



**ACT**  
Government

# THE ACT GOVERNMENT **RESPONSE (PART 1)**

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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## BACKGROUND

In 2013 the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) was established in response to allegations of sexual abuse of children in institutional contexts that had been emerging in Australia for many years.

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) handed down its final report on 15 December 2017. One of its recommendations was that all Australian governments respond to each of its recommendations within six months.

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; and
- > The Criminal Justice Report in August 2017, containing 85 recommendations: 83 are relevant to the ACT.

On 9 February 2018, the ACT Chief Minister, along with all other First Ministers, committed to responding to the recommendations of the Royal Commission's Final Report in June 2018.

## SUMMARY OF ACT THE GOVERNMENT'S RESPONSE

The response sets out the ACT Government's position on the recommendations of each of the Royal Commission's reports that it is responsible for responding to.

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, noting 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 Government commits to contributing to their national delivery. The ACT Government has also noted recommendations that are aimed at the Commonwealth Government or other organisations.

Table 1 provides a summary of the ACT Government's response to those recommendations within its jurisdiction.

Recommendations	Final Report	Working with Children Checks	Redress and Civil Litigation	Criminal Justice	Total
Accept	50	13	59	42	164
Accept in principle	52	16	25	33	126
For further consideration	3	5	0	8	16
Noted	0	1	0	0	1
<b>Total</b>	<b>105</b>	<b>35</b>	<b>84</b>	<b>83</b>	<b>307</b>

# KEY ASPECTS OF THE GOVERNMENT RESPONSE

## ACKNOWLEDGEMENT

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.

Across Australia there have been a number of inquiries into child abuse and neglect in institutional settings; most recently the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse.

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 Government is committed to ensuring children's safety and will work with the community to ensure that this expectation is met.

## A HUMAN RIGHTS APPROACH

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.

The ACT Government is committed to ensuring the fundamental civil and political rights of all children and young people in the ACT are promoted and protected. We are all equally entitled to our human rights without discrimination.

The *ACT Human Rights Act 2004* provides a framework for developing a “human rights culture” in everyday life in the ACT.

The United Nations Convention on the Rights of the Child, which has been ratified by Australia, also sets out the basic rights of children and the obligations of governments to fulfil those rights.

The *ACT Children and Young People’s Commitment 2015-2025* (the Commitment) identifies priority areas for action to provide guidance to the ACT community on how we can best support children and young people to reach their potential and how we can work together to promote and protect their rights.

The Commitment also sets out principles that have been identified following consultation with children and young people, which has guided the ACT Government's response to the Royal Commission:

- > 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 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.

## COLLABORATION

The Royal Commission has made recommendations requiring intergovernmental collaboration in its Final Report. While the recommendations span numerous policy areas, the majority fall into the following categories:

- > National strategies to prevent child sexual abuse (including child safe standards);
- > Nationally consistent policies and procedures (including for record keeping, mandatory reporting, reportable conduct schemes, online safety in schools, and prevention education for children in out-of-home care);
- > Intergovernmental information exchange (regarding teachers, students, carers, and between key sectors);
- > Funding for community support services for victims and survivors (including Aboriginal and Torres Strait Islander healing approaches, survivors with disability, and specialist sexual assault services);
- > Nationally consistent data collection (including for the Australian Institute of Health and Welfare, the Productivity Commission, the Child Protection National Minimum Data Set, the Report on Government Services, and data on sexual exploitation of children in out-of-home care); and
- > National awareness raising (including the establishment of a national centre).



A number of recommendations from the Royal Commission's Final Report are being progressed by other interjurisdictional forums at Ministerial and Senior Officials' level. These include:

- > Council Of Australian Governments (COAG) Education Council;
- > Council of Attorneys-General;
- > Community Services Ministers;
- > Redress Ministers Committee; and
- > Council of Australasian Archives and Records Authorities (CAARA) Working Group.

## BUILDING ON THE WORK OF THE ROYAL COMMISSION

The Royal Commission has generated unprecedented community understanding about child sexual abuse. Its recommendations present a unique opportunity for change and a high level of community expectation for reform. The Royal Commission presents an opportunity for the ACT along with all other jurisdictions to provide leadership to protect children from harm. Community and stakeholder groups expect a coordinated response from jurisdictions that will strengthen our community.

The principles outlined in the *ACT Children and Young People's Commitment 2015-2025* have provided a guide for the development of the ACT Government response. In addition, the following broad guidelines apply in the development and implementation of the Royal Commission's recommendations in the Territory:

- > Changes will be developed with those who will be affected, to make sure we can get the best fit for the ACT.
- > New policies or practices should encourage cultural change that will prevent child abuse occurring in the first place.
- > Existing regulatory and implementation approaches need to be identified, and any duplication of effort should be minimised where appropriate.
- > Focus on building capacity through competencies and skills.

## FINAL REPORT

Four themes have been identified in the recommendations from the Royal Commission's final report that guide our current and future work program. The themes are:

- 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.

Details of how the themes will guide the work of the ACT Government in implementing the recommendations of the Royal Commission are outlined below.

## THEME 1: MAKING INSTITUTIONS CHILD SAFE

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 child safe standards. It also includes recommendations for organisations to respond to online sexual abuse in institutions in order to create child safe online environments.

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 consistent with human rights. The HR Act specifically provides in section 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 United Nation's 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 section 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 section 11(2) of the HR Act.

## **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 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 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. Currently the ACT and NSW have a partially regulated child safe standards system, while Victoria, Queensland and South Australia have mandatory systems in place.

The ACT Government will seek the views of industry, regulators and interested parties as to how children's services organisations meet existing and proposed standards. The ACT Government notes the Royal Commission recommended a wide range of organisations be required to adopt the 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 standards is likely to vary. Consultation will commence from mid-2018 to ascertain sector readiness and existing regulatory requirements across government and non-government sectors to inform the ACT Government's position on introduction of child safe standards.

## **National Statement of Principles for Child Safe Organisations**

In November 2016, Community Service and Disability Ministers agreed to the development of a National Statement of Principles for Child Safe Organisations. The National Children's Commissioner was engaged by the Commonwealth Government to develop national principles.

A draft National Statement of Principles is currently being consulted on that is underpinned by a child-rights approach to building capacity to deliver child safety and wellbeing in organisations, families and communities.

The ACT Government agrees to prioritise collaboration with other jurisdictions to progress a new National Framework on Child Safety. The Framework will ensure that the National Principles are applied to support the development of child safe institutions and in the development of government policies, programs, services and interventions.

## eSafety

The ACT Government will assess the additional work that will be required to implement eSafety mechanisms in government schools, including consideration of the Queensland Department of Education and Training's Cyber Safety and Management Unit as a model, and what support might be available to small jurisdictions to implement the arrangements. This includes appropriate levels of escalation and effective engagement with all relevant entities. The ACT Government will introduce arrangements to require the non-government education sector to achieve this recommendation.

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

The Royal Commission has made recommendations that require Governments, institutions and employees who provide services to children to develop and maintain a high degree of transparency and accountability; through building skills and competencies to ensure a child centred and child safe environment, oversight and regulation by independent bodies. Work to meet these recommendations will focus on improvements to:

- > reporting of child sexual abuse by institutions and their staff;
- > responding to complaints of child sexual abuse; and
- > information sharing between agencies with responsibilities for children.

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. Further, from 2019 the Inspector of Corrective Services will commence its inspection role at Bimberi Youth Justice Centre.

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 passed in the ACT Legislative Assembly in February 2018 in response to several of the Royal Commission's recommendations. This included amendments to ACT grooming and maintaining a sexual relationship with a child offences, as well as sentencing reforms for child sex offenders.

## Independent oversight of child safety

The Royal Commission has recommended an independent oversight body to 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 Inspector of Corrective Services when it commences operation.

The ACT Government will ensure that arrangements are developed that consider how boarding schools would meet the child safe standards and will introduce arrangements to require the non-government education sector to meet the child safe standards.

### Mandatory reporting

The ACT has a mandatory reporting scheme in place that requires that 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.

The ACT Government will work to establish an online mandatory reporter guide. ACT Child and Youth Protection Services (CYPS) Intake staff will require additional ongoing learning and development to align existing practice to any change to mandatory reporting guidance. In order to achieve national consistency in reporter groups, the ACT Government will also undertake work to extend mandatory reporter groups to include non-government employees and religious ministries.

The ACT Government will undertake consultation with key stakeholders on the treatment of religious confession, for the purposes of mandatory reporting law. The ACT Government has legislation in place under the *Children and Young People Act 2008* and the *Health Practitioner Regulation National Law (ACT)* that provides comprehensive protection to individuals who make reports about child sexual abuse in institutional contexts.

### Reportable conduct schemes

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

The ACT Reportable Conduct Scheme commenced on 1 July 2017. 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.

Interjurisdictional consistency is important to ensure that people who would do harm to children cannot exploit differences between jurisdictions to gain access to children, and to streamline the regulatory burden of service providers.

The ACT Legislative Assembly unanimously supported this approach during its debate on the *Reportable Conduct and Information Sharing Legislation Amendment Act 2016* in August 2016. Like the NSW Scheme, the ACT Scheme currently 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. From 1 July, religious organisations will be fully within scope of the scheme.

In the 2016-17 Budget, the ACT Government allocated \$1.336 million over four years for administration of the Scheme, and an additional \$615,000 in 2017-18. Expanding the scope of the scheme to include all religious organisations is being supported with an additional \$1.1 million over two years.

The Royal Commission's Final Report recommended a wider range of organisations be included within scope. This includes providers of overnight camps, National Disability Insurance Scheme providers, vocational training providers and others. The ACT Government will consult with these sectors about their possible inclusion in the scheme.

### Information sharing

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 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*. The importance of upholding this right and the limits on disclosure will be clearly communicated when implementing information exchange programs.

## **Record keeping**

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. The ACT Government 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.

## **Student information sharing**

The ACT Government has commenced work to consider possible amendments to the *Education Act 2004* to incorporate the Royal Commission's recommendations for the exchange of a student's information when they move to another school.

The exchange of a student's information should provide appropriate safeguards to ensure that information provided is proportionate to assist in meeting the student's, and other students', safety and wellbeing needs, and that information is disseminated on a need-to-know basis. The ACT Government will work with stakeholders to ensure that the arrangements put in place fully consider the privacy impacts on students and their families, and balance these impacts with actions that are in the best interests of students.

The ACT Government will participate in the development of a national approach to the information exchange of student data through COAG Education Council processes.

## **Teacher registration**

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 be strengthened to assist with safeguarding student. A national review of the level of consistency of teacher registration has commenced.

The ACT Government supports the Royal Commission's recommendation for nationally consistent legislative requirements about the types of information recorded on teacher registers. This will allow jurisdictions to share information about teachers who move from one jurisdiction to another. The ACT Government agrees that the protection of individuals' privacy and the responsible and transparent handling of personal information by public sector agencies is essential.

The ACT Government is engaged in the ongoing work of the National Review of Teacher Registration. The Review is looking at teacher registration in Australia to ensure processes are nationally consistent, rigorous and focus on teacher quality. The ACT Government is reviewing the *Teacher Quality Institute Act 2010* and will consider whether there are any changes which may strengthen teacher registration requirements to better protect children from sexual abuse in schools.

### **Carers regulation**

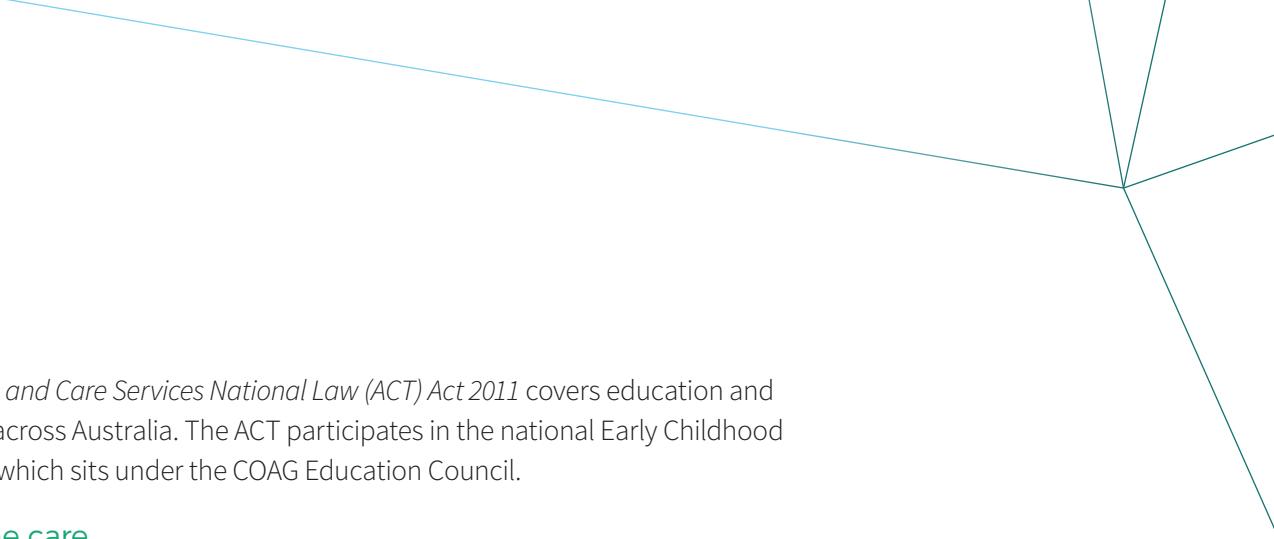
The Royal Commission recommends that states and territories introduce legislation to establish nationally consistent carers registers in their respective jurisdictions. The ACT Government has commenced development of a carers register for all foster and relative/kinship carers in the ACT and will consider how to include residential care staff. The ACT Government will undertake work to define the scope of information required for the carers register and work with stakeholders to identify the intersection with other policy and legislation, such as the Reportable Conduct scheme, to streamline information sharing provisions. The ACT Government will also undertake further analysis of other agencies and organisations required to participate in the information sharing systems to support a comprehensive carers register.

## **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 Royal Commission revealed these settings can sometimes allow or create specific risk factors that may contribute to child sexual abuse. Some of these risk factors include differential power relationships, unsupervised access to children, and barriers preventing disclosure of abuse.

The ACT Government has a strong system of oversight for children in out of home care – supported by a set of National Standards, 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 Royal Commission has recommended improvements to data and reporting on children and young people in out of home care.

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.



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

The Royal Commission's recommendations relating to out-of-home care place emphasis on the accreditation requirements to both government and non-government out-of-home care service providers. This includes incorporating compliance with the child safe standards identified by the Royal Commission, and providing responsibility to an independent statutory body to assess and process applications for accreditation of out-of-home care service providers and conduct audits of accredited out-of-home-care service providers.

The ACT Government is already undertaking work to align the ACT Out of Home Care Standards with this recommendation through the development of the ACT Care and Protection Organisation (CAPO) Standards. The proposed CAPO Standards will establish minimum conditions for care and protection organisations to maintain a 'suitable entity' status. The ACT Government will also work with NSW to identify options to align with the NSW Accreditation Framework, particularly the crossover of service providers between the two jurisdictions.

The ACT Government accepts the recommendations for the authorisation of carers. The ACT Government will undertake further analysis to consider how it can embed annual reviews of authorised carers within the Child and Youth Protection Services and ACT Together practice and case management. Work will also include determining how to best incorporate community services checks and risk management plans for prospective carers and any adult household members of home-based carers.

The ACT Government's out-of-home care strategy, *A Step Up for Our Kids: Out of Home Care Strategy 2015-2020*, is premised on the development of a new therapeutic, trauma-informed system of care. To ensure that strategies are developed that increase the likelihood of safe and stable placements for children in care, the new care system requires therapeutic assessments and plans to be developed for all children and young people in care to identify and treat issues early. The ACT Government is committed to supporting every child and young person to have a therapeutic plan that is based on an assessment of individual needs, and will continue to improve its systems and practices to deliver on this commitment.

The ACT Government is also 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*.

## Data

The ACT Government supports the Royal Commission's recommendation to develop 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 Government and state and territory governments, is also working toward the implementation of enhancements to the Child Protection National Minimum Data Set. This work will also be discussed at the Children and Families Secretaries' meetings and Community Services Ministers' meetings.

## Residential care

Residential care is still used today; however in the ACT there is far greater emphasis on placing children in home-based settings. The Royal Commission recommends that residential care for children should be based on an intensive therapeutic model of care framework, and that all residential care staff should be provided with regular training and professional supervision.

The ACT Government will focus on developing a framework for the delivery of therapeutic care, and designing oversight arrangements to support independent appraisal of evidence-based models and implementation under *A Step Up For Our Kids*. Work will also include reviewing any new accreditation or regulation framework to incorporate therapeutic care requirements.

## Youth justice

The Royal Commission highlights the importance of providing a safe and secure environment for children in youth detention. The Final Report determines the need for appropriate risk assessment processes before placement decisions are made, ensuring the cultural safety of Aboriginal and Torres Strait Islander children and improving access to therapeutic treatment for survivors of child sexual abuse who are in youth detention. Staff should receive appropriate training on the needs of children with disability, mental health problems, alcohol and other drugs problems, and children from culturally and linguistically diverse backgrounds. States and territories should also improve current internal and external complaint handling systems concerning youth detention and ensure they have an appropriate independent oversight body of youth detention.

The ACT Government acknowledges that states and territories owe children in youth detention a duty of care, particularly given that children are extremely vulnerable in youth detention settings and the power imbalance between adult staff and children is great. There are a range of current safeguards and oversight bodies in the ACT's youth justice context, including the Public Advocate, and Official Visitors, which are involved both within a custodial context, and in the youth justice system

more broadly. Changes to current approaches will be considered in the context of existing legislation and operational arrangements including the appropriate and safe placements of children in youth detention and providing culturally appropriate policies and procedures.

Changes will also be considered in alignment with the reform direction established by the ACT Government's *Blueprint for Youth Justice in the ACT 2012-2022* (the Blueprint). The Blueprint is a 10 year strategy to improve outcomes for young people who are involved or at risk of involvement in the ACT youth justice system. Strategies to support young people and their families focus on early intervention, prevention and diversion while addressing risk factors such as socio-economic disadvantage, family breakdown, intergenerational trauma, abuse and family violence, mental health problems, and family drug and alcohol abuse.

The ACT Government is committed to strengthening independent oversight of the ACT's Bimberi Youth Justice Centre (Bimberi), which is currently overseen by the ACT Human Rights Commission, the Public Advocate and two Official Visitors, one of whom is a designated Aboriginal and Torres Strait Islander Official Visitor. The ACT Government has also established a dedicated Inspector of Correctional Services that will have oversight powers with regard to Bimberi within two years.

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. Bimberi operates services and programs that are trauma informed, recognising the impact of traumatic experiences on young people's behaviour and capacity to address issues. The ACT Government will also undertake work to ensure that all staff employed at Bimberi have access to ongoing professional development opportunities specifically relating to trauma-informed care.

The ACT Government will review the current internal and external complaint handling systems concerning youth detention to ensure that complaint handling systems are capable of effectively dealing with complaints of child sexual abuse, and that children are regularly consulted about the effectiveness of complaint handling.

## **Education**

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.

The Final Report also recommends that all state and territory governments should collaborate in the development of a child sexual abuse prevention education

strategy tailored to children in out-of-home care, including age-appropriate and culture-appropriate education about sexuality and healthy relationships. The ACT Government is participating in the development of a national approach through the Commonwealth Government's Department of Education and Training National Safe Schools Framework, and the Commonwealth Government's Department of Health work to promote e-Safety.

#### **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; and
- > responses to child sexual abuse in contemporary detention environments.

##### **Sexual assault services**

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 Canberra Rape Crisis Centre is staffed by specially trained workers and provides a crisis and counselling telephone support service, counselling and group work to survivors of sexual assault and their families and supporters, and 24 hour crisis call-out service to police and forensic services. It also provides information, education, and training to community members, and other non-government members, government agencies, service providers and schools about the causes, effects and responses to sexual violence against women, children and men. The Canberra Rape Crisis Centre includes the Nguru Program which provides culturally appropriate counselling for members of the Aboriginal and Torres Strait Islander community who have experienced sexual assault, and their families.

The ACT Government will undertake analysis and consultation with key stakeholders to determine its approach for meeting the Royal Commission's recommendation about enhancing the capacity of specialist sexual assault services.

This includes analysing funding agreements to address existing specialist sexual assault service gaps for adults and children, and providing advocacy and support and specialist therapeutic treatment for victims and survivors of institutional child sexual abuse.

The ACT Government's findings and response will be provided at the Royal Commission's 12 month review of the implementation of recommendations made in the Final Report.

### Trauma informed 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 and support and counselling to children and adults who experienced childhood sexual abuse in institutional contexts. The ACT Government will work with funded services including the Canberra Rape Crisis Centre, Service Assisting Male Survivors of Sexual Assault, Relationships Australia Canberra & Region, and Victim Support ACT to determine the scale of unmet demand and the most appropriate model to meet this demand given the size of the ACT's population and proximity to NSW.

Therapeutic intervention is also important for assessing and meeting the needs of children with problematic and harmful sexual behaviours. This includes ensuring there is a network of specialist and generalist therapeutic services, ensuring clear referral pathways to access expert assessment and therapeutic intervention, and ensuring that services funded to provide therapeutic intervention are providing professional training and clinical supervision for their staff. The ACT Government will undertake work to ensure that all government and community services funded to provide therapeutic services to children and young people have contracts updated to include requirements for professional training and clinical supervision of staff.

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.

For example, the ACT provides trauma recovery services through Melaleuca Place, which aims to work with the child and their family and carers. Melaleuca Place supports children to enhance and maintain appropriate social and

peer relationships. Melaleuca Place facilitates connections between children and significant people in their lives including parents, carers and those in out of home care services who contribute to the early identification and prevention of harmful sexual behaviours.

The ACT Government will undertake further analysis to determine the scale of unmet demand and the most appropriate model for treatment options for children with problematic and harmful sexual behaviours. This includes determining appropriate therapeutic intervention where there is involuntary engagement of children.

### **Aboriginal and Torres Strait Islander children and young people**

The ACT Government is undertaking a review of Aboriginal and Torres Strait Islander children and young people involved in the ACT child protection system. The review's primary focus will be to inform system-wide improvements that will fully realise the Aboriginal and Torres Strait Islander Child Placement Principle in the ACT. Placement of an Aboriginal and Torres Strait Islander child in out of home care is prioritised so that they are able to be placed with Aboriginal and Torres Strait Islander relatives or extended family members, or other relatives or extended family members wherever possible.

The Royal Commission recommends that the Commonwealth Government and state and territory governments 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. The ACT Government will undertake analysis to determine an appropriate approach and model based on unmet demand in the ACT.

Existing specialist services are provided through:

- > Relationships Australia Canberra and Region's Dhunlung Yarra Service, which is a dedicated Aboriginal and Torres Strait Islander therapeutic service staffed by Aboriginal and Torres Strait Islander professionals.
- > Gugan Gulwan Youth Aboriginal Youth Corporation's Child, Youth and Family Support Program is intended to support vulnerable children and families, which will prevent children being placed in institutional contexts where they may be more vulnerable to abuse.
- > Winninuga Nimmityjah Aboriginal Health Service provides specialist health services that are culturally safe.

The ACT Government will also introduce arrangements to ensure that the needs-based funding arrangements for Aboriginal and Torres Strait Islander boarding students are sufficient for schools and hostels to create child safe environments.



This will involve consideration of the role of the Commonwealth and the appropriate balance of responsibilities between the Commonwealth and states and territories.

### Disability

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.

The ACT Government will undertake work to determine how to best support 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, as recommended in the Final Report.

## WORKING WITH CHILDREN CHECKS

The *Working with Vulnerable People (Background Checking) Act 2011* (the Act) forms part of the ACT Government’s commitment to community safety by legislating to protect vulnerable people in the ACT. The 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 Scheme (the Scheme).

An ACT Legislative Review of the *Working with Vulnerable People (Background Checking) Act 2011* (WWVP Act) was undertaken in 2017. The ACT Government agreed to 26 recommendations to enhance the effectiveness of the Scheme, based on Government and community stakeholder feedback, across the following five themes:

- > increasing protections for vulnerable people;
- > strengthening information sharing capabilities
- > relieving administrative burden to employers and Access Canberra;
- > strengthening compliance and monitoring; and
- > risk assessment guidelines and definitions.

Many of the recommendations of the ACT Legislative Review position the ACT Government to deliver on the Royal Commission’s recommendations where no national agreement is required.

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.

A second major recommendation of the Review is the introduction of disqualifying offences. This is a key measure aimed at increasing safeguards for the protection of vulnerable people by seeking to exclude people with relevant and serious criminal history from the Scheme automatically. This recommendation will also position the ACT Government well in relation to national harmonisation of working with children check systems and provide a greater level of protection to vulnerable people.

Increased information sharing between jurisdictions is also an important first step towards harmonisation. Current legislation prevents information sharing between jurisdictions and the ACT Legislative Review has recommended changes to the Act to enable the development of cross-jurisdictional information sharing provisions. This will prepare the Territory for a national approach to sharing and receiving information in relation to background checks for children, noting the ACT's Scheme has a broader remit for vulnerable people.

## REDRESS AND CIVIL LITIGATION

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 (recommendations 85-99).

### REDRESS

In response to these recommendations, the Commonwealth Government has committed to establishing a single National Redress Scheme. The Commonwealth Government's intention is that all government and private institutions will opt-in

and participate in the scheme to provide national coverage. The Scheme will provide three element of redress: a monetary payment, access to psychological counselling, and a direct personal response – such as an apology from the responsible institution for people who request it.

On 19 March 2018, the ACT Government announced it would join the Scheme. Along with NSW and Victoria, the ACT was one of the first jurisdictions to opt in to the Scheme, demonstrating the ACT Government's commitment to implementing the findings and recommendations of the Royal Commission.

The ACT Government has been working 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 ACT Government has also begun setting up internal structures within ACT Institutions to deliver survivor focused redress to ACT survivors throughout the life of the scheme.

## CIVIL LITIGATION

The R&CL Report also made recommendations about:

- > Limitation periods;
- > Duty of institutions;
- > Identifying a proper defendant; and
- > Model litigant approaches.

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.

The ACT Government will 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. Institutions will have a legal duty to prevent institutional child sexual abuse and be required to nominate a proper defendant that is capable of being sued to meet liability arising from claims of institutional child sexual abuse.

## 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. This included amendments to ACT grooming and maintaining a sexual relationship with a child offences, as well as sentencing reforms for child sex offenders.

A number of the Royal Commission’s criminal justice recommendations are non-legislative in nature and relate to policies and practices within various justice agencies. The ACT Government has established a *Criminal Justice Sub-Committee of the Whole of Government Child Abuse Royal Commission Working Party* to oversee the implementation of these changes. The sub-committee includes the main justice agencies to which the Royal Commission’s recommendations relate.

On 22 March 2018, the Attorney-General commenced a consultation process in relation to issues requiring legislative reforms in light of the Royal Commission’s recommendations. The consultation process was in relation to:

- > introducing new failure to report laws;
- > introducing new failure to protect laws;
- > protections for vulnerable witnesses;
- > introducing a new intermediary scheme;
- > reform of laws governing tendency and coincidence evidence;
- > reform of judicial directions and warnings; and
- > sentencing standards in historical cases.

In addition to the public consultation process, the ACT Justice and Community Safety Directorate is consulting 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.

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**.