ACT Government

# THE ACT GOVERNMENT **FIRST ANNUAL PROGRESS REPORT**

## RESPONDING TO THE RECOMMENDATIONS OF 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)

December 2018

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# BACKGROUND

## The Royal Commission into Institutional Responses to Child Sexual Abuse (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 handed down its Final Report on 15 December 2017. The Final Report contained 189 recommendations: 105 of these are pertinent to state and territory governments.

The Royal Commission has previously released:

- The Working with Children Checks Report in August 2015, containing 36 recommendations: 35 are relevant to the ACT.
- The Redress and Civil Litigation Report in September 2015, containing 99 recommendations: 84 are relevant to the ACT.
- The Criminal Justice Report in August 2017, containing 85 recommendations: 83 are relevant to the ACT.

The work of this Royal Commission has been incredibly important and the ACT Government is committed to learning from the experiences of the brave survivors who came forward, and from the Royal Commission's final recommendations.

The ACT Government formally responded to the Royal Commission's Final Report on 15 June 2018. Of the 307 recommendations for the ACT Government, we accepted or accepted in principle 290 of these, and noted or took under further consideration the remaining 17.

Recommendation 17.2 advises that the Australian Government and State and Territory governments report on their implementation of the Royal Commission's recommendations made in the 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, beginning 12 months from the tabling of the Final Report.

This report is the ACT Government's the first annual Progress Report.

# FINAL REPORT – PROGRESS

## THEME 1: MAKING INSTITUTIONS CHILD SAFE

### Child Safe Standards

The Royal Commission recommends that institutions uphold the rights of the child. Recommendations focus on preventing sexual abuse and making institutions safer for children through the implementation of ten Child Safe Standards. The ACT Government agrees with the Royal Commission that organisations providing services to children must do more to prevent and respond to child abuse that may occur within their organisations.

The Royal Commission has recommended that the Child Safe Standards be compulsory for all organisations providing facilities or services to children, including those that are funded or regulated by government, and those that are not. The Child Safe Standards aim to drive cultural change in organisations so that protecting children from abuse is embedded in the everyday thinking and practice of leaders, staff and volunteers.

The ACT Government notes the Royal Commission recommended a wide range of organisations be required to adopt the Child Safe Standards, and that these organisations vary significantly in size, governance arrangements and in the nature of their interaction with children. The approach needed by different organisations to meet the Child Safe Standards is likely to vary.

The ACT Government is currently seeking the views of industry, regulators and interested parties as to how children's services organisations meet existing and proposed Child Safe Standards. The ACT Government is working with stakeholders to explore how the Child Safe Standards interact with the existing regulatory environment and oversight functions; and to identify options for the implementation of the Child Safe Standards across government and non-government sectors.

In mid-2018, a preliminary desktop analysis was undertaken to determine the current regulatory landscape in the ACT and to identify the regulatory readiness of institutions to implement the Child Safe Standards. This exercise also considered the extent to which existing regulatory and oversight bodies would have the capacity to provide monitoring and oversight of the Child Safe Standards.

Building on this work, the ACT Government partnered with the ACT Public Advocate and Children and Young People Commissioner to conduct stakeholder forums in October 2018 to understand current sector readiness to implement the Child Safe Standards. These forums involved a range of organisations that provide service delivery to children and young people and informed the ACT Government about what supports organisations need to strengthen their approaches to protecting children and young people. The issues raised in these forums have informed ongoing work on the implementation of Child Safe Standards in the ACT. A survey is currently being conducted on the ACT Government's Royal Commission YourSay website, inviting organisations that work with children and young people to reflect on how the Child Safe Standards relate to their current organisational practice.

The ACT's education system 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 November 2018, the ACT Government introduced legislative amendments to the *Education Act 2004* to progress recommendations particularly relating to child safety and information sharing. These amendments will ensure that non-government schools are required by law to take steps toward implementing the Royal Commission recommendations relating to the Child Safe Standards, while

allowing adequate time in 2019 for development of the regulations in consultation with the non-government sector.

The Education Directorate is reviewing professional learning programs, the staff code of conduct, policy frameworks and development and ongoing programs to determine how to apply the Child Safe Standards. A desktop review was conducted in 2017 to inform further work, with this work ongoing throughout 2019.

## National Statement of Principles for Child Safe Organisations

The *National Statement of Principles for Child Safe Organisations* (the National Principles) were developed in response to early findings of the Royal Commission and aim to embed child safety as a key focus for organisations working with children and young people. The National Principles respond to recommendations 6.5 and 6.6 of the Royal Commission to establish national Child Safe Standards.

On 1 June 2018, Community Services Ministers noted the progress of the National Principles at their meeting. Ministers reaffirmed their commitment to finalise the National Principles and progress them to the Council of Australian Governments (COAG) for endorsement following all governments' responses to the Royal Commission's report.

Subject to agreement by COAG, the ACT will join with other jurisdictions in promoting the National Principles across all organisations within the community services sector working with children and young people (in particular the out-of-home care and family support sectors) to foster genuine cultural change in organisations to support child safety and wellbeing.

The ACT Government will work closely with the Australian Government (through the National Office for Child Safety) and with other state and territory governments to support the promotion of the National Principles in all sectors working with children.

## eSafety

The Teacher Quality Institute (TQI) is developing a policy to ensure that both the University of Canberra and Australian Catholic University initial teacher education (ITE) programs include explicit instruction to raise awareness of safe learning environments for children using the education resources developed by the Office of the e-Safety Commissioner. The TQI has promoted the Office of the eSafety Commissioner resources to all ACT registered teachers through social media and the TQI Teacher Portal.

For national consistency, any additional curriculum should be considered in the context of the Australian Curriculum particularly in the ICT Literacy General Capability. The ACT Government is represented on the Safe and Supportive Schools Community, a working group of the Australian Education Senior Officials Committee (AESOC) with representatives from all jurisdictions. A formal decision is pending from AESOC regarding the scope of work and curriculum development. A revised National Safe Schools Framework is anticipated to be considered by the end of 2018.

## Online child sexual abuse

ACT Policing is considering expanding its participation and representation at particular forums relevant to online sexual abuse. Currently, ACT Policing keep informed of matters raised by the eSafety Commissioner through the Ministerial Council for Police and Emergency Management.

ACT Policing has ongoing engagement with the Australian Federal Police (AFP) at a national level with a view to combat online child sexual abuse, and keeps informed of progress in this sphere with AFP's attendance at the Child Protection Operations Team and the Serious and Organised Crime Committee. ACT Policing is also a participant in the national Child Protection Working Group.

# THEME 2: AN OVERSIGHT SYSTEM THAT RESPONDS TO CHILD SAFETY

A number of bodies currently provide child safety oversight functions in the ACT, including the Public Advocate, Children and Young People Commissioner, ACT Ombudsman, Human Services Registrar and the Teacher Quality Institute. The Inspector of Corrective Services will also commence its inspection role at Bimberi Youth Justice Centre from 2019.

The Royal Commission recommended that an independent oversight body monitor and enforce the Child Safe Standards. The ACT Government will work with stakeholders to identify options across government and non-government sectors, and to explore how the Child Safe Standards will interact with existing oversight functions.

The ACT Government will also consider how to incorporate an independent oversight body with the appropriate visitation, complaint handling and reporting powers, to provide oversight of youth detention within existing legislation and operational arrangements. Through this process, the ACT Government will need to consider the functions and roles of the existing Inspector of Corrective Services.

The Education Directorate is in the process of scoping and mapping its oversight system most particularly in complaints management and information sharing to identify barriers and compliance risks. The Directorate will work closely with statutory bodies and regulatory units to examine the oversight and compliance regime in the ACT and how it can better serve child safety. The ACT will continue to work with Commonwealth bodies on the national curriculum standards and online safety by providing input through national forums and working groups.

The Health Directorate is reviewing its previous work on the draft framework *Towards child safe child friendly and child aware healthcare*. The framework was developed in consultation with the Children and Young People's Commissioner and incorporates Child Safe Standards.

## Mandatory reporting

The ACT has a mandatory reporting scheme in place that requires certain people be mandated to report situations where they form a belief on reasonable grounds that a child or young person has experienced sexual or physical abuse or neglect. The mandated reporter is not required to prove that abuse or neglect has occurred.

A guide is currently in place titled 'Keeping Children and Young People Safe' that provides information to mandated reporters about reporting child abuse and neglect in the ACT. The guide is publicly available on the Community Services Directorate website.

The ACT provides a high level of protection through a broad scope of professions subject to mandatory reporting and a low threshold required for a mandated report. In the ACT, mandated reporters already include:

- youth justice workers
- early childhood workers
- registered psychologists

- teachers
- school counsellors.

Foster and kinship carers and out-of-home care agency workers are not mandated reporters in the ACT. However, care agency staff are required to act as mandated reporters, under the terms of the agency's Service Funding Agreement.

People in religious ministry are currently designated as mandatory reporters only if their duties are undertaken in connection to an educational facility. Recommendations 7.3(e) and 7.4 of the Final Report were that people in religious ministry should be mandated reporters and there should be no exemption from being required to report known or suspected child sexual abuse that is disclosed in a religious confession.

The ACT has engaged an expert consultant to provide advice on the implementation of recommendations about the reporting of child sexual abuse with implications for the treatment of the confessional seal. This includes recommendations relating to mandatory reporting laws. The consultant's report is due in January 2019.

## Reportable Conduct Scheme

On 1 July 2017, the ACT Reportable Conduct Scheme commenced. In accordance with the wishes of the community, the ACT scheme was closely modelled on the scheme that has been operating in NSW since 1999.

Reportable conduct refers to certain types of misconduct involving children including ill treatment, neglect, sexual misconduct, and certain types of criminal behaviour. The ACT Reportable Conduct Scheme provides independent oversight (through the ACT Ombudsman) of the way Canberra's workplaces report, investigate and handle allegations of misconduct involving children.

Like the NSW Scheme, the ACT Reportable Conduct Scheme covers organisations that fall within certain categories, including government and non-government schools, all ACT Government Directorates, providers of childcare services, health services, out-of-home care services, and others prescribed by regulation.

Religious institutions were included in the ACT Reportable Conduct Scheme since it began but only insofar as they have been operating or providing services to children (in schools, childcare centres, health or other community services).

From 1 July 2018, the ACT's Reportable Conduct Scheme was expanded to include religious institutions providing pastoral care and religious instruction. The *Ombudsman Amendment Act 2018* puts in place transitional arrangements until 31 March 2019, that exclude from the scope of the ACT Reportable Conduct Scheme any allegations of reportable conduct divulged in the course of religious confession.

The Ombudsman and the ACT Government are committed to work with religious entities to ensure that they receive appropriate support and information to comply with the ACT Reportable Conduct Scheme, and also to become more child safe.

## Information sharing

In November 2017, the ACT Government introduced legislation to improve information sharing within our jurisdiction, to ensure child protection, law enforcement and oversight bodies have access to the information they need to effectively deal with child welfare and safety concerns.

The ACT Government has committed to expand the scope of the development of the new Child and Youth Protection Services client management system to include the Child and Family Centres and the Child Development Service, and to build capability to integrate with key stakeholders. The Child and Youth Record Information System (known as CYRIS) is currently being built and is expected to be phased in commencing late 2018. This will include comprehensive user acceptance testing in late 2018, followed by going live in 2019. CYRIS will allow automated real time information exchange of risk, safety and wellbeing information about children and young people.

Other work being undertaken by the ACT includes collaborating with other jurisdictions to:

- identify and remove barriers to information sharing and to develop methods to promote and enable information sharing
- implement interjurisdictional child protection information sharing protocols
- develop nationally consistent standards that align with the ACT Working with Vulnerable People Scheme. Further legislative amendments are anticipated in 2019 to enhance the operation and administration of the scheme in the ACT and align the scheme to the recommendations made by the Royal Commission.

The continuing operation of the Reportable Conduct Scheme will improve the ability of prescribed bodies to share information. Given its proximity to New South Wales, the ACT Government is keenly aware of the importance of cross-border collaboration to the effective exchange of information to protect children.

There is further work to be done to improve information sharing within the Territory, and between jurisdictions. The ACT Government will continue to work internally, and with other states and territories, to improve information sharing to better protect children.

This is a complex area of law and the ACT Government is conscious of the importance of the right to privacy, which is enshrined in section 12 of the *Human Rights Act 2004*, as it impacts on both children and adults. The importance of upholding this right, and reasonable limits on disclosure, will be clearly communicated when implementing information exchange programs.

## Student information sharing

In response to the Glanfield Inquiry and Royal Commission's recommendations, changes to the *Education Act 2004* introduced in November 2018 will enable the Director-General of the Education Directorate to share information with other state and territory education authorities about the enrolment of a child in a school or education setting. The amendment allows for only necessary information to be exchanged to ensure the safety and well-being of the child.

The ACT Government will continue to work with other jurisdictions to encourage them to adopt similar, and reciprocal, arrangements in their own legislation.

There is also national work being led by the COAG Education Council and through negotiation with other jurisdictions in the area of information sharing.

## Teacher registration

In mid-2018 the ACT Government made a submission to the *National Review of Teacher Registration* addressing the discussion paper specifically relating to child safety. A key area of the national review is strengthening children's safety through nationally consistent collection and sharing of teacher registration information.

The *National Review of Teacher Registration* has been completed and the recommendations have been noted by the COAG Education Council. An implementation plan will be considered by the COAG Education Council. Three of the *National Review of Teacher Registration* recommendations link directly with the Royal Commission recommendations.

In November 2018 the ACT Government introduced legislative amendments to the *ACT Teacher Quality Institute Act 2010*. These amendments support the Teacher Quality Institute's (TQI) ability to make informed teacher registration decisions. Changes strengthen reporting requirements to the ACT TQI and require employers to inform the TQI if one of four notification events (relating to conduct in the workplace) occur. Changes also grant the TQI the power to obtain information or advice from an employer that is relevant to the continuation of a teacher's registration. These amendments recognise that employers hold relevant information about teachers and timely provision of this information is important for decision making and to support the TQI to carry out its functions.

Amendments to the *Teacher Quality Institute Act 2010* will also improve access to information about the status of a teacher's Working with Vulnerable People registration and ensure that teachers maintain current Working with Vulnerable People registration throughout their period of teacher registration.

The TQI is a member of the Child Abuse Royal Commission Senior Officials Working group managing the recommendations 8.9, 8.10, 8.11, 8.12 and 13.8. This work will inform the consideration of the recommendations at the December 2018 Education Council meeting.

## Health Child Protection Policy

ACT Health Directorate and Canberra Health Services have finalised Health's child protection documents to reflect the new RiskMan-based reporting procedure agreed with Child and Youth Protection Service (CYPS).

The suite of documents comprise: Child Protection Policy; Child Protection and Child and Prenatal Concern Reporting Guidelines; Factsheet: Child Concern Reporting; Factsheet: Prenatal Concern Reporting; Factsheet: Information sharing – ACT Health and Child and Youth Protection Services; Flowchart: Making a Child Concern Report; Graphic: How to Make a Child Concern or Prenatal Report on Riskman

## Record keeping

The ACT Government Territory Records Office is working with other jurisdictions and the Australian Society of Archivists to develop guidance for both government and non-government institutions on the identification, retention and management of records that might be relevant to alleged incidents of child abuse.

The recordkeeping principles recommended by the Royal Commission are compatible with existing records, information and data management principles established by the ACT Government. The ACT Government retains most records relating to child sexual abuse that has occurred or is alleged to have occurred for a period of 99 years.

# THEME 3: SERVICES FOR CHILDREN AND YOUNG PEOPLE

Services to children - including education, out-of-home care, residential care and youth detention - often take place in fixed settings with specific care responsibilities.

The ACT Government has a strong system of oversight for children in out-of-home care. This system is supported by a set of National Standards, and oversight from the Public Advocate, the ACT Children and Young People Commissioner, the Official Visitors Scheme, the ACT Ombudsman, the Human Services Regulator and the Human Services Registrar.

The *Education and Care Services National Law (ACT) Act 2011* covers education and care services across Australia. The ACT participates in the National Early Childhood Policy Group, which sits under the COAG Education Council.

## Out-of-home care

Since the commencement of the ACT Government's *A Step Up for Our Kids: Out of Home Care Strategy 2015-2020*, work continues to evolve and mature the service system to achieve tangible outcomes. The Strategy is premised on the development of a new therapeutic, trauma-informed system to care.

An evaluation strategy has been developed to measure outcomes at the mid and end points of the Strategy. This work will guide the ACT Government's implementation of the Royal Commission's recommendations to improve the delivery of out-of-home care.

The ACT Government is working to assist all care leavers to safely and successfully transition to independent living. This includes current work on the transferral of Transition to Independent Living Allowance (TILA) payments from the Commonwealth to the ACT, and extending support up to 25 years of age for all young people transitioning from care under A Step Up for Our Kids.

The Baseline Report provided in February 2018 establishes a working benchmark of services and highlights what has been achieved as at June 2017. The report tests the *A Step Up for Our Kids* outcomes framework to ensure that the measures are correct, and to provide valuable information at the mid-strategy review.

While the Baseline Report is not a full evaluation it demonstrates that positive results are being delivered under *A Step Up for Kids.* For example, the Baseline Report identifies that the stability of placements is improving, with children and young people are experiencing fewer placement changes and participation rates rising. This indicates that children and young people are having a greater say in decisions and feel they are being heard.

An evaluation of outcomes will be undertaken mid-way through the term of the Strategy, and also at the end of the five-year term of the Strategy in 2020. The evaluation will be measured against the Baseline Report provided in February 2018.

### Youth Roundtable

A Youth Roundtable occurred on 24 November 2018 to hear the views of young people who are currently in out-of-home care or who have been in out-of-home care. The purpose of the Roundtable was to involve young people in policy and program development related to out-of-home care service provision.

### Carer Survey

In July/August 2018, the Community Services Directorate undertook a Carer Survey of foster, kinship and permanent carers to understand their experience of the current care system and to gauge their wellbeing status. The findings from the survey will form an important part of undertaking improvements across the next 12 months to support carers.

### Best Practice Publication

Partner agencies under *A Step Up for Our Kids* have developed a publication that highlights how when agencies work together with children, young people, families and carers, a positive difference can be made. The publication titled *'A Step Up For Our Kids: Real stories of keeping children safe, strong and connected'*, will tell stories of people who have been involved in placement prevention or out-of-home care and will demonstrate how agencies are working collaboratively to operationalise *A Step Up for Our Kids*.

## Data

The Royal Commission recommended developing nationally agreed key terms and definitions in relation to child sexual abuse for the purpose of data collection and reporting.

The ACT Government, along with the Commonwealth and state and territory governments, is working toward the implementation of necessary enhancements to the Child Protection National Minimum Data Set, including for a consistent approach to out-of-home care data measures.

Jurisdictions continue to work together to develop consistent definitions and data requirements for reporting on key child safety outcome indicators.

## Youth justice

There are a range of current safeguards and oversight bodies in the ACT's youth justice context, including the ACT Human Rights Commission, Public Advocate and Official Visitors, which are involved both within a custodial context and in the youth justice system more broadly.

In addition, the *Inspector of Correctional Services Act 2017* established a new oversight mechanism and independent statutory authority called the Inspector of Correctional Services, to oversee and critically examine the operations of the adult and youth detention systems in the ACT.

The ACT has a human rights focused youth justice system and the inclusion of Bimberi within the remit of the Inspector of Correctional Services will further strengthen the ACT's commitment to transparent and accountable services.

There will be a phased inclusion of the Bimberi Youth Justice Centre within the scope of the Inspectorate, to occur by December 2019. The phased implementation will enable the Inspector to accommodate and understand the needs of young people, including the need to understand trauma-informed practice and the operation of a human rights compliant youth justice facility.

The *Blueprint for Youth Justice in the ACT 2012–22* (the Blueprint) sets the strategic direction for youth justice in the ACT. The ten-year strategy focuses on reducing youth crime by addressing the underlying causes and promoting early intervention, prevention and diversion of young people from the youth justice system. Work under the Blueprint will be critical to implementing the youth justice recommendations from the Royal Commission.

The Blueprint for Youth Justice Taskforce was established in August 2017. Key themes and priorities for implementation are currently being considered by the Taskforce as it develops advice for the Minister for Children, Youth and Families on the direction of the Blueprint for the next four years.

## Early Support by Design

Responding to the overarching direction of the recommendations from the Royal Commission will require comprehensive and holistic reform of the human services system in the ACT. Reform will focus on shifting towards providing early support for children, young people and families in our community.

To achieve this reform, the ACT Government has been developing the Early Support by Design project, a joint initiative being led by the Community Services Directorate, on behalf of the Human Services Cluster (Health, Education, Justice and Community Safety and Community Services) to fundamentally reform how our systems work together to support people early.

This project focuses on enhancing early support capacity in the ACT to improve life outcomes, with a particular focus on three priority groups:

- vulnerable children and families (focused on the early years)
- Aboriginal and Torres Strait Islander children and families
- families who have experienced domestic and family violence.

Over a 10 year span, this project is expected to change government and non-government human services to a commissioning for early support outcomes environment.

Extensive consultation has been undertaken as part of our commitment to inclusionary community engagement. This includes talking with people who are accessing services and who are not accessing any services, so that we design supports that truly meet their needs.

The project will also seek to establish ‘try, test and learn’ approaches to determine effective approaches to early support in the ACT.

# THEME 4: TAILORED SUPPORT THROUGH SPECIALIST SERVICES

The Royal Commission made a number of recommendations to improve specialist services targeted at specific groups within the community. Recommendations under this theme focus on trauma informed therapeutic services and healing supports for survivors, including Aboriginal and Torres Strait Islander survivors and survivors with disability.

Recommendations also focus on appropriate supports and responses for children with problematic and harmful sexual behaviours. Work to meet these recommendations will focus on improvements to:

- advocacy, support and trauma informed therapeutic services
- responses to children with harmful sexual behaviours
- responses to child sexual abuse in contemporary detention environments.

## Trauma informed therapeutic services

### Child Protection and Out-of-Home Care

The ACT Government has been progressing work since June 2018 to ensure that services for children and young people in the child protection and out-of-home care systems in the ACT are trauma-informed and therapeutic.

Under *A Step Up for Our Kids*, the ACT supports programs and service delivery that practice a therapeutic approach that is child-centred and family focused. These programs and services are evidence-based and provide developmentally appropriate interventions to children, young people and their families to strengthen children and young people's connection to community and culture.

#### Therapeutic Assessments

A fundamental tenet of the out-of-home care system is undertaking trauma-informed, comprehensive assessments for children and young people in out-of-home care. As at 30 June 2018, 355 children and young people had a Therapeutic Assessment Report completed.

The assessments review different areas of a child or young person's life, such as health and development, emotional and behavioural development, education and learning, family and social relationships, self-help skills, culture and identity, and indicators of trauma in the child or young person.

Child and Youth Protection Services is currently working in partnership with the Australian Childhood Trauma Group to ensure that more children and young people in out-of-home care and their carers benefit from having a Therapeutic Assessment in place.

#### Trauma Guides

The Community Services Directorate has developed a suite of documents to guide child protection practitioners on how to support children and young people, birth families and carers in a therapeutic, trauma-informed way. The documents provide simple tools to support the healing process.

#### Trauma Training

The Community Services Directorate continues to provide ongoing trauma-informed training to child protection practitioners with specialised training sessions and through the broader trauma-focused

Talking Practice Conference in 2018. The Talking Practice Conference was a shared event with carers and all agencies partnered under *A Step Up for Our Kids.*

### Trauma informed practice in schools

The Education Directorate has reviewed policies related to the Child Safe Standards and to improve the use of trauma informed practice.

A number of professional learning programs offered to schools and staff are currently available. Professional learning on trauma informed practice is being delivered in November and December 2018. Trauma informed service provision is ongoing through multiple programs and training packages. An increase in school psychologists through recruitment is ongoing.

### Specialist therapeutic services

The Child at Risk Health Unit (CARHU) provides specialist therapeutic services to children, young people and their families or carers in the ACT and surrounding areas that have been affected by abuse and/or neglect. The CARHU seeks to support children, young people and families to recover from abuse and the resulting trauma.

CARHU offers therapeutic services for children 10 years of age and under who have exhibited sexualised and sexually harmful behaviours. The CARHU therapy team provides short term interventions for parents and carers to respond to children's sexualised behaviours that may not meet the threshold of concerning or problematic behaviours.

There is national and international evidence, including that provided to the Royal Commission, to suggest that the incidence of children engaging in problematic sexual behaviour in institutional and non-institutional settings is increasing. The CARHU report increasing demand for their service, particularly from teachers who identify children with concerning behaviours. Canberra Health Service and ACT Health Directorate are engaged in considering how to respond to this demand and the Royal Commission's recommendation regarding therapeutic services for children engaging in problematic sexual behaviour.

## Aboriginal and Torres Strait Islander children and young people

The ACT Government has been progressing work to better support Aboriginal and Torres Strait Islander children and young people through *Our Booris, Our Way*, an independent review designed to examine the over-representation of Aboriginal and Torres Strait Islander children and young people in the ACT's child protection system.

The review is led by a wholly Aboriginal and Torres Strait Islander Steering Committee and is considering why children and young people enter care, how we can reduce these numbers, and how we can improve the experiences of children, young people and families in the child protection system.

On 31 August 2018, the Aboriginal and Torres Strait Islander Steering Committee released its interim report with four recommendations to:

1. Prioritise allocation of cases involving Aboriginal and Torres Strait Islander children with a dedicated team of child protection workers with demonstrated cultural competency and willingness to work with the community.
2. Engage the Secretariat of National Aboriginal and Islander Child Care (SNAICC) to train child protection workers on the Aboriginal and Torres Strait Islander Child Placement Principle.
3. Revise policy and practices to ensure the Placement Principle is explicitly embedded. Children must be valued in a process that holds cultural rights as central to their identity and safety.

4. Enable access and availability of family group conferencing as an essential step for all Aboriginal and Torres Strait Islander families engaging or entering the child protection system.

The interim report can be found at: https://www.strongfamilies.act.gov.au/our-booris-our-way.

The final report, expected at the end of 2019, will present major recommendations with a comprehensive analysis of the systemic issues in the child protection system, including detailed analysis of the circumstances of approximately 350 Aboriginal and Torres Strait Islander children and young people who were in contact with the child protection system on 31 December 2017.

## Disability

Currently, People with Disability Australia (PWDA) is supporting people with disability who may be affected by the Royal Commission. 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.

In 2018, the ACT Government sought community and stakeholder feedback to understand how people with a disability can be better supported and have equal access to the protection of law in the ACT. This feedback is being used to inform the development of a Disability Justice Strategy for the ACT and identify priority areas for reform.

# WORKING WITH CHILDREN CHECKS – PROGRESS

The *Working with Vulnerable People (Background Checking) Act 2011* (the WWVP Act) forms part of the ACT Government's commitment to community safety by legislating to protect vulnerable people in the ACT. The WWVP Act requires people who work, volunteer or have contact with vulnerable people in the course of regulated activities or services to have a background check and risk assessment undertaken in order to be registered under the Working with Vulnerable People (WWVP) Scheme.

The ACT Government is collaborating with other jurisdictions through an Interjurisdictional Working Group chaired by the Commonwealth Attorney-General's Department to develop and implement the National Standards for Working with Children Checks, which will establish nationally consistent parameters for the screening of people who propose to engage in child related work.

Further work is underway to investigate the intersection of screening mechanisms between the NDIS Worker Screening Intergovernmental Agreement, the Reportable Conduct Scheme and the ACT WWVP Scheme.

The ACT is currently undertaking extensive consultation on changes to the WWVP Scheme, as part of our response to recommendations made by the Royal Commission and the legislative review that was completed in late 2017. The ACT's review of its WWVP Scheme was informed by the findings of the Royal Commission's Working with Children Checks report, which was published in 2015. We are now progressing work to implement the findings of this review, including taking steps towards national harmonisation, considering introduction of disqualifying offences and improving information sharing.

Following consultation and consideration of human rights, it is anticipated that legislative amendments will be progressed in 2019 to enhance the operation and administration of the WWVP Scheme.

A key recommendation of the Review is the extension of the registration period from a three year to a five year registration period. Implemented in conjunction with increased compliance measures, this recommendation maintains protections for vulnerable people whilst significantly reducing the regulatory and administrative burden on applicants, people registered under the Scheme, employers and Access Canberra. This change will make the Scheme consistent with NSW and Victoria who have a registration period for working with children checks of five years, and will assist in the national work towards harmonisation of working with children check schemes, as recommended by the Royal Commission.

# REDRESS AND CIVIL LITIGATION – PROGRESS

The Royal Commission released the Redress and Civil Litigation report (the R&CL Report) in September 2015. The R&CL Report contains recommendations in relation to the provision of effective redress for survivors through the establishment, funding and operation of a single National Redress Scheme and the provision of a direct personal response to survivors by institutions. This report also contains recommendations for reforms to civil litigation systems to make civil litigation a more effective means of providing justice for survivors.

## REDRESS

Along with NSW and Victoria, the ACT was one of the first jurisdictions to opt in to the National Redress Scheme, demonstrating the ACT Government's commitment to implementing the findings and recommendations of the Royal Commission.

The ACT Government worked closely with the Commonwealth and other jurisdictions to develop the framework and processes required to implement the 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 Scheme commenced in the ACT on 1 July 2018 and will run for 10 years. The Scheme offers survivors access to psychological counselling, a direct personal response from the responsible institution and a monetary payment of up to $150,000.

Work is progressing across ACT directorates to ensure the Scheme is effectively implemented to support survivors. This includes the establishment of a Hub in the Justice and Community Safety Directorate to coordinate and monitor the provision of ACT responses to requests for information from the Scheme Operator (the Commonwealth Department of Social Services) to help it to assess applications for redress.

A cross-directorate Redress Implementation Working Group is supporting the development processes to ensure the ACT implements the Scheme as responsively as possible. Victim Support ACT is facilitating access to counselling and the ACT Restorative Justice Unit is supporting the provision of direct personal responses by ACT Government bodies.

## 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 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.

In August 2018, the *Civil Law (Wrongs) (Child Abuse Claims Against Unincorporated Bodies) Amendment Act 2018* amended the *Civil Law (Wrongs) Act 2002* to implement recommendation 94 made by the Royal Commission in its R&CL Report to:

- enable an unincorporated body to nominate an entity to act as the defendant in a proceeding for a child abuse claim
- allow a court to make an order to appoint a related trust as defendant to a child abuse claim

- allow trustees to apply trust property to meet liability for child abuse.

While the Royal Commission's focus was on institutional sexual abuse of children, the Bill covers claims for both physical abuse and sexual abuse of a child (under 18 years old) that resulted in a personal injury.

These amendments are intended to ensure that survivors are able to sue an entity ('a proper defendant') that has the financial capacity to meet claims in relation to a personal injury that arises from institutional child abuse.

The Bill allows these bodies to nominate a proper defendant – this must be an entity capable of being sued – to act as the defendant for the unincorporated body in a proceeding for a child abuse claim.

An unincorporated body could include secular, religious or community-based organisations, volunteer-based organisations, unfunded or government funded organisations and local, national or international organisations.

# CRIMINAL JUSTICE – PROGRESS

## 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 limits re-traumatising them.

In February 2018 several criminal justice recommendations made by the Royal Commission were given effect with the passage of the *Crimes (Legislation Amendment) Act 2018.* The amendments made:

- existing offences for persistent child sexual abuse more effective, better reflecting how child sexual abuse is experienced and remembered (Recommendation 21)
- improvements to the way child sexual abuse offenders are sentenced in preventing an offender's 'good character' from being considered if that 'good character' enabled them to commit the offence (Recommendation 74)
- two new grooming offences criminalising non-electronic grooming of a child, as well as grooming of people other than a child (e.g. parents) (Recommendation 25).

Broad consultation on further key areas of reform occurred in April and May 2018. This related to recommendations for:

- offences for failure to report child sexual abuse
- offences for failure to protect a child from sexual abuse
- reforms to the way vulnerable witnesses give evidence
- the use of intermediaries
- reforms to trial and sentencing procedures, including admissibility of tendency and coincidence evidence and jury warnings and directions.

In October 2018, the ACT Government introduced the *Royal Commission Criminal Justice Legislation Amendment Bill 2018* to implement a further eight Royal Commission recommendations:

- course of conduct charge amendments (Recommendations 23 and 24)
- failure to protect against institutional child sexual abuse offence (Recommendation 36)
- amendments to expand the availability of special measures for witnesses (Recommendations 52, 53, 56 and 61)
- changes to sentencing provisions to require that current sentencing practices are applied, limited to the maximum sentence available at the date the offence was committed (Recommendation 76).

The Royal Commission considered a 'failure to protect' offence was necessary to 'give appropriate emphasis to the obligation of those in responsible positions in institutions to protect children in their care from sexual abuse'. The Royal Commission report identified numerous instances where people in authority knew that child sexual abuse was occurring, and moved the perpetrator to a different institution working with children.

The ACT has extensive special measures in place for a broad range of child and adult victims and witnesses in order to ensure access to justice, reduce trauma and capture the best quality evidence for the court. However, to fully satisfy the recommendations of the Royal Commission, the application of existing laws needed to extend to additional categories of witnesses.

Work is progressing to identify an appropriate model for an ACT intermediary scheme. This was discussed by stakeholders at an Intermediary Forum hosted by the Victims of Crime Commissioner in October 2018.

Legislation to implement further civil and criminal reforms recommended by the Royal Commission will be introduced in stages throughout 2019.

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**.