



# **UNITING CHURCH IN AUSTRALIA**

**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**

**Released March 2016**

**Uniting Church in Australia submission**

**April 2016**

## Introduction

The Uniting Church in Australia is the third largest Christian denomination in Australia and the first church to be created in and of Australia. Uniting Church congregations throughout the country strive to be caring communities to which all people can belong. There are around 2,500 congregations with 243,000 members and adherents; around 1.3 million Australians claim an association with the church. The Uniting Church is governed by a series of inter-related councils, each of which has its tasks and responsibilities in relation to both the Church and the world.

The Uniting Church has stated that it is committed to examining its own motives and behaviour and is open to accept the close scrutiny of others. In that regard the Uniting Church pledges itself to continuing to cooperate fully and honestly with the process the Commission is implementing. The sexual abuse of children is criminal behaviour that is totally abhorrent and unacceptable. Further, the Uniting Church is committed to protection of children in contact with the Church and its services and agencies. The Church is committed to providing welcoming, safe and child friendly environments; to the prevention of abuse; and to responding swiftly and appropriately, in the interests of children, where it does occur.

The Uniting Church welcomes the Royal Commission's consultation paper on *Best practice principles in responding to complaints of child sexual abuse in institutional contexts*. We welcome the guidance contained in the paper on best practice in responding to complaints and look forward to further detail as the Commission progresses the work.

### **Best practice principles**

The Uniting Church is committed to implementing best practice to respond to complaints of child sexual abuse. A set of principles that can be flexibly applied to various organisational contexts is extremely valuable for the Church in implementing complaint-handling procedures. The principles will provide guidance to our entities by outlining the key elements of comprehensive complaint handling procedures. The Uniting Church has already taken decisive action in regard to child safe practice by developing a National Child Safety Framework. The document provides a framework within which child safe policies within Uniting Church entities are to be developed. As the Commission's work in this area progresses, the Uniting Church will review its National Child Safety Framework to consider where we can make improvements to the Framework, in line with the principles.

We agree with the best practice principles set forward by the Commission in the consultation paper, the matters that should be canvassed in complaint handling policies and how those matters might be implemented.

With regard to principle 1, it is noted that establishing a culture where decisions are made based on the best interests of children requires ongoing and sustained commitment of the Board and senior management, or equivalent, to ensure that organisational processes provide monitoring and review points across all levels of the organisation.

We would also add that to achieve a culture of openness that supports all persons to safely disclose allegations of abuse, there needs to be a clear commitment that staff who make reports in good faith will be supported. Additionally, we note that there should be appropriate supports for staff who are the subject of allegations.

With regard to best practice principle three and accessibility of complaints handling processes, we would add that organisations should be proactive, not reactive in communicating their approach to complaint handling. An organisation's approach to complaint handling should be actively communicated to children, in an age appropriate fashion, and their parents or guardians, when a child first enters a service and at regular points thereafter, and not wait until a complaint is made. While more passive approaches, such as displaying the policy on an organization's premises and on website, may be effective in reaching some parents, guardians and older children, this cannot be relied upon to ensure that all relevant parties are aware of their rights in this regard. It also helps communicate that the organization encourages reports.

Developing the policy in a child 'friendly' format, or creating a child 'friendly' version, would also aid accessibility, particularly in settings where a child does not live with a parent or guardian, for example, residential out-of-home-care.

#### Additional principles

It is important that the culture, policy and practice are embedded at every level within an organisation. This applies to all aspects of institutional child safety, not just reporting. In this respect one additional principle could be considered. Reportable conduct schemes as outlined in the paper are initiated when there is an allegation of conduct that meets the threshold for reporting. However, an institution needs to assess that its policies and procedures are effective and that people know how to make a report and how to respond.

The addition of a principle relating to periodic review which assesses how well the culture, principles, policy and procedures have been embedded would be useful. Otherwise an extension to principle number 6, "An ongoing audit process is in place", could provide that the reporting process be reviewed periodically, independent of any specific report or complaint.

Best practice guidance in regard to how best to assess how well the principles are embedded in the organisation would also be valuable.

It may be of some benefit to consider including a principle that, to the greatest extent possible, a single accountable person/unit within the organisation be authorised to process complaints. This ensures consistency, a single point of contact for people involved in the complaint, a single unit which can identify patterns of behaviour or systemic issues as they emerge. Checks and balances must surround the single point of contact to ensure that complaints are being acted on appropriately.

With regard to the principle 2, a child-focused complaint handling policy, it may be useful to specify that those charged with direct engagement with the child or adult survivor, have training in child abuse and the impact of trauma.

#### **Oversight of complaints handling**

The Commission has requested submissions on the value of reportable conduct schemes. In its submission on *Issues Paper 3: Child Safe Institutions*, the Uniting Church noted the value of a requirement to report allegations of any type of abuse and oversight to an independent body. By its very nature this requires organisations to develop more robust procedures for managing allegations. We also noted that it is critical for resources to be allocated to support organisations to carry out the

investigation and reporting role effectively. We confirm this view in regard to the implementation of complaint handling procedures.

A completely independent complaints handling body could be beneficial, provided the interface between it and existing complaints management processes (for example mandatory reporting requirements for certain professions) are well resolved and duplication of process is minimised.

### **Advice and support for institutions**

The Commission notes there could be scope to increase advice and support to institutions to respond to complaints of child abuse and seeks submissions on how to increase access to advice and support.

The Uniting Church considers that access to advice and support on best practice would be valuable. However it is not clear if the Commission's ideas are contained to general training and support, or whether it is envisaging advice and support relating to specific matters or cases. With regard to the latter, there may be legal and insurance issues to be considered.

With regard to the options for advice and support, the Uniting Church considers there should be consistency across jurisdictions to the greatest extent allowed by legislative differences. Children's Commissioners may be well placed to develop this type of general support.

Entities have emerged which provide expertise in conducting investigations with services ranging from advice and training through to full service for reporting processes. Appropriate regulation of these entities may be necessary.

### **Other issues – exchange of information and industrial issues**

The Royal Commission notes that institutions should consider whether, and in what circumstances, institutions should warn each other of suspicions about employees or former employees and sets out legislative frameworks that allow sharing of information.

Without explicit legal permission to share information about concerns (especially which fall short of criminal behaviour), and due to real or perceived concerns about privacy and defamation, institutions are sometimes cautious to exchange information in a formal way. Where information is exchanged, it is often done through informal channels. This does not provide a nationally effective, systematic process for exchanging information about persons who have concerning behaviours.

The Commission's guidance on exchange of information between institutions would be extremely beneficial.

Guidance would also be useful to ensure that employment contracts, industrial agreements, codes of conduct and disciplinary policies are aligned so that where an employee has been found to engage in conduct that is 'reportable' or inappropriate, that appropriate industrial action can be taken against the employee. This is particularly the case if the conduct occurs at another employer or outside the course of employment or if there would be insufficient evidence to support a criminal conviction, or the behaviour is not criminal. We note the recent case of *Paul O'Connell v Catholic Education Office, Archdiocese of Sydney* [2016] FWCFB 1752, where the full bench of the Fair Work Commission ruled that section 9 of *Child Protection Act* (NSW) does not require that a disqualified

person be immediately dismissed from their employment, rather they be excluded from child related work. This is problematic for agencies where the only other work available would expose the person to vulnerable adults, for example, adults with a disability or frail older people.

## Conclusion

Once again, the Uniting Church thanks the Royal Commission for the opportunity to provide a response, and offers these thoughts to the Commission's ongoing work.