

**Royal Commission Into
Institutional Responses to
Child Sexual Abuse**



The Scout Association of Australia
Incorporated by Royal Charter

**Scouts Australia: Submission in
Response to the Consultation Paper -
“Best Practice Principles in responding
to complaints of child sexual abuse
in institutional contexts”
April 2016**

Royal Commission into Institutional Responses to Child Sexual Abuse

Consultation Paper: Best Practice Principles in responding to complaints of child sexual abuse in institutional contexts

SUBMISSION BY SCOUTS AUSTRALIA

Introduction

Scouts Australia, and each of its State and Territory Branches, welcomes the Consultation Paper “Best practice principles in responding to complaints of child sexual abuse in institutional contexts”.

As a pre-eminent youth development organisation, Scouts Australia believes that effective, contemporary, and accountable processes for responding to complaints is critical for the protection of children, and for the development of child safe organisations.

We have considered the Royal Commission’s Consultation Paper within the broader context of the nine draft elements that the Commission has identified as contributing to child safe organisations. That includes child focused complaint processes.

Background - Scouts Australia

Scouts Australia is a voluntary, not-for profit organisation which provides its 66,000 youth members (aged 6-25 years) with educational, fun and challenging opportunities to grow and develop.

Scouts is a part of nearly every Australian community. Our members come from a wide variety of cultural and religious backgrounds, across the socio-economic spectrum, and include individuals with intellectual or physical disabilities.

The aim of Scouting is to encourage the physical, intellectual, emotional, social, and spiritual development of young people, so they may play a constructive role in society as responsible citizens and as members of their local and international communities. This is achieved through a series of strong and active non-formal education programs that inspire young people to do their best, and to always be prepared. We have a particular focus on the development of leadership capacities of young people.

Scouts Australia, and each of its Branches, views the safety and welfare of children in our care as of paramount importance. Creating and maintaining a child safe environment is our highest priority. All forms of child abuse, including sexual abuse, are inexcusable.

As a thriving, contemporary organisation, we strive to be vigilant in identifying and eliminating child abuse.

We have a zero tolerance policy of child abuse and for decades have had a policy and practice of reporting any allegations of child abuse to the Police. We also have a policy and practice of immediately suspend any leader against whom allegations are made, pending the results of a police or other investigation.

Whilst each Branch of Scouts Australia has its own Child Protection Policy which is based on our National Policy and Rules, Scouts Australia is currently developing a more detailed National Child Protection Policy and Prescribed Procedures. This will further strengthen our child protection arrangements across Australia. When finalised, the new National Policy and Prescribed Procedures, will provide for consistency of policy and practice across all our Branches.

General Comments on Consultation Paper

Scouts Australia congratulates the Royal Commission on the quality of its Consultation Paper. It is well researched, evidenced based, and coherently argued. It offers both a comprehensive and clear analysis of the issue.

At the core of the paper are the 6 principles to strong and effective complaint response (Section 3: Best practice principles). Scouts Australia is fully supportive of the proposed 6 principles. We believe that, if properly implemented, the 6 principles will contribute significantly towards enabling institutions to respond strongly, confidently and effectively to complaints of child sexual abuse.

Notwithstanding, we would like to offer an additional best practice principle: *“Practices where the welfare of the child is paramount”*. Whilst it could be argued this point is covered by Principle 1 (An institutional culture that makes decisions based on the best interests of the child and is aware of the inherent vulnerability of children in their care) we believe the welfare of the child during the consideration of a complaint is of such importance that it warrants special mention. From our own experience, the health and welfare of the child identified as the victim in the complaint needs more prominent consideration, from the moment the institution becomes aware of suspected abuse.

The children’s care and educational sector is very diverse. In developing best practice principles, we ask that careful consideration be given to those voluntary, not-for-profit organisations which are not well resourced. Scouts Australia is concerned that some of the proposals being canvassed (e.g. specialist trainers and investigators) may require significant resource investment, or access to external resources, and be beyond the reach of our Branches. We welcome the Commission’s invitation for comment on improved access to advice and support for smaller institutions and ask that these resource challenges in a strengthened complaint handling environment remain a priority for consideration.

Specific Comments on Consultation Paper

(i) Private Sessions (Page 8)

Reference is made to organisations needing to make greater effort to keep victims informed of the progress of investigations, as well as findings and actions.

Whilst Scouts Australia agrees that more should be done to keep victims and their families informed, in reality this can sometimes be difficult. This is because the integrity of the police investigation process needs to be protected. Our own experience also suggests the Police are reluctant to provide updates on cases until matters are concluded. Nor are they bound to share information with us.

(ii) Reporting to other Agencies (Page 14)

As a national organisation, operating as a federation, we strongly urge the adoption of standard requirements across jurisdictions for:

- Police Checks; Working with Vulnerable Children /Blue cards;
- “classification” of offences, and
- mandatory reporting.

We strongly encourage the mutual recognition, across jurisdictions, of Police Checks and WWVC/ Blue cards or a single national approach to police checks and WWCCs.

Our comments regarding the possible establishment of the NSW Reportable Conduct System across other States and Territories appear below.

(iii) Exchange of Information (page 15 & 16)

Scouts Australia strongly supports, in the interests of child protection, the exchange of relevant information across organisations, and across jurisdictions. This should be able to be done without fear of reprisal or legal action.

We believe legal regimes should prioritise the safety, and well-being, of children over privacy and confidentiality. There ought to be the capacity to exchange information, where there are suspicions, or relevant information about an individual, specifically where the safety of children might be at risk. We believe liability should not arise by reason of the disclosure when a person acts in good faith, and in the best interests of children.

Scouts Australia recommends the establishment of an “offenders” data base, as well as a shared database of persons against whom allegations have been made without those allegations being resolved. We believe this will promote the protection of children. While allowing for procedural fairness, Scouts Australia believes that if an allegation against an individual is “unresolved” for whatever reason, then that information should be able to be shared with other youth organisations. Our belief is based on experience of having allegations against an individual unresolved in one organisation but see that person move to another youth development organisation and working with vulnerable children. Those children need to be protected not only against proven offenders, but individuals where allegations have been unresolved.

(iv) Institutional structure and senior management (page 20)

By and large, the Board, CEO and senior management team set the culture for an organisation. The institution needs to not only advocate, and be supportive of, the foundations for a child safe organisation, but also hold the governing body and senior management team accountable. The Work Health and Safety legislation may be a useful reference in this regard.

Scouts Australia would like to see this important section enhanced, especially the leadership role of Boards, CEO’s and senior management in important areas as safety. The Australian Institute of Company Directors (AICD) has some very useful and contemporary material in its Company Directors’ Course that would be useful. The AICD could also be considered, alongside other providers, for training of Boards.

(v) Types of Complaints (page 24)

It is noted the Royal Commission is developing its work in the area of Child to Child Sexual Abuse. This is a particularly problematic area for organisations to manage. Scouts Australia welcomes the additional guidance the Royal Commission will offer on this topic.

(vi) Provision of Support (pages 26 and 27)

Scouts Australia believes support for the victim and her/his family is of paramount importance, and is often not given the consideration it needs. See our comments above.

From practical experience, we know there are often dilemmas in terms of communication and support – support of the victim and other parties, but also the need to protect information at certain stages of the investigation to ensure its integrity. We believe these tensions could be acknowledged, and further addressed in this section. Guidance in how to reach the right balance would be valuable.

Importantly, whilst Scouts Australia supports enhanced communications with the victim child and his/her family, this should not put at risk the organisation's capacity to obtain, or maintain, necessary insurance. Again, any guidance the Commission could offer with these dual, but at times conflicting objectives, would be appreciated.

(vii) Reportable Conduct Schemes (page 32)

The Consultation Paper sought comments as to whether reportable conduct schemes such as the one in place in NSW, might be established in all Australian states and territories.

Branches of Scouts Australia do not generally conduct detailed investigations into allegations of child abuse. We believe allegations of child sexual abuse specifically, should be reported immediately to the Police or some other relevant authority to investigate. This is the most appropriate way to deal with possible criminal matters, affecting the safety and welfare of children. In any event, our Branches do not have the expertise, or the resources to conduct investigations into child protection matters. Nor do we have the authority to compel an alleged offender to answer questions, which can limit the effectiveness of an investigation.

Whilst Scouts Australia supports measures to ensure the protection of children, we do not support the extension of the reportable conduct scheme along the lines of the NSW scheme, if it means Scouts are captured by the definition of "non government agency" (as the Office of the NSW Ombudsman believes to be the case). This is because of the likely and heavy burden it will impose on voluntary not-for-profit, organisations. We believe other initiatives would be more effective in promoting child protection.

Under the NSW Scheme, the Ombudsman may order an organisation to conduct a full investigation. As stated above, Scouts Australia believes that allegations of sexual assault must be reported to the Police or a relevant authority for them to investigate. If Scouts Australia were ordered by an Ombudsman to conduct an investigation, few, if any, of our Branches would have the necessary expertise, and some would be challenged to afford an external investigating body. Scouts Australia strongly believes that any investigation of allegations of child abuse should be

carried out by the Police or other authorities with the relevant powers, expertise and resources. This would also ensure that any investigation was seen to be independent.

(viii) Advice and Support for Institutions

Whilst our policy requires allegations of child sexual abuse to be referred to the Police or relevant authority, Scouts Australia would welcome any opportunity for smaller voluntary, not for profit organisations to have access to advice and support, when responding to complaints of child sexual abuse. Such assistance would improve the quality of the complaint handling process.

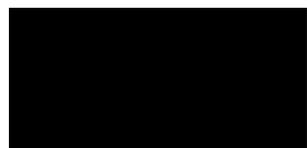
We believe the relevant State/Territory government agency could be best placed to provide resources for smaller organisations. This could be by way of assistance with interpretation of the term child sexual abuse, alleged child to child alleged abuse, borderline cases and the like. . We would also see value of a central, Australia wide on-line advice service, especially for smaller, not for profit organisations.

Summary and Conclusion

Scouts Australia is grateful for the opportunity to offer comment on the Consultation Paper. We are pleased with the overall direction it is taking, particularly the draft best practice principles. We recommend the establishment of an “offenders” data base, as well as a shared database of persons against whom allegations have been made without those allegations being resolved. Enhanced communications with, and support for, the victim and his/ her family is encouraged, but not if implementation puts at risk the organisation’s capacity to obtain, or maintain, necessary insurance.

Scouts Australia does not support the extension of reportable conduct schemes, like the NSW Ombudsman’s arrangement, to other States and Territories unless small, voluntary, not for profit organisations were excluded. Other measures would be as, if not more, effective in protecting children. Nor do we believe organisations, other than the Police and relevant authorities, should be conducting investigations into child sexual abuse allegations. Without diminishing the impact of initiatives to enhance child protection, we ask the Royal Commission to be particularly mindful of the impact of those initiatives on small organisations, unless additional support for them were contemplated.

For clarification or elaboration of the above comments the Royal Commission is most welcome to contact me on 0437 015 669 or email natcoord.redress@scouts.com.au.



Neville Tomkins OAM JP

National Co-ordinator (Redress)

Scouts Australia

30 April 2016