the relevant state or territory.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation. The ACT has committed to join the national scheme which is designed such that government institutions can become the funder of last resort for a defunct institution if the Operator has determined that the government institution is equally responsible with the defunct institution for the abuse and the defunct institution is listed for the jurisdiction that the government institution belongs to.

Recommendation 38
The Australian Government (if it announces that it is willing to establish a single national redress scheme) or state and territory governments should determine how best to raise the required funding for the redress scheme or schemes, including government funding and funding from non-government institutions.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme.
Recommendation 39
The Australian Government or state and territory governments should determine whether or not to require particular non-government institutions or particular types of non-government institutions to contribute funding for redress.

Response
Accept. The ACT accepts this recommendation, and notes participation in the national scheme is voluntary for institutions. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment of survivors, and encourages non-government institutions to participate. The ACT notes the Commonwealth is working with non-government institutions to facilitate their voluntary participation in the scheme.

Trust fund for counselling and psychological care

Recommendation 40
The redress scheme, or each redress scheme, should establish a trust fund to receive the funding for counselling and psychological care paid under redress and to manage and apply that funding to meet the needs for counselling and psychological care of those eligible for redress under the relevant redress scheme.

Response
Noted. As a participant in the national scheme, the ACT will provide counselling and psychological care directly to survivors, rather than providing lump sum payments.

Recommendation 41
The trust fund, or each trust fund, should be governed by a corporate trustee with a board of directors appointed by the government that establishes the relevant redress scheme.

The board or each board should include:

a. an independent Chair
b. a representative of: government; non-government institutions; survivor advocacy and support groups; and the redress scheme
c. those with any other expertise that is desired at board level to direct the trust.

Response
Noted. As a participant in the national scheme, the ACT will provide counselling and psychological care directly to survivors, rather than providing lump sum payments.

Recommendation 42
The trustee, or each trustee, should engage actuaries to conduct regular actuarial assessments to determine a ‘per head’ estimate of future counselling and psychological care costs to be met through redress. The trustee, or each trustee, should determine the amount from time to time that those who fund redress, including as the funder of last resort, must pay per eligible applicant to fund the counselling and psychological care element of redress.

Response
Noted. As a participant in the national scheme, the ACT will provide counselling and psychological care directly to survivors, rather than providing lump sum payments.
Redress scheme process

Eligibility for redress

Recommendation 43
A person should be eligible to apply to a redress scheme for redress if he or she was sexually abused as a child in an institutional context and the sexual abuse occurred, or the first incidence of the sexual abuse occurred, before the cut-off date.

Response
Accept in principle. The ACT accepts the intent of this recommendation, but notes the national scheme may differ in some respects. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment of survivors.

Recommendation 44
‘Institution’ should have the same meaning as in the Royal Commission’s terms of reference.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 45
Child sexual abuse should be taken to have occurred in an institutional context in the following circumstances:

a. it happens:
   i. on premises of an institution
   ii. where activities of an institution take place or
   iii. in connection with the activities of an institution
   iv. in circumstances where the institution is, or should be treated as being, responsible for the contact between the abuser and the applicant that resulted in the abuse being committed

b. it is engaged in by an official of an institution in circumstances (including circumstances that involve settings not directly controlled by the institution) where the institution has, or its activities have, created, facilitated, increased, or in any way contributed to (whether by act or omission) the risk of abuse or the circumstances or conditions giving rise to that risk

c. it happens in any other circumstances where the institution is, or should be treated as being, responsible for the adult abuser having contact with the applicant.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 46
Those who operate the redress scheme should specify the cut-off date as being the date on which the Royal Commission’s recommended reforms to civil litigation in relation to limitation periods and the duty of institutions commence.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation, but notes the cut-off date for the national scheme is 30 June 2018. While ACT civil litigation reforms relating to limitation periods are complete, work is underway in relation to the duty of institutions. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment of survivors.
Recommendation 47
An offer of redress should only be made if the applicant is alive at the time the offer is made.

Response
Accept in principle. The ACT Government accepts the intent this recommendation. The ACT has committed to join the national redress scheme which provides that a person must be alive in order to make an application, however if they die after submitting a redress application, the redress payment may be made to another person (having regard to any will by the person).

Duration of a redress scheme
Recommendation 48
A redress scheme should have no fixed closing date. But, when applications to the scheme reduce to a level where it would be reasonable to consider closing the scheme, those who operate the redress scheme should consider specifying a closing date for the scheme. The closing date should be at least 12 months into the future. Those who operate the redress scheme should ensure that the closing date is given widespread publicity until the scheme closes.

Response
Accept in principle. The ACT accepts the intent of this recommendation, but notes the national scheme concludes after 10 years. The national scheme will be subject to a 2 year review, which must consider the extent to which redress has been provided to survivors. Subject to the findings of this review, the closing date of the scheme may be revised. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment for survivors.

Publicising and promoting the availability of the scheme
Recommendation 49
Those who operate a redress scheme should ensure the availability of the scheme is widely publicised and promoted.

Response
Accept. The ACT Government accepts this recommendation and has committed to join the national scheme which is designed to address this recommendation. The ACT will actively promote the scheme through local communications efforts.

Recommendation 50
The redress scheme should consider adopting particular communication strategies for people who might be more difficult to reach, including:

a. Aboriginal and Torres Strait Islander communities
b. people with disability
c. culturally and linguistically diverse communities
d. regional and remote communities
e. people with mental health difficulties
f. people who are experiencing homelessness
g. people in correctional or detention centres
h. children and young people
i. people with low levels of literacy
j. survivors now living overseas.
Response

Accept. The ACT Government accepts this recommendation and has committed to join the national scheme which is designed to address this recommendation. The ACT will actively promote the scheme through local and accessible communications efforts.

Application process

Recommendation 51

A redress scheme should rely primarily on completion of a written application form.

Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 52

A redress scheme should fund support services and community legal centres to assist applicants to apply for redress.

Response

Accept in principle. The ACT Government accepts the intent of this recommendation. The ACT has committed to join the national scheme which will make available Redress Support Services to all applicants including specialised support for Aboriginal and Torres Strait Islander people, people with disability, and people from culturally and linguistically diverse backgrounds.

Recommendation 53

A redress scheme should select support services and community legal centres to cover a broad range of likely applicants, taking into account the need to cover regional and remote areas and the particular needs of different groups of survivors, including Aboriginal and Torres Strait Islander survivors.

Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 54

Those who operate a redress scheme should determine whether the scheme will require additional material or evidence and additional procedures to determine the validity of applications. Any additional requirements should be clearly set out in scheme material that is made available to applicants, support services and others who may support or advise applicants in relation to the scheme.

Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 55

A redress scheme may require applicants for redress to verify their accounts of abuse by statutory declaration.

Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.
Institutional involvement
Recommendation 56
A redress scheme should inform any institution named in an application for redress of the application and the allegations made in it and request the institution to provide any relevant information, documents or comments.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Standard of proof
Recommendation 57
‘Reasonable likelihood’ should be the standard of proof for determining applications for redress.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Decision on making a claim
Recommendation 58
A redress scheme should adopt administrative decision-making processes appropriate to a large-scale redress scheme. It should make decisions based on the application of the detailed assessment procedures and guidelines for implementing the matrix for monetary payments.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Offer and acceptance of offer
Recommendation 59
An offer of redress should remain open for acceptance for a period of one year.

Response
Accept in principle. The ACT Government accepts the intent of this this recommendations, but notes the national scheme differs in that it requires the scheme operator to allow a minimum acceptance period of six months, which may be extended in exceptional circumstances. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment for survivors.

Recommendation 60
A period of three months should be allowed for an applicant to seek a review of an offer of redress after the offer is made.

Response
Accept in principle. The ACT Government accepts the intent of this this recommendation, but notes the national scheme differs in that it requires the scheme operator to allow a review period of between 28 days to six months. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment for survivors.
Review and appeals

Recommendation 61
A redress scheme should offer an internal review process.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 62
A redress scheme established on an administrative basis should be made subject to oversight by the relevant ombudsman through the ombudsman’s complaints mechanism.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation, but notes the national scheme may differ in some respects. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment of survivors.

Deeds of release

Recommendation 63
As a condition of making a monetary payment, a redress scheme should require an applicant to release the scheme (including the contributing government or governments) and the institution from any further liability for institutional child sexual abuse by executing a deed of release.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 64
A redress scheme should fund, at a fixed price, a legal consultation for an applicant before the applicant decides whether or not to accept the offer of redress and grant the required releases.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 65
No confidentiality obligations should be imposed on applicants for redress.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Support for survivors

Recommendation 66
A redress scheme should offer and fund counselling during the period from assisting applicants with the application, through the period when the application is being considered, to the making of the offer and the applicant’s consideration of whether or not to accept the offer. This should include a session of financial counselling if the applicant is offered a monetary payment.
Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 67
A redress scheme should fund counselling provided by a therapist of the applicant’s choice if it is specifically requested by the applicant and in circumstances where the applicant has an established relationship with the therapist and the cost is reasonably comparable to the cost the redress scheme is paying for these services generally.

Response

Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation. The ACT will elect to provide counselling and psychological care directly to survivors through Victim Support ACT.

Recommendation 68
A redress scheme should offer and fund a limited number of counselling sessions for family members of survivors if reasonably required.

Response

Accept. The ACT Government accepts this recommendation. Access to counselling sessions and psychological care is available to victims’ family members as required.

Transparency and accountability

Recommendation 69
A redress scheme should take the following steps to improve transparency and accountability:

a. In addition to publicising and promoting the availability of the scheme, the scheme’s processes and time frames should be as transparent as possible. The scheme should provide up-to-date information on its website and through any funded counselling and support services and community legal centres, other relevant support services and relevant institutions.

b. If possible, the scheme should ensure that each applicant is allocated to a particular contact officer who they can speak to if they have any queries about the status of their application or the timing of its determination and so on.

c. The scheme should operate a complaints mechanism and should welcome any complaints or feedback from applicants and others involved in the scheme (for example, support services and community legal centres).

d. The scheme should provide any feedback it receives about common problems that have been experienced with applications or institutions’ responses to funded counselling and support services and community legal centres, other relevant support services and relevant institutions. It should include any suggestions on how to improve applications or responses or ensure more timely determinations.

e. The scheme should publish data, at least annually, about:
   i. the number of applications received
   ii. the institutions to which the applications relate
   iii. the periods of alleged abuse
   iv. the number of applications determined
   v. the outcome of applications
   vi. the mean, median and spread of payments offered
   vii. the mean, median and spread of time taken to determine the application
   viii. the number and outcome of applications for review.
Response

Accept in principle. The ACT Government accepts the intent of this recommendation, but notes the national scheme may differ in some respects. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment of survivors.

Interaction with alleged abuser, disciplinary process and police

Recommendation 70
A redress scheme should not make any ‘findings’ that any alleged abuser was involved in any abuse.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 71
A redress scheme may defer determining an application for redress if the institution advises that it is undertaking internal disciplinary processes in respect of the abuse the subject of the application. A scheme may have the discretion to consider the outcome of the disciplinary process, if it is provided by the institution, in determining the application.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 72
A redress scheme should comply with any legal requirements, and make use of any permissions, to report or disclose abuse, including to oversight agencies.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 73
A redress scheme should report any allegations to the police if it has reason to believe that there may be a current risk to children. If the relevant applicant does not consent to the allegations being reported to the police, the scheme should report the allegations to the police without disclosing the applicant’s identity.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 74
A redress scheme should seek to cooperate with any reasonable requirements of the police in terms of information sharing, subject to satisfying any privacy and consent requirements with applicants.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.
Recommendation 75
A redress scheme should encourage any applicants who seek advice from it about reporting to police to discuss their options directly with the police.

Response
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Interim arrangements

Recommendation 76
Institutions should seek to achieve independence in institutional redress processes by taking the following steps:

a. Institutions should provide information on the application process, including online, so that survivors do not need to approach the institution if there is an independent person with whom they can make their claim.

b. If feasible, the process of receiving and determining claims should be administered independently of the institution to minimise the risk of any appearance that the institution can influence the process or decisions.

c. Institutions should ensure that anyone they engage to handle or determine redress claims is appropriately trained in understanding child sexual abuse and its impacts and in any relevant cultural awareness issues.

d. Institutions should ensure that any processes or interactions with survivors are respectful and empathetic, including by taking into account the factors discussed in Chapter 5 concerning meetings and meeting environments.

e. Processes and interactions should not be legalistic. Any legal, medical and other relevant input should be obtained for the purposes of decision making.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation. Existing practices, policies and procedures, as guided by the Law Officer (Model Litigant) Guidelines (No1) and the Law Officers (General) Legal Services Directions 2012 align with the recommendations.

Recommendation 77
Institutions should ensure that the required independence is set out clearly in writing between the institution and any person or body the institution engages as part of its redress process.

Response
Accept in principle. See response to recommendation 76

Recommendation 78
If a survivor alleges abuse in more than one institution, the institution to which the survivor applies for redress should adopt the following process:

a. With the survivor’s consent, the institution’s redress process should approach the other named institutions to seek cooperation on the claim.

b. If the survivor consents and the relevant institutions agree, one institutional process should assess the survivor’s claim in accordance with the recommended redress elements and processes (with any necessary modifications because of the absence of a government-run scheme) and allocate contributions between the institutions.
c. If any institution no longer exists and has no successor, its share should be met by the other institution or institutions.

Response  
Accept in principle. See response to recommendation 76

Recommendation 79  
Institutions should adopt the elements of redress and the general principles for providing redress recommended in Chapter 4.

Response  
Accept in principle. The ACT Government accepts the intent of this recommendation, but notes the national scheme may differ in some respects. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment of survivors.

Recommendation 80  
Institutions should undertake, through their redress processes, to meet survivors’ needs for counselling and psychological care. A survivor’s need for counselling and psychological care should be assessed independently of the institution.

Response  
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation and will deliver services directly to survivors and their families through Victim Support ACT.

Recommendation 81  
Institutions should adopt the purpose of monetary payments recommended in Chapter 7 and be guided by the recommended matrix for assessing monetary payments.

Response  
Accept in principle. The ACT Government accepts the intent of this recommendation, but notes the national scheme may differ in some respects. The ACT has chosen to participate in the national scheme in the interests of equal access and equal treatment of survivors.

Recommendation 82  
In implementing any interim arrangements for institutions to offer and provide redress, institutions should take account of our discussion of the applicability of the redress scheme processes recommended in Chapter 11.

Response  
Accept. The ACT Government accepts this recommendation. The ACT has committed to join the national scheme which is designed to address this recommendation.

Recommendation 83  
Institutions should ensure no deeds of release are required under interim arrangements for institutions to offer and provide redress.

Response  
Accept. The ACT Government accepts this recommendation, and has not required any deeds of release prior to the scheme’s commencement.
**Recommendation 84**

If the Australian Government or state and territory governments accept our recommendations and announce that they are working to establish a single national redress scheme or separate state and territory redress schemes, institutions may wish to offer smaller interim or emergency payments as an alternative to offering institutional redress processes as interim arrangements.

**Response**

**Accept.** The ACT Government accepts this recommendation, and has announced it will participate in the national redress scheme. Some survivors of sexual abuse in the ACT may be eligible for the immediate needs payments under the ACT Victims of Crime Financial Assistance Scheme.

**Limitation periods**

**Recommendation 85**

State and territory governments should introduce legislation to remove any limitation period that applies to a claim for damages brought by a person where that claim is founded on the personal injury of the person resulting from sexual abuse of the person in an institutional context when the person is or was a child.

**Response**

**Accept.** The ACT Government accepts this recommendation. In August 2016, the ACT Legislative Assembly passed a Bill removing the limitation period for claims founded on personal injury resulting from sexual abuse in an institutional context.

**Recommendation 86**

State and territory governments should ensure that the limitation period is removed with retrospective effect and regardless of whether or not a claim was subject to a limitation period in the past.

**Response**

**Accept.** The ACT Government accepts this recommendation. The Bill passed in August 2016 removed the limitation period with retrospective effect.

**Recommendation 87**

State and territory governments should expressly preserve the relevant courts’ existing jurisdictions and powers so that any jurisdiction or power to stay proceedings is not affected by the removal of the limitation period.

**Response**

**Accept.** The ACT Government accepts this recommendation. The Bill passed in August 2016 expressly preserved courts’ existing jurisdiction and powers in line with this recommendation.

**Recommendation 88**

State and territory governments should implement these recommendations to remove limitation periods as soon as possible, even if that requires that they be implemented before our recommendations in relation to the duty of institutions and identifying a proper defendant are implemented.

**Response**

**Accept.** The ACT Government accepts this recommendation. The Bill making these amendments was notified on 25 August 2016 and commenced the following day.
Duty of Institutions

Recommendation 89
State and territory governments should introduce legislation to impose a non-delegable duty on certain institutions for institutional child sexual abuse despite it being the deliberate criminal act of a person associated with the institution.

Response
Accept. The ACT Government accepts the recommendation and will progress legislative change to ensure institutions have a legal duty to prevent institutional child sexual abuse.

Recommendation 90
The non-delegable duty should apply to institutions that operate the following facilities or provide the following services and be owed to children who are in the care, supervision or control of the institution in relation to the relevant facility or service:

a. residential facilities for children, including residential out-of-home care facilities and juvenile detention centres but not including foster care or kinship care
b. day and boarding schools and early childhood education and care services, including long day care, family day care, outside school hours services and preschool programs
c. disability services for children
d. health services for children
e. any other facility operated for profit which provides services for children that involve the facility having the care, supervision or control of children for a period of time but not including foster care or kinship care
f. any facilities or services operated or provided by religious organisations, including activities or services provided by religious leaders, officers or personnel of religious organisations but not including foster care or kinship care.

Response
Accept. The ACT Government accepts the recommendation and will progress legislative change to ensure institutions have a legal duty to prevent institutional child sexual abuse.

Recommendation 91
Irrespective of whether state and territory parliaments legislate to impose a non-delegable duty upon institutions, state and territory governments should introduce legislation to make institutions liable for institutional child sexual abuse by persons associated with the institution unless the institution proves it took reasonable steps to prevent the abuse. The ‘reverse onus’ should be imposed on all institutions, including those institutions in respect of which we do not recommend a non-delegable duty be imposed.

Response
Accept. The ACT Government accepts the recommendation and will progress legislative change to ensure institutions have a legal duty to prevent institutional child sexual abuse.

Recommendation 92
For the purposes of both the non-delegable duty and the imposition of liability with a reverse onus of proof, the persons associated with the institution should include the institution’s officers, office holders, employees, agents, volunteers and contractors. For religious organisations, persons associated with the institution also include religious leaders, officers and personnel of the religious organisation.
Response

Accept. The ACT Government accepts the recommendation and will progress legislative change to ensure institutions have a legal duty to prevent institutional child sexual abuse.

Recommendation 93
State and territory governments should ensure that the non-delegable duty and the imposition of liability with a reverse onus of proof apply prospectively and not retrospectively.

Response
Accept. The ACT Government accepts the recommendation and will progress legislative change to ensure institutions have a legal duty to prevent institutional child sexual abuse.

Identifying a proper defendant

Recommendation 94
State and territory governments should introduce legislation to provide that, where a survivor wishes to commence proceedings for damages in respect of institutional child sexual abuse where the institution is alleged to be an institution with which a property trust is associated, then unless the institution nominates a proper defendant to sue that has sufficient assets to meet any liability arising from the proceedings:

a. the property trust is a proper defendant to the litigation
b. any liability of the institution with which the property trust is associated that arises from the proceedings can be met from the assets of the trust.

Response
Accept. The ACT Government accepts the recommendation and will progress legislative change to ensure a survivor may commence proceedings against a trust affiliated with the institution in which they suffered child sexual abuse.

Recommendation 95
The Australian Government and state and territory governments should consider whether there are any unincorporated bodies that they fund directly or indirectly to provide children’s services. If there are, they should consider requiring them to maintain insurance that covers their liability in respect of institutional child sexual abuse claims.

Response
Accept in principle. The ACT Government supports the intent of this recommendation, but will need to undertake consultation and analysis to implement the recommendation.

Model litigant approaches

Recommendation 96
Government and non-government institutions that receive, or expect to receive, civil claims for institutional child sexual abuse should adopt guidelines for responding to claims for compensation concerning allegations of child sexual abuse.

Response
Accept. The ACT Government accepts all elements of the recommendation. Existing practices, policies and procedures, as guided by the Law Officer (Model Litigant) Guidelines (No1) and the Law Officers (General) Legal Services Directions 2012, align with the Commonwealth’s guiding principles developed in response to this recommendation. The ACT may consider other options to more explicitly address this recommendation.
Recommendation 97
The guidelines should be designed to minimise potential re-traumatisation of claimants and to avoid unnecessarily adversarial responses to claims.

Response
Accept. The ACT Government accepts the recommendation. See the response to recommendation 96 for further information.

Recommendation 98
The guidelines should include an obligation on the institution to provide assistance to claimants and their legal representatives in identifying the proper defendant to a claim if the proper defendant is not identified or is incorrectly identified.

Response
Accept. The ACT Government accepts the recommendation. See the response to recommendation 96 for further information.

Recommendation 99
Government and non-government institutions should publish the guidelines they adopt or otherwise make them available to claimants and their legal representatives.

Response
Accept. The ACT Government accepts the recommendation. See the response to recommendation 96 for further information.
ACT GOVERNMENT RESPONSE TO RECOMMENDATIONS CONTAINED IN THE CRIMINAL JUSTICE REPORT (2017)

Recommendation 1
In relation to child sexual abuse, including institutional child sexual abuse, the criminal justice system should be reformed to ensure that the following objectives are met:

a. the criminal justice system operates in the interests of seeking justice for society, including the complainant and the accused
b. criminal justice responses are available for victims and survivors
c. victims and survivors are supported in seeking criminal justice responses.

Response
Accept. The ACT Government accepts all elements of the recommendation noting that it is an overarching objective of the other Royal Commission recommendations.

Recommendation 2
Australian governments should refer to the Steering Committee for the Report on Government Services for review the issues of:

a. how the reporting framework for police services in the Report on Government Services could be extended to include reporting on child sexual abuse offences
b. whether any outcome measures that would be appropriate for police investigations of child sexual abuse offences could be developed and reported on.

Response
Accept. The ACT Government supports referral of these issues to the Steering Committee for the Report on Government Services.

Recommendation 3
Each Australian government should ensure that its policing agency:

a. recognises that a victim or survivor’s initial contact with police will be important in determining their satisfaction with the entire criminal justice response and in influencing their willingness to proceed with a report and to participate in a prosecution
b. ensures that all police who may come into contact with victims or survivors of institutional child sexual abuse are trained to:
   i. have a basic understanding of complex trauma and how it can affect people who report to police, including those who may have difficulties dealing with institutions or persons in positions of authority (such as the police)
   ii. treat anyone who approaches the police to report child sexual abuse with consideration and respect, taking account of any relevant cultural safety issues
c. establishes arrangements to ensure that, on initial contact from a victim or survivor, police refer victims and survivors to appropriate support services.

Response
Accept. The ACT Government accepts the recommendation and notes that the following work has been undertaken that addresses the outcomes sought in the respective paragraphs:
a. ACT Policing already has a specialist team, the Sexual Assault and Child Abuse Team (SACAT) that has established procedures that empower victims to decide if they want to proceed with making a report and participating in a prosecution.

b. All SACAT members are Evidence in Chief (EIC) trained. The EIC assessed training package is delivered by a Subject Matter Expert and has elements that increase participants awareness and knowledge of:
   i. Interviewing children and children’s views on police
   ii. Interviewing vulnerable witnesses focusing on memory and child memory processes

ACT Policing has established MOUs with support agencies to ensure victims/survivors are referred to appropriate support services.

**Recommendation 4**

To encourage reporting of allegations of child sexual abuse, including institutional child sexual abuse, each Australian government should ensure that its policing agency:

a. takes steps to communicate to victims (and their families or support people where the victims are children or are particularly vulnerable) that their decision whether to participate in a police investigation will be respected – that is, victims retain the right to withdraw at any stage in the process and to decline to proceed further with police and/or any prosecution

b. provides information on the different ways in which victims and survivors can report to police or seek advice from police on their options for reporting or not reporting abuse – this should be in a format that allows institutions and survivor advocacy and support groups and support services to provide it to victims and survivors

c. makes available a range of channels to encourage reporting, including specialist telephone numbers and online reporting forms, and provides information about what to expect from each channel of reporting

d. works with survivor advocacy and support groups and support services, including those working with people from culturally and linguistically diverse backgrounds and people with disability, to facilitate reporting by victims and survivors

e. allows victims and survivors to benefit from the presence of a support person of their choice if they so wish throughout their dealings with police, provided that this will not interfere with the police investigation or risk contaminating evidence

f. is willing to take statements from victims and survivors in circumstances where the alleged perpetrator is dead or is otherwise unlikely to be able to be tried.

**Response**

Accept in principle. The ACT Government supports the intent of the recommendation and notes most of the outcomes sought under this recommendation are met through existing ACT Policing procedures, including:

a. All SACAT investigations are victim led from the investigation through to the prosecution. Exceptions to this are Child at Risk reports that once assessed require immediate police intervention.

b. Further consideration in consultation with stakeholders needs to be given to identifying alternative channels to encourage reporting. During the Royal Commission ACT Policing effectively provided numerous contact points through their website for members of the public to directly contact investigators involved with investigation of historic sexual assault allegations.

c. Regarding paragraph (c), the ACT Government supports the general intent of this recommendation, and supports exploring options to encourage reporting in collaboration with relevant Government and non-Government stakeholders.

d. ACT Policing has established information sharing processes with partner agencies that afford appropriate and timely advice for victims.

e. ACT Policing SACAT encourages the presence of a representative from the Canberra Rape Crisis Centre (CRCC) or a support person during EICI's.
f. ACT Policing SACAT encourages the taking of statements from victims in instances where the perpetrator is deceased. The victim is informed that no further investigation will be undertaken after the statement is obtained and is referred to appropriate support services.

**Recommendation 5**

To encourage reporting of allegations of child sexual abuse, including institutional child sexual abuse, among Aboriginal and Torres Strait Islander victims and survivors, each Australian government should ensure that its policing agency:

a. takes the lead in developing good relationships with Aboriginal and Torres Strait Islander communities

b. provides channels for reporting outside of the community (such as telephone numbers and online reporting forms).

**Response**

**Accept in principle.** The ACT Government supports the intent of the recommendations and will explore alternate options for reporting channels outside of the community. This recommendation will require significant collaboration and work between ACT Policing and the Aboriginal and Torres Strait Islander communities.

**Recommendation 6**

To encourage prisoners and former prisoners to report allegations of child sexual abuse, including institutional child sexual abuse, each Australian government should ensure that its policing agency:

a. provides channels for reporting that can be used from prison and that allow reports to be made confidentially

b. does not require former prisoners to report at a police station.

**Response**

**Accept.** The ACT Government accepts both elements of this recommendation and notes:

a. ACT Policing and ACT Corrective Services have policies and procedures in place to facilitate confidential reporting from prison; and

b. ACT Policing do not require former prisoners to report at a police station.

**Recommendation 7**

Each Australian government should ensure that its policing agency conducts investigations of reports of child sexual abuse, including institutional child sexual abuse, in accordance with the following principles:

a. While recognising the complexity of police rosters, staffing and transfers, police should recognise the benefit to victims and their families and survivors of continuity in police staffing and should take steps to facilitate, to the extent possible, continuity in police staffing on an investigation of a complaint.

b. Police should recognise the importance to victims and their families and survivors of police maintaining regular communication with them to keep them informed of the status of their report and any investigation unless they have asked not to be kept informed.

c. Particularly in relation to historical allegations of institutional child sexual abuse, police who assess or provide an investigative response to allegations should be trained to:

i. be non-judgmental and recognise that many victims of child sexual abuse will go on to develop substance abuse and mental health problems, and some may have a criminal record

ii. focus on the credibility of the complaint or allegation rather than focusing only on the credibility of the complainant.
Response

Accept. The ACT Government accepts this recommendation which is already reflected in current ACT Policing practices within SACAT.

a. SACAT has designed a roster that meets the peak period demands of reports. Contingencies are in place to ensure the corroborator maintains/assumes responsibility to make contact with victims in the absence of the Case Officer. Further to this, an allocated victim liaison officer remains consistent throughout each individual investigation.

b. SACAT recognises the importance of and is compliant with legislated time frames to contact victims as outlined in Section 4 of the Victims of Crime Act 1994.

c. This practice is demonstrated by SACAT investigators and also through ACT Policing’s general policing practices.

Recommendation 8

State and territory governments should introduce legislation to implement Recommendation 20-1 of the report of the Australian Law Reform Commission and the New South Wales Law Reform Commission *Family violence: A national legal response* in relation to disclosing or revealing the identity of a mandatory reporter to a law enforcement agency.

Response

Accept. The ACT Government accepts this recommendation, which is reflected in Chapter 25 of the *Children and Young People Act 2008*

Recommendation 9

Each Australian government should ensure that its policing agency conducts investigative interviewing in relation to reports of child sexual abuse, including institutional child sexual abuse, in accordance with the following principles:

a. All police who provide an investigative response (whether specialist or generalist) to child sexual abuse should receive at least basic training in understanding sexual offending, including the nature of child sexual abuse and institutional child sexual abuse offending.

b. All police who provide an investigative response (whether specialist or generalist) to child sexual abuse should be trained to interview the complainant in accordance with current research and learning about how memory works in order to obtain the complainant’s memory of the events.

c. The importance of video recorded interviews for children and other vulnerable witnesses should be recognised, as these interviews usually form all, or most, of the complainant’s and other relevant witnesses’ evidence in chief in any prosecution.

d. Investigative interviewing of children and other vulnerable witnesses should be undertaken by police with specialist training. The specialist training should focus on:
   i. specialist understanding of child sexual abuse, including institutional child sexual abuse, and the developmental and communication needs of children and other vulnerable witnesses
   ii. skill development in planning and conducting interviews, including use of appropriate questioning techniques.

e. Specialist police should undergo refresher training on a periodical basis to ensure that their specialist understanding and skills remain up to date and accord with current research.

f. From time to time, experts should review a sample of video recorded interviews with children and other vulnerable witnesses conducted by specialist police for quality assurance and training purposes and to reinforce best-practice interviewing techniques.

g. State and territory governments should introduce legislation to remove any impediments, including in relation to privacy concerns, to the use of video recorded interviews so that the relevant police officer, his or her supervisor and any persons engaged by police in quality assurance and training can review video recorded interviews for quality assurance and training purposes. This should not
authorise the use of video recorded interviews for general training in a manner that would raise privacy concerns.

h. Police should continue to work towards improving the technical quality of video recorded interviews so that they are technically as effective as possible in presenting the complainant’s and other witnesses’ evidence in chief.

i. Police should recognise the importance of interpreters, including for some Aboriginal and Torres Strait Islander victims, survivors and other witnesses.

j. Intermediaries should be available to assist in police investigative interviews of children and other vulnerable witnesses.

Response
Accept in principle. The ACT Government supports the intent of this recommendation. Elements (a) – (i) are consistent with existing ACT Policing policy and practices. The Government will need to undertake further analysis in relation to the use of intermediaries.

Recommendation 10
Each Australian government should ensure that its policing agency makes decisions in relation to whether to lay charges for child sexual abuse offences in accordance with the following principles:

a. Recognising that it is important to complainants that the correct charges be laid as early as possible so that charges are not significantly downgraded at or close to trial, police should ensure that care is taken, and that early prosecution advice is sought, where appropriate, in laying charges.

b. In making decisions about whether to charge, police should not:
   i. expect or require corroboration where the victim or survivor’s account does not suggest that there should be any corroboration available
   ii. rely on the absence of corroboration as a determinative factor in deciding not to charge, where the victim or survivor’s account does not suggest that there should be any corroboration available, unless the prosecution service advises otherwise.

Response
Accept. The ACT Government accepts all the elements of the recommendation. In ACT Policing’s current practice, charges are evidence based and timely.

Recommendation 11
The Victorian Government should review the operation of section 401 of the Criminal Procedure Act 2009 (Vic) and consider amending the provision to restrict the awarding of costs against police if it appears that the risk of costs awards might be affecting police decisions to prosecute. The government of any other state or territory that has similar provisions should conduct a similar review and should consider similar amendments.

Response
Accept. The ACT Government accepts all the elements of the recommendation. In ACT Policing’s current practice, charges are evidence based and timely.

Recommendation 12
Each Australian government should ensure that, if its policing agency does not provide a specialist response to victims and survivors reporting historical child sexual abuse, its policing agency develops and implements a document in the nature of a ‘guarantee of service’ which sets out for the benefit of victims and survivors – and as a reminder to the police involved – what victims and survivors are entitled to expect in the police response to their report of child sexual abuse. The document should include information to the effect that victims and survivors are entitled to:

a. be treated by police with consideration and respect, taking account of any relevant cultural safety issues
b. have their views about whether they wish to participate in the police investigation respected

c. be referred to appropriate support services

d. contact police through a support person or organisation rather than contacting police directly if they prefer

e. have the assistance of a support person of their choice throughout their dealings with police unless this will interfere with the police investigation or risk contaminating evidence

f. have their statement taken by police even if the alleged perpetrator is dead

g. be provided with the details of a nominated person within the police service for them to contact

h. be kept informed of the status of their report and any investigation unless they do not wish to be kept informed

i. have the police focus on the credibility of the complaint or allegations rather than focusing only on the credibility of the complainant, recognising that many victims of child sexual abuse will go on to develop substance abuse and mental health problems, and some may have a criminal record.

Response

Accept. The ACT Government accepts all elements of this recommendation and notes ACT Policing already provide a specialist response to victims and survivors reporting child sexual abuse.

Recommendation 13
Each Australian government should ensure that its policing agency responds to victims and survivors with disability, or their representatives, who report or seek to report child sexual abuse, including institutional child sexual abuse, to police in accordance with the following principles:

a. Police who have initial contact with the victim or survivor should be non-judgmental and should not make any adverse assessment of the victim or survivor’s credibility, reliability or ability to make a report or participate in a police investigation or prosecution because of their disability.

b. Police who assess or provide an investigative response to allegations made by victims and survivors with disability should focus on the credibility of the complaint or allegation rather than focusing only on the credibility of the complainant, and they should not make any adverse assessment of the victim or survivor’s credibility or reliability because of their disability.

c. Police who conduct investigative interviewing should make all appropriate use of any available intermediary scheme, and communication supports, to ensure that the victim or survivor is able to give their best evidence in the investigative interview.

Decisions in relation to whether to lay charges for child sexual abuse offences should take full account of the ability of any available intermediary scheme, and communication supports, to assist the victim or survivor to give their best evidence when required in the prosecution process.

Response

Accept in principle. The ACT Government supports the intent of the recommendation.

ACT Policing agree in principle on all the aspects of these recommendations. Paragraph (a) is reinforced during the Interviewing Vulnerable Witnesses Program that SACAT investigators are trained in.

Further consideration is required regarding paragraph (d) and the use of intermediaries by ACT Policing.

Recommendation 14
In order to assist in the investigation of current allegations of institutional child sexual abuse, each Australian government should ensure that its policing agency:
a. develops and keeps under review procedures and protocols to guide police and institutions about the information and assistance police can provide to institutions where a current allegation of institutional child sexual abuse is made

b. develops and keeps under review procedures and protocols to guide the police, other agencies, institutions and the broader community on the information and assistance police can provide to children and parents and the broader community where a current allegation of institutional child sexual abuse is made.

**Response**

**Accept in principle.** The ACT Government supports the intent of the recommendation. ACT Policing has established informal protocols with key institutions through Operation Attest, and supports formalising these protocols to more closely align with paragraph (a) of this recommendation.

Further consideration is required by ACT Policing regarding following review of specific procedures and protocols as there may be resourcing implications.

**Recommendation 15**

The New South Wales Standard Operating Procedures for Employment Related Child Abuse Allegations and the Joint Investigation Response Team Local Contact Point Protocol should serve as useful precedents for other Australian governments to consider.

**Response**

**For further consideration.** The ACT Government will undertake further analysis and consultation as appropriate to ensure effective processes for responding to employment-related child abuse allegations.

**Recommendation 16**

In relation to blind reporting, institutions and survivor advocacy and support groups should:

a. be clear that, where the law requires reporting to police, child protection or another agency, the institution or group or its relevant staff member or official will report as required

b. develop and adopt clear guidelines to inform staff and volunteers, victims and their families and survivors, and police, child protection and other agencies as to the approach the institution or group will take in relation to allegations, reports or disclosures it receives that it is not required by law to report to police, child protection or another agency.

**Response**

**Accept.** The ACT Government accepts this recommendation, and has established guidelines and procedures in place for reporting child sexual abuse, including in relation to blind reporting. Clear policies are in place to ensure allegations of child sexual abuse are referred to Child and Youth Protection Services and police.

The ACT Government will continue to work with and support local institutions to assist their efforts to meet this recommendation.

**Recommendation 17**

In relation to blind reporting, institutions and survivor advocacy and support groups should:

a. be clear that, where the law requires reporting to police, child protection or another agency, the institution or group or its relevant staff member or official will report as required

b. develop and adopt clear guidelines to inform staff and volunteers, victims and their families and survivors, and police, child protection and other agencies as to the approach the institution or group will take in relation to allegations, reports or disclosures it receives that it is not required by law to report to police, child protection or another agency.
Response

Accept. The ACT Government accepts this recommendation. Under policies and procedures currently in place, allegations of sexual abuse against a child are referred to ACT Policing in full; Child and Youth Protection Services do not withhold any relevant information.

Victim Support ACT does not have a policy of making reports to police without survivors’ consent. In accordance with mandatory reporting obligations, staff report to Child and Youth Protection services when made aware that a child or children have experienced sexual abuse and/or there is a risk of a child or children experiencing sexual abuse. When an adult client of Victim Support makes an allegation of historic sexual abuse, Victim Support will only report that allegation to Child and Youth Protection Services if the allegation raises current risks to a child. Victim Support ACT generally advises all survivors of their right to report allegations to police and the supports available through Victims Support should they wish to do so.

The ACT Government will continue to work with and support local institutions to assist their efforts to meet this recommendation.

Recommendation 18
Institutions and survivor advocacy and support groups that adopt a policy that they will not report the survivor’s details without the survivor’s consent should make a blind report to police in preference to making no report at all.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation.

As noted in responses to recommendations 16 and 17, where a survivor discloses information that suggests there may be a present risk of child sexual abuse to a child or children, all relevant information is provided to ACT Policing.

The ACT Government will continue to work with and support local institutions to assist their efforts to meet this recommendation.

Recommendation 19
Institutions and survivor advocacy and support groups that adopt a policy that they will not report the survivor’s details without the survivor’s consent should make a blind report to police in preference to making no report at all.

Response
Accept. The ACT accepts this recommendation. This advice and support is available through Victim Support ACT.

The ACT Government will continue to work with and support local institutions to assist their efforts to meet this recommendation.

Recommendation 20
Police should ensure that they review any blind reports they receive and that they are available as intelligence in relation to any current or subsequent police investigations. If it appears that talking to the survivor might assist with a police investigation, police should contact the relevant institution or survivor advocacy and support group, and police and the institution or group should cooperate to try to find a way in which the survivor will be sufficiently supported so that they are willing to speak to police.
Response

Accept. The ACT Government accepts the recommendation which is already demonstrated in current ACT Policing practice.

Recommendation 21
Each state and territory government should introduce legislation to amend its persistent child sexual abuse offence so that:

a. the actus reus is the maintaining of an unlawful sexual relationship
b. an unlawful sexual relationship is established by more than one unlawful sexual act
c. the trier of fact must be satisfied beyond reasonable doubt that the unlawful sexual relationship existed but, where the trier of fact is a jury, jurors need not be satisfied of the same unlawful sexual acts
d. the offence applies retrospectively but only to sexual acts that were unlawful at the time they were committed
e. on sentencing, regard is to be had to relevant lower statutory maximum penalties if the offence is charged with retrospective application.

Response

Accept. The ACT Government accepts all elements of the recommendation noting that this recommendation was implemented in the Crimes Legislation Amendment Bill 2017 (No 2).

Section 56 of the Crimes Act 1900 now reflects this change.

Recommendation 22
The draft provision in Appendix H provides for the recommended reform. Legislation to the effect of the draft provision should be introduced.

Response

Accept. The ACT Government accepts all elements of the recommendation noting that this recommendation was implemented in the Crimes Legislation Amendment Bill 2017 (No 2).

Section 56 of the Crimes Act 1900 now reflects this change.

Recommendation 23
State and territory governments (other than Victoria) should consider introducing legislation to establish legislative authority for course of conduct charges in relation to child sexual abuse offences if legislative authority may assist in using course of conduct charges.

Response

Accept. The ACT Government accepts all elements of the recommendation noting that further analysis and consultation may be required

Recommendation 24
State and territory governments should consider providing for any of the two or more unlawful sexual acts that are particularised for the maintaining an unlawful sexual relationship offence to be particularised as courses of conduct.

Response

Accept. The ACT Government accepts all elements of the recommendation noting that further analysis and consultation may be required.
Recommendation 25
To the extent they do not already have a broad grooming offence, each state and territory government should introduce legislation to amend its criminal legislation to adopt a broad grooming offence that captures any communication or conduct with a child undertaken with the intention of grooming the child to be involved in a sexual offence.

Response
Accept. The ACT Government accepts all elements of the recommendation noting that this recommendation was implemented in the Crimes Legislation Amendment Bill 2017 (No 2).

Section 66 of the Crimes Act 1900 now reflects this change.

Recommendation 26
Each state and territory government (other than Victoria) should introduce legislation to extend its broad grooming offence to the grooming of persons other than the child.

Response
Accept. The ACT Government accepts all elements of the recommendation noting that this recommendation was implemented in the Crimes Legislation Amendment Bill 2017 (No 2).

Section 66 of the Crimes Act 1900 now reflects this change.

Recommendation 27
State and territory governments should review any position of authority offences applying in circumstances where the victim is 16 or 17 years of age and the offender is in a position of authority (however described) in relation to the victim. If the offences require more than the existence of the relationship of authority (for example, that it be ‘abused’ or ‘exercised’), states and territories should introduce legislation to amend the offences so that the existence of the relationship is sufficient.

Response
Accept. The ACT Government accepts all elements of the recommendation noting that this recommendation is currently reflected in sections 55A and 61A of the Crimes Act 1900.

Recommendation 28
State and territory governments should review any provisions allowing consent to be negatived in the event of sexual contact between a victim of 16 or 17 years of age and an offender who is in a position of authority (however described) in relation to the victim. If the provisions require more than the existence of the relationship of authority (for example, that it be ‘abused’ or ‘exercised’), state and territory governments should introduce legislation to amend the provisions so that the existence of the relationship is sufficient.

Response
Accept. The ACT Government accepts all elements of the recommendation noting that this recommendation is currently reflected in sections 55A and 61A of the Crimes Act 1900.

Recommendation 29
If there is a concern that one or more categories of persons in a position of authority (however described) may be too broad and may catch sexual contact which should not be criminalised when it is engaged in by such persons with children above the age of consent, state and territory governments could consider introducing legislation to establish defences such as a similar-age consent defence.
Response

Accept in principle. The ACT Government supports the intent of the recommendation and will consult with community stakeholders in order to develop legislative amendments.

Recommendation 30

State and territory governments should introduce legislation to remove any remaining limitation periods, or any remaining immunities, that apply to child sexual abuse offences, including historical child sexual abuse offences, in a manner that does not revive any sexual offences that are no longer in keeping with community standards.

Response

Accept. The ACT Government accepts all elements of this recommendation. The ACT Government legislated to remove limitation periods and immunities that apply to child sexual abuse offences in 2013 in the Crimes Legislation Amendment Bill 2013. However, further analysis will be undertaken to identify any further amendments required to fully address this.

Recommendation 31

Without limiting recommendation 30, the New South Wales Government should introduce legislation to give the repeal of the limitation period in section 78 of the Crimes Act 1900 (NSW) retrospective effect.

Response

Noted. The ACT Government notes this recommendation falls within the jurisdiction of New South Wales.

Recommendation 32

Any person associated with an institution who knows or suspects that a child is being or has been sexually abused in an institutional context should report the abuse to police (and, if relevant, in accordance with any guidelines the institution adopts in relation to blind reporting under recommendation 16).

Response

Accept. The ACT Government accepts all elements of the recommendation.

Recommendation 33

Each state and territory government should introduce legislation to create a criminal offence of failure to report targeted at child sexual abuse in an institutional context as follows:

a. The failure to report offence should apply to any adult person who:
   i. is an owner, manager, staff member or volunteer of a relevant institution – this includes persons in religious ministry and other officers or personnel of religious institutions
   ii. otherwise requires a Working with Children Check clearance for the purposes of their role in the institution
   but it should not apply to individual foster carers or kinship carers.

b. If the knowledge is gained or the suspicion is or should have been formed after the failure to report offence commences, the failure to report offence should apply if any of the following circumstances apply:
   i. A child to whom the knowledge relates or in relation to whom the suspicion is or should have been formed is still a child (that is, under the age of 18 years).
   ii. The person who is known to have abused a child or is or should have been suspected of abusing a child is either:
      • still associated with the institution
      • known or believed to be associated with another relevant institution.
   iii. The knowledge gained or the suspicion that is or should have been formed relates to abuse that may have occurred within the previous 10 years.
c. If the knowledge is gained or the suspicion is or should have been formed before the failure to report offence commences, the failure to report offence should apply if any of the following circumstances apply:
   i. A child to whom the knowledge relates or in relation to whom the suspicion is or should have been formed is still a child (that is, under the age of 18 years) and is still associated with the institution (that is, they are still in the care, supervision or control of the institution).
   ii. The person who is known to have abused a child or is or should have been suspected of abusing a child is either:
      • still associated with the institution known or believed to be associated with another relevant institution.

d. The failure to report offence should apply if the person fails to report to police in circumstances where they know, suspect, or should have suspected (on the basis that a reasonable person in their circumstances would have suspected and it was criminally negligent for the person not to suspect), that an adult associated with the institution was sexually abusing or had sexually abused a child.

e. Relevant institutions should be defined to include institutions that operate facilities or provide services to children in circumstances where the children are in the care, supervision or control of the institution. Foster and kinship care services should be included (but not individual foster carers or kinship carers). Facilities and services provided by religious institutions, and any services or functions performed by persons in religious ministry, should be included.

Response
Accept in principle. The ACT Government supports the intent of this recommendation and has commenced consultation in relation to creating a criminal offence of failure to report.

Recommendation 34
State and territory governments should:
   a. ensure that they have systems in place in relation to their mandatory reporting scheme and any reportable conduct scheme to ensure that any reports made under those schemes that may involve child sexual abuse offences are brought to the attention of police
   b. include appropriate defences in the failure to report offence to avoid duplication of reporting under mandatory reporting and any reportable conduct schemes.

Response
Accept in principle. The ACT Government supports the intent of this recommendation. While the ACT Government currently ensures that reports of criminal conduct under mandatory reporting and reportable conduct are referred to police, further consideration is required in relation to failure to report offences

Recommendation 35
Each state and territory government should ensure that the legislation it introduces to create the criminal offence of failure to report recommended in recommendation 33 addresses religious confessions as follows:
   a. The criminal offence of failure to report should apply in relation to knowledge gained or suspicions that are or should have been formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession.
   b. The legislation should exclude any existing excuse, protection or privilege in relation to religious confessions to the extent necessary to achieve this objective.
   c. Religious confession should be defined to include a confession about the conduct of a person associated with the institution made by a person to a second person who is in religious ministry in that second person’s professional capacity according to the ritual of the church or religious denomination concerned.
Response

Accept in principle. The ACT Government supports the intent of this recommendation and has recently conducted community consultation on a new offence of failure to report. Further, the ACT Government will consult on the recommendation about religious confessions as part of its work on the Reportable Conduct Scheme. Allegations that are disclosed in religious confessionals are excluded from the Reportable Conduct Scheme until 31 March 2019 to allow time for that consultation to occur.

Recommendation 36

State and territory governments should introduce legislation to create a criminal offence of failure to protect a child within a relevant institution from a substantial risk of sexual abuse by an adult associated with the institution as follows:

a. The offence should apply where:
   i. an adult person knows that there is a substantial risk that another adult person associated with the institution will commit a sexual offence against:
      • a child under 16
      • a child of 16 or 17 years of age if the person associated with the institution is in a position of authority in relation to the child
   ii. the person has the power or responsibility to reduce or remove the risk
   iii. the person negligently fails to reduce or remove the risk.

b. The offence should not be able to be committed by individual foster carers or kinship carers.

c. Relevant institutions should be defined to include institutions that operate facilities or provide services to children in circumstances where the children are in the care, supervision or control of the institution. Foster care and kinship care services should be included, but individual foster carers and kinship carers should not be included. Facilities and services provided by religious institutions, and any service or functions performed by persons in religious ministry, should be included.

State and territory governments should consider the Victorian offence in section 49C of the Crimes Act 1958 (Vic) as a useful precedent, with an extension to include children of 16 or 17 years of age if the person associated with the institution is in a position of authority in relation to the child.

Response

Accept in principle. The ACT Government supports the intent of the recommendation and has commenced consultation in relation to creating a failure to protect offence.

Recommendation 37

All Australian Directors of Public Prosecutions, with assistance from the relevant government in relation to funding, should ensure that prosecution responses to child sexual abuse are guided by the following principles:

a. All prosecution staff who may have professional contact with victims of institutional child sexual abuse should be trained to have a basic understanding of the nature and impact of child sexual abuse – and institutional child sexual abuse in particular – and how it can affect people who are involved in a prosecution process, including those who may have difficulties dealing with institutions or person in positions of authority.

b. While recognising the complexity of prosecution staffing and court timetables, prosecution agencies should recognise the benefit to victims and their families and survivors of continuity in prosecution team staffing and should take steps to facilitate, to the extent possible, continuity in staffing of the prosecution team involved in a prosecution.

c. Prosecution agencies should continue to recognise the importance to victims and their families and survivors of the prosecution agency maintaining regular communication with them to keep them informed of the status of the prosecution unless they have asked not to be kept informed.

d. Witness Assistance Services should be funded and staffed to ensure that they can perform their task of keeping victims and their families and survivors informed and ensuring that they are put in contact with
relevant support services, including staff trained to provide a culturally appropriate service for Aboriginal and Torres Strait Islander victims and survivors. Specialist services for children should also be considered.

e. Particularly in relation to historical allegations of institutional child sexual abuse, prosecution staff who are involved in giving early charge advice or in prosecuting child sexual abuse matters should be trained to:
   i. be non-judgmental and recognise that many victims of child sexual abuse will go on to develop substance abuse and mental health problems, and some may have a criminal record
   ii. focus on the credibility of the complaint or allegation rather than focusing only on the credibility of the complainant.

f. Prosecution agencies should recognise that children with disability are at a significantly increased risk of abuse, including child sexual abuse. Prosecutors should take this increased risk into account in any decisions they make in relation to prosecuting child sexual abuse offences.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation and notes many elements of the recommendation are reflected in existing policy and practice. The Government will need to undertake further work to ensure all the recommendation’s outcomes are met.

Recommendation 38
Each state and territory government should facilitate the development of standard material to provide to complainants or other witnesses in child sexual abuse trials to better inform them about giving evidence. The development of the standard material should be led by Directors of Public Prosecutions in consultation with Witness Assistance Services, public defenders (where available), legal aid services and representatives of the courts to ensure that it:

a. is likely to be of adequate assistance for complainants who are not familiar with criminal trials and giving evidence
b. is fair to the accused as well as to the prosecution
c. does not risk rehearsing or coaching the witness.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation and is exploring options to enhance material currently available to complainants or other witnesses in child sexual abuse matters.

Recommendation 39
All Australian Directors of Public Prosecutions should ensure that prosecution charging and plea decisions in prosecutions for child sexual abuse offences are guided by the following principles:

a. Prosecutors should recognise the importance to complainants of the correct charges being laid as early as possible so that charges are not significantly downgraded or withdrawn at or close to trial. Prosecutors should provide early advice to police on appropriate charges to lay when such advice is sought.

b. Regardless of whether such advice has been sought, prosecutors should confirm the appropriateness of the charges as early as possible once they are allocated the prosecution to ensure that the correct charges have been laid and to minimise the risk that charges will have to be downgraded or withdrawn closer to the trial date.

c. While recognising the benefit of securing guilty pleas, prosecution agencies should also recognise that it is important to complainants – and to the criminal justice system – that the charges for which a guilty plea is accepted reasonably reflect the true criminality of the abuse they suffered.

d. Prosecutors must endeavour to ensure that they allow adequate time to consult the complainant and the police in relation to any proposal to downgrade or withdraw charges or to accept a negotiated plea and that the complainant is given the opportunity to obtain assistance from relevant witness assistance.
officers or other advocacy and support services before they give their opinion on the proposal. If the complainant is a child, prosecutors must endeavour to ensure that they give the child the opportunity to consult their carer or parents unless the child does not wish to do so.

Response

Accept. The ACT Government accepts all elements of the recommendation, which reflects the Director of Public Prosecutions’ current practice.

Recommendation 40

Each Australian Director of Public Prosecutions should:

a. have comprehensive written policies for decision-making and consultation with victims and police
b. publish all policies online and ensure that they are publicly available
c. provide a right for complainants to seek written reasons for key decisions, without detracting from an opportunity to discuss reasons in person before written reasons are provided.

Response

Accept. The ACT Government accepts all elements of the recommendation. The ACT Director of Public Prosecutions is well underway in implementing this recommendation and is currently reviewing existing policies and procedures on decision-making and consultation with victims and police. Revised policies will be finalised and made publicly available on the DPP website as soon as possible.

Recommendation 41

Each Australian Director of Public Prosecutions should establish a robust and effective formalised complaints mechanism to allow victims to seek internal merits review of key decisions.

Response

Accept. The ACT Government accepts all elements of the recommendation. The ACT Director of Public Prosecutions (DPP) is well underway in implementing this recommendation and is currently reviewing its internal complaints mechanisms. Procedures allowing victims to seek internal merits review of key decisions will be fully implemented as soon as possible.

Recommendation 42

Each Australian Director of Public Prosecutions should establish robust and effective internal audit processes to audit their compliance with policies for decision-making and consultation with victims and police.

Response

Accept. The ACT Government accepts all elements of the recommendation. The ACT Director of Public Prosecutions is well underway in implementing this recommendation and is currently reviewing its internal audit processes. Mechanisms for auditing compliance with decision-making and victim consultation policies, including an internal audit and compliance committee, are aimed to be finalised by 30 June 2018.

Recommendation 43

Each Australian Director of Public Prosecutions should publish the existence of their complaints mechanism and internal audit processes and data on their use and outcomes online and in their annual reports.

Response

Accept. The ACT Government accepts all elements of the recommendation. The ACT Director of Public Prosecutions is well underway in implementing this recommendation and aims to publish information on the
existence of complaints mechanisms and internal audit processes, as well as data on their use and outcomes, in its next Annual Report.

**Recommendation 44**

In order to ensure justice for complainants and the community, the laws governing the admissibility of tendency and coincidence evidence in prosecutions for child sexual abuse offences should be reformed to facilitate greater admissibility and cross-admissibility of tendency and coincidence evidence and joint trials.

**Response**

*Accept in principle.* The ACT Government is participating in the development of a national approach to tendency and coincidence evidence through the Council of Attorneys-General (CAG) Working Group established to consider this chapter. Consultation within the ACT is underway as part of this work. The outcomes will inform the approach to be taken in the ACT in response to this recommendation.

**Recommendation 45**

Tendency or coincidence evidence about the defendant in a child sexual offence prosecution should be admissible:

a. if the court thinks that the evidence will, either by itself or having regard to the other evidence, be ‘relevant to an important evidentiary issue’ in the proceeding, with each of the following kinds of evidence defined to be ‘relevant to an important evidentiary issue’ in a child sexual offence proceeding:

   i. evidence that shows a propensity of the defendant to commit particular kinds of offences if the commission of an offence of the same or a similar kind is in issue in the proceeding
   
   ii. evidence that is relevant to any matter in issue in the proceeding if the matter concerns an act or state of mind of the defendant and is important in the context of the proceeding as a whole

b. unless, on the application of the defendant, the court thinks, having regard to the particular circumstances of the proceeding, that both:

   i. admission of the evidence is more likely than not to result in the proceeding being unfair to the defendant

   ii. if there is a jury, the giving of appropriate directions to the jury about the relevance and use of the evidence will not remove the risk.

**Response**

*For further consideration.* The ACT Government is participating in the development of a national approach to tendency and coincidence evidence through the CAG Working Group established to consider this chapter. This work will inform the approach to be agreed locally.

**Recommendation 46**

Common law principles or rules that restrict the admission of propensity or similar fact evidence should be explicitly abolished or excluded in relation to the admissibility of tendency or coincidence evidence about the defendant in a child sexual offence prosecution.

**Response**

*For further consideration.* The ACT Government is participating in the development of a national approach to tendency and coincidence evidence through the CAG Working Group established to consider this chapter. This work will inform the approach to be agreed locally.

**Recommendation 47**

Issues of concoction, collusion or contamination should not affect the admissibility of tendency or coincidence evidence about the defendant in a child sexual offence prosecution. The court should determine admissibility on the assumption that the evidence will be accepted as credible and reliable, and the impact of any evidence of concoction, collusion or contamination should be left to the jury or other fact-finder.
Response
For further consideration. The ACT Government is participating in the development of a national approach to tendency and coincidence evidence through the CAG Working Group established to consider this chapter. This work will inform the approach to be agreed locally.

Recommendation 48
Tendency or coincidence evidence about a defendant in a child sexual offence prosecution should not be required to be proved beyond reasonable doubt.

Response
For further consideration. The ACT Government is participating in the development of a national approach to tendency and coincidence evidence through the CAG Working Group established to consider this chapter. This work will inform the approach to be agreed locally.

Recommendation 49
Evidence of:

a. the defendant’s prior convictions
b. acts for which the defendant has been charged but not convicted (other than acts for which the defendant has been acquitted)

should be admissible as tendency or coincidence evidence if it otherwise satisfies the test for admissibility of tendency or coincidence evidence about a defendant in a child sexual offence prosecution.

Response
For further consideration. The ACT Government is participating in the development of a national approach to tendency and coincidence evidence through the CAG Working Group established to consider this chapter. This work will inform the approach to be agreed locally.

Recommendation 50
Australian governments should introduce legislation to make the reforms we recommend to the rules governing the admissibility of tendency and coincidence evidence.

Response
For further consideration. The ACT Government is participating in the development of a national approach to tendency and coincidence evidence through the CAG Working Group established to consider this chapter. This work will inform the approach to be agreed locally.

Recommendation 51
The draft provisions in Appendix N provide for the recommended reforms for Uniform Evidence Act jurisdictions. Legislation to the effect of the draft provisions should be introduced for Uniform Evidence Act jurisdictions and non–Uniform Evidence Act jurisdictions.

Response
For further consideration. The ACT Government is participating in the development of a national approach to tendency and coincidence evidence through the CAG Working Group established to consider this chapter. This work will inform the approach to be agreed locally.
Recommendation 52
State and territory governments should ensure that the necessary legislative provisions and physical resources are in place to allow for the prerecording of the entirety of a witness’s evidence in child sexual abuse prosecutions. This should include both:

a. in summary and indictable matters, the use of a pre-recorded investigative interview as some or all of the witness’s evidence in chief
b. in matters tried on indictment, the availability of pre-trial hearings to record all of a witness’s evidence, including cross-examination and re-examination, so that the evidence is taken in the absence of the jury and the witness need not participate in the trial itself.

Response
Accept in principle. The ACT has been a leading jurisdiction in introducing protections for vulnerable people in the court process, and is continuing to work on expanding the protections for vulnerable people. The ACT Government supports the intent of the recommendation and has commenced consultation in relation to improving special measures for vulnerable witnesses.

Recommendation 53
Full prerecording should be made available for:

a. all complainants in child sexual abuse prosecutions
b. any other witnesses who are children or vulnerable adults
c. any other prosecution witness that the prosecution considers necessary.

Response
Accept in principle. The ACT has been a leading jurisdiction in introducing protections for vulnerable people in the court process, and is continuing to work on expanding the protections for vulnerable people. The ACT Government supports the intent of the recommendation and has commenced consultation in relation to improving special measures for vulnerable witnesses.

Recommendation 54
Where the prerecording of cross-examination is used, it should be accompanied by ground rules hearings to maximise the benefits of such a procedure.

Response
Accept. The ACT Government supports the intent of the recommendation and has commenced consultation in relation to judicial directions in the ACT. The ACT will review the desirability of codifying certain directions in the process.

Recommendation 55
State and territory governments should work with courts to improve the technical quality of closed circuit television and audio visual links and the equipment used and staff training in taking and replaying pre-recorded and remote evidence.

Response
Accept. The ACT Government accepts all elements of the recommendation.

The new courts facility for the Supreme Court and Magistrates Court will deliver a state of the art courtroom technology system. The system includes high-definition audio-visual installations in all courtrooms for the presentation of multi-media and physical evidence and to connect with remote witnesses from on-site and off-
site facilities. All pre-trial hearings and remote witness sessions are able to be digitally recorded and stored for future retrieval and use as required. Relevant staff, the DPP and other members of the legal profession will be inducted in the capabilities and use of the new system – including the recording functions – as it is rolled out during 2018.

**Recommendation 56**

State and territory governments should introduce legislation to require the audio visual recording of evidence given by complainants and other witnesses that the prosecution considers necessary in child sexual abuse prosecutions, whether tried on indictment or summarily, and to allow these recordings to be tendered and relied on as the relevant witness’s evidence in any subsequent trial or retrial. The legislation should apply regardless of whether the relevant witness gives evidence live in court, via closed circuit television or in a pre-recorded hearing.

**Response**

Accept in principle. The ACT has been a leading jurisdiction in introducing protections for vulnerable people in the court process, and is continuing to work on expanding the protections for vulnerable people. The ACT Government supports the intent of the recommendation and has commenced consultation in relation to improving special measures for vulnerable witnesses.

**Recommendation 57**

State and territory governments should ensure that the courts are adequately resourced to provide this facility, in terms of both the initial recording and its use in any subsequent trial or retrial.

**Response**

Accept. The ACT Government accepts this recommendation and will ensure the new courts facility is adequately resourced.

**Recommendation 58**

If it is not practical to record evidence given live in court in a way that is suitable for use in any subsequent trial or retrial, prosecution guidelines should require that the fact that a witness may be required to give evidence again in the event of a retrial be discussed with witnesses when they make any choice as to whether to give evidence via prerecording, closed circuit television or in person.

**Response**

Accept. The ACT Government accepts all elements of the recommendation, which reflects the Director of Public Prosecutions’ current practice.

**Recommendation 59**

State and territory governments should establish intermediary schemes similar to the Registered Intermediary Scheme in England and Wales which are available to any prosecution witness with a communication difficulty in a child sexual abuse prosecution. Governments should ensure that the scheme:

- requires intermediaries to have relevant professional qualifications to assist in communicating with vulnerable witnesses
- provides intermediaries with training on their role and in understanding that their duty is to assist the court to communicate with the witness and to be impartial
- makes intermediaries available at both the police interview stage and trial stage
- enables intermediaries to provide recommendations to police and the court on how best to communicate with the witness and to intervene in an interview or examination where they observe a communication breakdown.
Response

Accept in principle. The ACT Government supports the intent of the recommendation and has commenced consultation on the introduction of an intermediary scheme in the ACT. The Government will need to undertake further consultation with stakeholders.

Recommendation 60

State and territory governments should work with their courts administration to ensure that ground rules hearings are able to be held – and are in fact held – in child sexual abuse prosecutions to discuss the questioning of prosecution witnesses with specific communication needs, whether the questioning is to take place via a pre-recorded hearing or during the trial. This should be essential where a witness intermediary scheme is in place and should allow, at a minimum, a report from an intermediary to be considered.

Response

Accept in principle. The ACT Government supports the intent of the recommendation and has commenced consultation on the introduction of an intermediary scheme and ground rules hearings. The Government will need to undertake further analysis and consultation with stakeholders to identify options.

Recommendation 61

The following special measures should be available in child sexual abuse prosecutions for complainants, vulnerable witnesses and other prosecution witnesses where the prosecution considers it necessary:

a. giving evidence via closed circuit television or audiovisual link so that the witness is able to give evidence from a room away from the courtroom
b. allowing the witness to be supported when giving evidence, whether in the courtroom or remotely, including, for example, through the presence of a support person or a support animal or by otherwise creating a more child-friendly environment
c. if the witness is giving evidence in court, using screens, partitions or one-way glass so that the witness cannot see the accused while giving evidence
d. clearing the public gallery of a courtroom during the witness’s evidence
e. the judge and counsel removing their wigs and gowns.

Response

Accept in principle. The ACT has been a leading jurisdiction in introducing protections for vulnerable people in the court process, and is continuing to work on expanding the protection for vulnerable people. The ACT Government supports the intent of the recommendation and will consult with community stakeholders in order to develop legislative amendments.

Recommendation 62

State and territory governments should introduce legislation to allow a child’s competency to give evidence in child sexual abuse prosecutions to be tested as follows:

a. Where there is any doubt about a child’s competence to give evidence, a judge should establish the child’s ability to understand basic questions asked of them by asking simple, non-theoretical questions – for example, about their age, school, family et cetera.
b. Where it does not appear that the child can give sworn evidence, the judge should simply ask the witness for a promise to tell the truth and allow the examination of the witness to proceed.

Response

Accept in principle. The ACT Government supports the intent of this recommendation and will work with stakeholders to identify appropriate options.
**Recommendation 63**
State and territory governments should provide adequate interpreting services such that any witness in a child sexual abuse prosecution who needs an interpreter is entitled to an interpreter who has sufficient expertise in their primary language, including sign language, to provide an accurate and impartial translation.

**Response**
**Accept.** The ACT Government accepts all elements of the recommendation noting that further analysis may be required.

**Recommendation 64**
State and territory governments should consider or reconsider the desirability of partial codification of judicial directions now that Victoria has established a precedent from which other jurisdictions could develop their own reforms.

**Response**
**Accept.** The ACT Government supports the intent of the recommendation and has commenced consultation in relation to judicial directions in the ACT. The ACT will review the desirability of codifying certain directions in the process.

**Recommendation 65**
Each state and territory government should review its legislation and introduce any amending legislation necessary to ensure that it has the following provisions in relation to judicial directions and warnings:

a. **Delay and credibility**: Legislation should provide that:
   i. there is no requirement for a direction or warning that delay affects the complainant’s credibility
   ii. the judge must not direct, warn or suggest to the jury that delay affects the complainant’s credibility unless the direction, warning or suggestion is requested by the accused and is warranted on the evidence in the particular circumstances of the trial
   iii. in giving any direction, warning or comment, the judge must not use expressions such as ‘dangerous or unsafe to convict’ or ‘scrutinise with great care’.

b. **Delay and forensic disadvantage**: Legislation should provide that:
   i. there is no requirement for a direction or warning as to forensic disadvantage to the accused
   ii. the judge must not direct, warn or suggest to the jury that delay has caused forensic disadvantage to the accused unless the direction, warning or suggestion is requested by the accused and there is evidence that the accused has suffered significant forensic disadvantage
   iii. the mere fact of delay is not sufficient to establish forensic disadvantage
   iv. in giving any direction, warning or comment, the judge should inform the jury of the nature of the forensic disadvantage suffered by the accused
   v. in giving any direction, warning or comment, the judge must not use expressions such as ‘dangerous or unsafe to convict’ or ‘scrutinise with great care’.

c. **Uncorroborated evidence**: Legislation should provide that the judge must not direct, warn or suggest to the jury that it is ‘dangerous or unsafe to convict’ on the uncorroborated evidence of the complainant or that the uncorroborated evidence of the complainant should be ‘scrutinised with great care’.

d. **Children’s evidence**: Legislation should provide that:
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i. the judge must not direct, warn or suggest to the jury that children as a class are unreliable witnesses

ii. the judge must not direct, warn or suggest to the jury that it would be ‘dangerous or unsafe to convict’ on the uncorroborated evidence of a child or that the uncorroborated evidence of a child should be ‘scrutinised with great care’

iii. the judge must not give a direction or warning about, or comment on, the reliability of a child’s evidence solely on account of the age of the child.

Response
Accept in principle. The ACT Government supports the intent of this recommendation and has commenced consultation in relation to judicial directions and warnings.

Recommendation 66
The New South Wales Government, the Queensland Government and the government of any other state or territory in which Markuleski directions are required should consider introducing legislation to abolish any requirement for such directions.

Response
Accept in principle. The ACT Government supports the intent of this recommendation and has commenced consultation in relation to Markuleski directions.

Recommendation 67
State and territory governments should support and encourage the judiciary, public prosecutors, public defenders, legal aid and the private Bar to implement regular training and education programs for the judiciary and legal profession in relation to understanding child sexual abuse and current social science research in relation to child sexual abuse.

Response
Accept in principle. The ACT Government supports the intent of this recommendation, and will work with stakeholders, including the groups identified in the recommendation, to achieve the outcomes sought.

Recommendation 68
Relevant Australian governments should ensure that bodies such as:

a. The Australasian Institute of Judicial Administration
b. the National Judicial College of Australia
c. the Judicial Commission of New South Wales
d. the Judicial College of Victoria

are adequately funded to provide leadership in making relevant information and training available in the most effective forms to the judiciary and, where relevant, the broader legal profession so that they understand and keep up to date with current social science research that is relevant to understanding child sexual abuse.

Response
Noted. The ACT Government notes this recommendation falls within the jurisdiction of the Commonwealth.

Recommendation 69
In any state or territory where provisions such as those in sections 79(2) and 108C of the Uniform Evidence Act or their equivalent are not available, the relevant government should introduce legislation to allow for expert
evidence in relation to the development and behaviour of children generally and the development and behavior of children who have been victims of child sexual abuse offences.

Response

Accept in principle. The ACT Government accepts all elements of the recommendation noting that section 79(2) and 108C of the Evidence Act 2011 reflect this recommendation.

Recommendation 70

Each state and territory government should lead a process to consult the prosecution, defence, judiciary and academics with relevant expertise in relation to judicial directions containing educative information about children and the impact of child sexual abuse, with a view to settling standard directions and introducing legislation as soon as possible to authorise and require the directions to be given. The National Child Sexual Assault Reform Committee’s recommended mandatory judicial directions and the Victorian Government’s proposed directions on inconsistencies in the complainant’s account should be the starting point for the consultation process, subject to the removal of the limitation in the third direction recommended by the National Child Sexual Assault Reform Committee in relation to children’s responses to sexual abuse so that it can apply regardless of the complainant’s age at trial.

Response

Accept in principle. The ACT Government supports the intent of this recommendation and has commenced consultation in relation to judicial directions. The Government will need to undertake further analysis and consultation with stakeholders to identify options.

Recommendation 71

In advance of any more general codification of judicial directions, each state and territory government should work with the judiciary to identify whether any legislation is required to permit trial judges to assist juries by giving relevant directions earlier in the trial or to otherwise assist juries by providing them with more information about the issues in the trial. If legislation is required, state and territory governments should introduce the necessary legislation.

Response

Accept in principle. The ACT Government supports the intent of this recommendation and has commenced consultation in relation to judicial directions. The Government will need to undertake further analysis and consultation with stakeholders to identify options.

Recommendation 72

Each state and territory government should work with its courts, prosecution, legal aid and policing agencies to ensure that delays are reduced and kept to a minimum in prosecutions for child sexual abuse offences, including through measures to encourage:

- the early allocation of prosecutors and defence counsel
- the Crown – including subsequently allocated Crown prosecutors – to be bound by early prosecution decisions
- appropriate early guilty pleas
- case management and the determination of preliminary issues before trial.
Response

Accept in principle. The ACT Government supports the intent of the recommendation and will conduct further analysis and community consultation to explore options to minimise delays when prosecuting child sexual abuse offences.

Recommendation 73

In those states and territories that have a qualified privilege in relation to sexual assault communications, the relevant state or territory government should work with its courts, prosecution and legal aid agencies to implement any necessary procedural or case management reforms to ensure that complainants are effectively able to claim the privilege without risking delaying the trial.

Response

Accept in principle. The ACT Government supports the intent of the recommendation and will consult with community stakeholders in order to develop legislative amendments.

Recommendation 74

All state and territory governments (other than New South Wales and South Australia) should introduce legislation to provide that good character be excluded as a mitigating factor in sentencing for child sexual abuse offences where that good character facilitated the offending, similar to that applying in New South Wales and South Australia.

Response

Accept. The ACT Government accepts all elements of the recommendation noting that this recommendation was implemented in the Crimes Legislation Amendment Bill 2017 (No 2).

Section 54 (2) (d) of the Crimes (Sentencing) Act 2005 now reflects this change.

Recommendation 75

State and territory governments should introduce legislation to require sentencing courts, when setting a sentence in relation to child sexual abuse offences involving multiple discrete episodes of offending and/or where there are multiple victims, to indicate the sentence that would have been imposed for each offence had separate sentences been imposed.

Response

Accept. The ACT Government accepts all elements of the recommendation noting that the Crimes (Sentencing) Act 2005 reflects this recommendation.

Recommendation 76

State and territory governments should introduce legislation to provide that sentences for child sexual abuse offences should be set in accordance with the sentencing standards at the time of sentencing instead of at the time of the offending, but the sentence must be limited to the maximum sentence available for the offence at the date when the offence was committed.

Response

Accept in principle. The ACT Government supports the intent of the recommendation and will consult with community stakeholders in order to develop legislative amendments.

Recommendation 77

State and territory governments, in consultation with their respective Directors of Public Prosecutions, should improve the information provided to victims and survivors of child sexual abuse offences to:
a. give them a better understanding of the role of the victim impact statement in the sentencing process
b. better prepare them for making a victim impact statement, including in relation to understanding the sort of content that may result in objection being taken to the statement or parts of it.

Response
Accept in principle. The ACT Government accepts the intent of this recommendation and will undertake further work to ensure its outcomes are met.

Recommendation 78
State and territory governments should ensure that, as far as reasonably practicable, special measures to assist victims of child sexual abuse offences to give evidence in prosecutions are available for victims when they give a victim impact statement, if they wish to use them.

Response
Accept in principle. The ACT Government supports the intent of the recommendation and will consult with community stakeholders in order to develop legislative amendments.

Recommendation 79
State and territory governments should introduce legislation, where necessary, to expand the Director of Public Prosecution’s right to bring an interlocutory appeal in prosecutions involving child sexual abuse offences so that the appeal right:

a. applies to pre-trial judgments or orders and decisions or rulings on the admissibility of evidence, but only if the decision or ruling eliminates or substantially weakens the prosecution’s case
b. is not subject to a requirement for leave
c. extends to ‘no case’ rulings at trial.

Response
Accept in principle. The ACT Government supports the intent of the recommendation and will consult with community stakeholders in order to develop legislative amendments.

Recommendation 80
State and territory governments should work with their appellate court and the Director of Public Prosecutions to ensure that the court is sufficiently well resourced to hear and determine interlocutory appeals in prosecutions involving child sexual abuse offences in a timely manner.

Response
Accept in principle. The ACT Government will undertake further analysis and consultation with key stakeholders and provide a further response at the annual update.

Recommendation 81
Directors of Public Prosecutions should amend their prosecution guidelines, where necessary, in relation to the decision as to whether there should be a retrial following a successful conviction appeal in child sexual abuse prosecutions. The guidelines should require that the prosecution consult the complainant and relevant police officer before the Director of Public Prosecutions decides whether to retry a matter.

Response
Accept. The ACT Government accepts all elements of the recommendation, which reflects the Director of Public Prosecutions’ current practice.
Recommendation 82
State and territory governments should ensure that a relevant government agency, such as the Office of the Director of Public Prosecutions, is monitoring the number, type and success rate of appeals in child sexual abuse prosecutions and the issues raised to:

a. identify areas of the law in need of reform

b. ensure any reforms – including reforms arising from the Royal Commission’s recommendations in relation to criminal justice, if implemented – are working as intended.

Response
Accept. The ACT Government accepts all elements of the recommendation, and notes the Director of Public Prosecutions currently performs this role.

Recommendation 83
State and territory governments (other than the Northern Territory) should give further consideration to whether the abolition of the presumption that a male under the age of 14 years is incapable of having sexual intercourse should be given retrospective effect and whether any immunity which has arisen as a result of the operation of the presumption should be abolished. State and territory governments (other than the Northern Territory) should introduce any legislation they consider necessary as a result of this consideration.

Response
Accept. The ACT Government accepts all elements of the recommendation noting that further analysis may be required to ensure existing provisions addressing this presumption are interpreted in keeping with the recommendation.

Recommendation 84
State and territory governments should review their legislation – and if necessary introduce amending legislation – to ensure that complainants in child sexual abuse prosecutions do not have to give evidence on any additional occasion in circumstances where the accused, or one of two or more co-accused, is a juvenile at the time of prosecution or was a juvenile at the time of the offence.

Response
Accept. The ACT Government accepts all elements of the recommendation and will review the relevant legislation to identify whether amending legislation is required.

Recommendation 85
State and territory governments should keep the interaction of:

a. their legislation relevant to regulatory responses to institutional child sexual abuse

b. their crimes legislation and the crimes legislation of all other Australian jurisdictions, particularly in relation to child sexual abuse offences and sex offender registration under regular review to ensure that their regulatory responses work together effectively with their relevant crimes legislation and the relevant crimes legislation of all other Australian jurisdictions in the interests of responding effectively to institutional child sexual abuse.

Response
Accept. The ACT Government accepts all elements of the recommendation noting that it is an overarching objective of the other Royal Commission recommendations.
The work of the Royal Commission and the ACT Government’s response may bring up strong feelings and questions. Be assured you are not alone, and that there are many services and support groups available to assist. Some options for advice and support include 1800 Respect, Lifeline on 13 11 14 and the National Redress Information Line on 1800 146 713.