



ACT GOVERNMENT **RESPONSE SNAPSHOT**

ROYAL COMMISSION INTO
INSTITUTIONAL RESPONSES
TO CHILD SEXUAL ABUSE

June 2018



THE ACT'S COMMITMENT TO CHILDREN AND YOUNG PEOPLE

Child Abuse is unacceptable and appalling. All young children have a fundamental right to be safe and protected in their community, and to have a say in decisions that affect them. The ACT Government is committed to ensuring children's safety and will work with the community to ensure that this expectation is met.

Across Australia there have been a number of inquiries into child abuse and neglect in institutional settings; most recently the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission). The community has been rightly shocked and betrayed by the actions and omissions of many of the organisations whose conduct has been exposed through the work of the Royal Commission.

In light of these findings it has become apparent that all entities that work with children, large and small, can no longer assume that child abuse cannot happen within their organisation. It is now a community expectation that all types of organisations take appropriate steps to promote child safety.

The ACT is a human rights jurisdiction, committed to protecting the rights of children and young people, including their right to special protection, because of their vulnerability to exploitation and abuse. This commitment extends to maximising the physical and mental health and wellbeing of children and young people and their connection to family, community, culture, education and employment.

These commitments are evident in the *ACT Human Rights Act 2004* and principles contained in the *ACT Children and Young People's Commitment 2015-2025* (the Commitment).

The ACT Government response specifically addresses two key priority areas of the Commitment:

- > Keep children and young people safe and protect them from harm.
- > Advocate the importance of the rights of children and young people.

THE ROYAL COMMISSION'S REPORTS

The Royal Commission was established in 2013, in response to allegations of sexual abuse of children in institutional contexts that had been emerging in Australia for many years.

The Royal Commission issued a total of four reports:

- > **The Working with Children Checks Report in August 2015**, containing 36 recommendations, 35 of which are relevant to state and territory governments;
- > **The Redress and Civil Litigation Report in September 2015**, containing 99 recommendations, 84 of which are relevant to state and territory governments;
- > **The Criminal Justice Report in August 2017**, containing 85 recommendations, 83 of which are relevant to state and territory governments; and
- > **The Final Report on 15 December 2017**, containing 189 recommendations. 105 of these are pertinent to state and territory governments.

The ACT Government has been implementing recommendations from Royal Commission since the first reports were issued in 2015. Criminal justice reforms, improving support to vulnerable witnesses, the establishment of a Reportable Conduct Scheme, removing limitation periods for civil litigation and joining the National Redress Scheme are key areas where action has already been taken.



THE ACT GOVERNMENT'S RESPONSE

The Royal Commission recommended that all Australian governments deliver a formal response within six months of the Final Report being issued, which the ACT Government has now completed.

The response addresses all recommendations relating to state and territory governments in each of the Royal Commission's four reports. Other recommendations that relate to the Commonwealth or institutions have been noted, but not addressed by the ACT Government.

The ACT identified four themes from the recommendations in the Final Report:

- 1. Making institutions child safe** – principles and standards to ensure children are safe wherever they are.
- 2. An oversight system that responds to child safety** – requiring institutions, organisations and employees who provide services to children to develop and maintain a high degree of transparency and accountability.
- 3. Services for children and young people** – safeguarding children in out-of-home care, residential care, the youth justice system, and providing safety education through the school curriculum.
- 4. Tailored support through specialist services** – appropriate advocacy, counselling and support for victims and survivors of child sexual assault, children with problematic and harmful sexual behaviours, for Aboriginal and Torres Strait Islander people and for people with disability.

The ACT was the first jurisdiction in Australia to enact a Human Rights Act, which provides an explicit statutory basis for respecting, protecting and promoting civil and political rights. The rights of children, including protecting and safeguarding children, are fundamental to the ACT's human rights approach.

Within this context, the ACT Government's work on the Royal Commission's recommendations does not begin with this response. Some recommendations have already been implemented, while the implementation of many others is currently underway. Some recommendations were consistent with the ACT Government's existing Commitment, while some others require further planning, consultation and tailoring to be effective in the ACT context. A few recommendations will take the ACT and other jurisdictions into uncharted territory that will require significant work and coordination around the country to implement.

GUIDING PRINCIPLES

All of the ACT Government's responses to the Royal Commission's recommendations are based on these important principles from the Commitment that have been identified following consultations with children and young people, as well as giving regard to human rights treaties:

- > Children and young people should neither benefit nor suffer because of their culture, differing ability, ethnicity, birth status and gender, political or other opinions.
- > Laws and actions affecting children and young people should put their best interests first and benefit them in the best possible way.
- > Government and the community should work together to protect children and young people and support their full development.
- > Children and young people have a right to have their say in decisions that affect them and to have their opinions valued and taken into account

The ACT Government's response to each recommendation highlights our intention to:

- > Develop change with those who will be affected, to ensure we get the best fit for the ACT.
- > Enhance rather than duplicate existing safeguards with new approaches to regulation and oversight.
- > Focus on building capacity through competencies and skills.

UNDERSTANDING THE RESPONSE

The ACT Government has addressed each recommendation with one of four responses:

- 1. Accept** – we agree with all aspects of the recommendation and may already be delivering the outcome sought by the Royal Commission.
- 2. Accept in principle** – The ACT Government agrees with the outcome sought by the Royal Commission, work may already be underway, and any future work will be done in consultation with children and families, industry and government to understand the best fit for the ACT and any potential resourcing implications.
- 3. For further consideration** – these recommendations need further planning, consultation and tailoring, or legislative amendments to ensure they are effective in the ACT.
- 4. Noted** – these recommendations will require significant coordination across jurisdictions and the ACT commits to contributing to their national delivery. The ACT Government has also noted recommendations that are aimed at the Commonwealth Government or other organisations.



HIGHLIGHTS

NATIONAL STATEMENT OF PRINCIPLES FOR CHILD SAFE ORGANISATIONS

The ACT is a human rights jurisdiction, committed to protecting the rights of children and young people, including their right to special protection, because of their vulnerability to exploitation and abuse. A draft National Statement of Principles for Child Safe Organisations is currently being consulted on, taking a child-rights approach to building capacity to care for children in organisations, families and communities.

Further, the ACT Government agrees to prioritise collaboration with other jurisdictions to progress a new National Framework on Child Safety, which will apply the National Principles in the development of child safe institutions and in the development of government policies, programs, services and interventions.

CHILD SAFE STANDARDS

The ACT currently has regulated child safe standards in out-of-home care, but the Royal Commission has recommended that child safe standards be compulsory for all organisations providing facilities or services to children, to ensure that protecting children from abuse is embedded in the everyday thinking and practice of leaders, staff and volunteers. The ACT Government will commence consultation in mid-2018 to understand the impact of the child safe standards on the complex regulatory environment that exists in the ACT in government and non-government sectors.

WORKING WITH VULNERABLE PEOPLE

The ACT Government is amending its Working with Vulnerable People (WWVP) Scheme of background checks, to strengthen protections for vulnerable Canberrans, while reducing the regulatory burden of the Scheme on employers, community organisations and Access Canberra. The ACT Government has proposed to adopt a risk based approach to monitor compliance, bringing the ACT into line with NSW and Victoria, and prepare the ACT Government for the national harmonisation of Working with Children Check schemes, as recommended by the Royal Commission.

REPORTABLE CONDUCT

In April 2016 the ACT Government led a national agreement that all states and territories, with the support of the Commonwealth, would work to develop nationally harmonised reportable conduct schemes. The Royal Commission

stated during the course of its work that the Reportable Conduct Scheme operating in New South Wales was the most effective oversight mechanism it was aware of, to ensure that child sexual abuse occurring in organisations is reported, investigated and monitored.

The ACT Government implemented a Reportable Conduct Scheme, modelled closely on the NSW scheme, on 1 July 2017, requiring organisations to report allegations or convictions of misconduct involving children to the ACT Ombudsman, to ensure they are properly investigated and responded to. From 1 July 2018, the ACT's Reportable Conduct Scheme will be extended to cover all services for children provided by religious organisations.

REDRESS

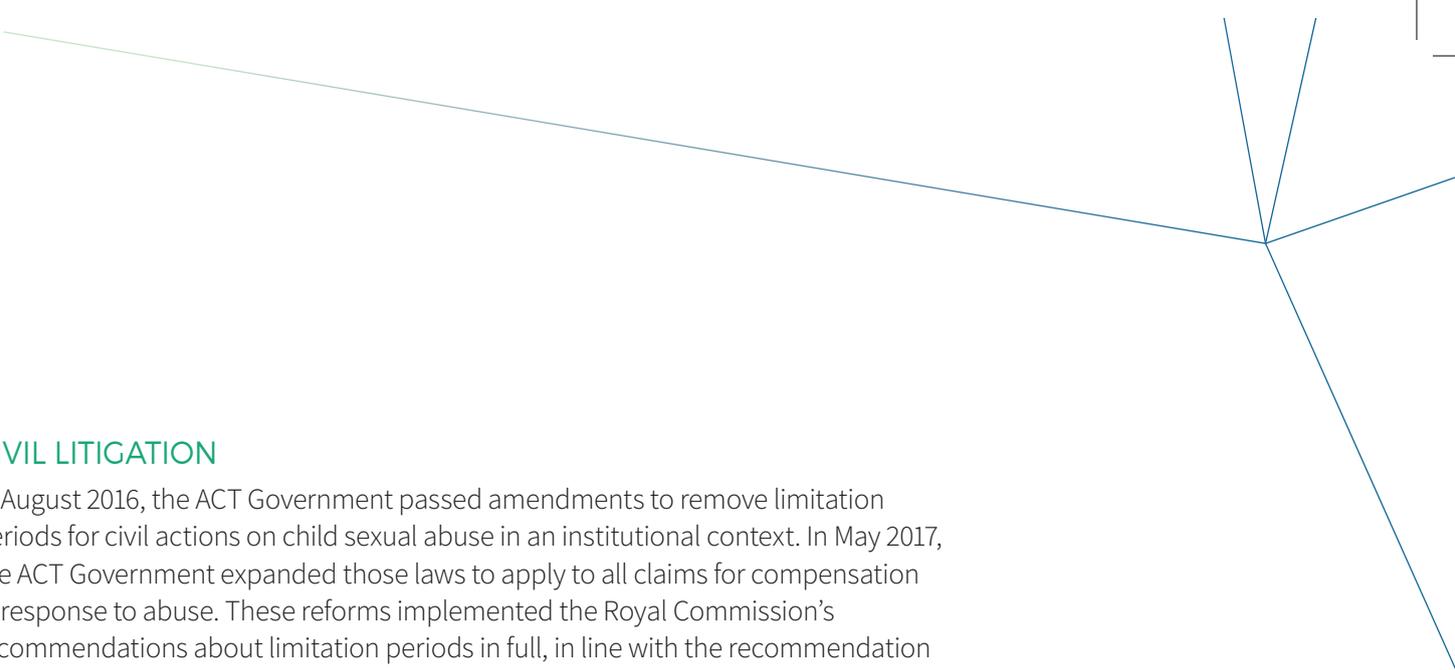
The ACT Government has been working closely with the Commonwealth and other jurisdictions to develop the framework and processes required to implement the National Redress Scheme, including the National Bill, Rules and Intergovernmental Agreement. The ACT Government has consistently advocated for the spirit and intent of the Royal Commission recommendations to be implemented. The ACT Government announced its intention to join the scheme on 19 March 2018, and signed the Intergovernmental Agreement on 1 May 2018. The ACT Government is working with the Commonwealth Government to deliver survivor focused redress to ACT survivors throughout the life of the scheme. This Scheme will begin to operate from 1 July 2018.

CRIMINAL JUSTICE

A number of the measures recommended by the Royal Commission's Criminal Justice Report have been in place in the ACT for some time; for example, measures to support vulnerable witnesses to give evidence in a way which does not re-traumatise them.

Legislation was introduced in the ACT Legislative Assembly in December 2017 and passed in February 2018 in response to several of the Royal Commission's recommendations on criminal justice. On 22 March 2018, the ACT Attorney-General commenced consultations on further reforms recommended by the Royal Commission.

In addition to the public consultation process, the ACT Justice and Community Safety Directorate is consulting with the Sexual Assault Reform Program (SARP) Reference Group in relation to the criminal justice recommendations. Legislation, informed by the ACT Government's consultations, will be progressed in the second half of 2018 and in 2019.



CIVIL LITIGATION

In August 2016, the ACT Government passed amendments to remove limitation periods for civil actions on child sexual abuse in an institutional context. In May 2017, the ACT Government expanded those laws to apply to all claims for compensation in response to abuse. These reforms implemented the Royal Commission's recommendations about limitation periods in full, in line with the recommendation to prioritise these reforms ahead of the recommendations about duty of institutions and identifying a proper defendant.

EDUCATION

The ACT Government established the ACT Teacher Quality Institute (TQI) as an independent statutory authority to enhance community confidence in the teaching profession through professional regulation. TQI keeps a register of, and records relating to, teachers working or intending to work in Government, Catholic and Independent schools in the ACT. If regulatory action is taken against a registered teacher, other teacher regulatory authorities are notified.

The Royal Commission determined that provisions for nationally consistent requirements for teacher registration should be strengthened to assist with safeguarding students. A national review of the level of consistency of teacher registration has commenced.

The Royal Commission determined that a nationally consistent curriculum for online safety education in schools should be established. The curriculum should build behavioural skills as well as technical knowledge to support a positive and safe online culture. The ACT Government will support the development of a national curriculum through the COAG Education Council processes.

YOUTH JUSTICE

To enhance the existing support and training for staff, the ACT Government will provide additional training and professional development for youth justice staff responding to children at risk of sexual abuse and children with harmful sexual behaviours. The ACT Government will also undertake work to ensure that all staff employed at the Bimberi Youth Justice Centre have access to ongoing professional development opportunities specifically relating to trauma-informed care.

THERAPEUTIC SERVICES

The Royal Commission's findings highlight the importance of the Commonwealth Government and state and territory governments funding dedicated community support services for victims and survivors in each jurisdiction, to provide an integrated model of advocacy, support and counselling to children and adults who experienced childhood sexual abuse in institutional contexts. The ACT Government currently funds services including the Canberra Rape Crisis Centre, Service Assisting

Male Survivors of Sexual Assault, Relationships Australia Canberra & Region, and Victim Support ACT. The ACT Government will determine the scale of unmet demand and the most appropriate model to meet this demand.

NEXT STEPS

In 2018 -2019 the ACT Government will:

- > Amend the ACT's Working with Vulnerable People (WWVP) Scheme of background checks, to strengthen protections for vulnerable Canberrans, while reducing the regulatory burden of the Scheme on employers, community organisations and Access Canberra.
- > Expand the scope of the Reportable Conduct Scheme to cover all services for children provided by religious organisations. This was achieved through the *Ombudsman Amendment Act 2018*.
- > Continue to work with the Commonwealth and other jurisdiction to prepare to deliver a survivor focused Redress Scheme to ACT survivors. This Scheme will begin to operate from 1 July 2018.
- > Continue public consultation on recommendations from the Royal Commission's Criminal Justice Report. The ACT Justice and Community Safety Directorate is consulting with the Sexual Assault Reform Program (SARP) Reference Group in relation to the criminal justice recommendations. Legislation, informed by the ACT Government's consultations, will be progressed in the second half of 2018 and in 2019.
- > Prioritise collaboration with other jurisdictions to progress a new National Framework on Child Safety, which will apply the National Principles in the development of child safe institutions and in the development of government policies, programs, services and interventions.
- > Commence analysis of the current regulatory environment for human services and commence consultation on the impact of implementation of Child Safe Standards.
- > Participate in the development of national approaches to identified priority areas including:
 - Child Safe Standards and the National Framework for supporting child safe organisations – including consistency between government and non-government sectors;
 - Improving information sharing, record keeping and data collection; and
 - Addressing the complex issue of children with harmful sexual behaviours.
- > Implement recommendations which concluded that survivors should be able to sue a readily identifiable church or other entity that has the financial capacity to meet claims of institutional child sexual abuse.

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**.