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**Royal Commission into Institutional Responses to Child Sexual Abuse**  
**Issues Paper 8**

**Experiences of Police and Prosecution Responses**

Approximately only 4% of all referrals made to The Gatehouse Centre proceed through from police report to prosecution. There have been, however, some young people with whom The Gatehouse Centre works who have been sexually abused within an institutional setting and who have had experiences with police and prosecution processes that have been shared with their Gatehouse therapist. Some examples of these are provided below:

1. A 13 year old girl who was abused by a teacher at her school in the early 2000's. The alleged perpetrator's wife also worked at the non-government secondary school in [REDACTED], and continued to work there and supported him. It was reported that the alleged perpetrator had "groomed" a number of young people.

While the alleged perpetrator was dismissed from the school and the matter reported to Police, it did not proceed to prosecution. However, the school did take the matter through a Department of Employment Education and Training (DEET) process. The girls concerned, including the 13 year old who was seen at The Gatehouse Centre, reported finding the process of giving evidence for this DoE inquiry very difficult.

The Gatehouse Centre's understanding (based on conversations with the 13 year old and staff from her school) is that the alleged perpetrator was disciplined, but that sometime later he applied for a position in another private school. The alleged abuse had happened some time before the young girl was referred to The Gatehouse Centre and the young girl was referred more so in regards to her ongoing distress about having caused this man to lose his job. The school consulted The Gatehouse Centre in regards to what rights they had to warn the other school about his previous behaviour.

2. A 15 year old young woman, residing in a Residential unit for the past four years and previously in foster care as a result of suffering severe physical abuse which necessitated her having plastic surgery, presented to The Gatehouse Centre following sexual assault. She has an intellectual disability and is easily influenced and open to strangers.

This young woman has presented to The Gatehouse on four occasions, the most recent being in June, 2015. Her most recent presentation prior to this was after being raped by someone who offered her a cigarette. This matter was reported, prosecuted and the perpetrator was convicted.

Her current presentation was following a sexual assault at knife point by a man whom she met late at night in a park, under a bridge who offered her alcohol and cigarettes. The young woman reported to The Gatehouse Centre on call worker (after hour's crisis care) that she had told the Residential staff at her unit that this person has invited her out to the park prior to leaving the unit. The Residential staff tried to distract her from thinking about going to meet this person and reminded her of her 9.30 curfew. The Residential staff, however, reported that they have no way of stopping her as there are not enough staff on to go after her and that to do so also placed the female staff member at risk.

3. A four year old girl alleged sexual abuse by the playroom supervisor/child care instructor at the Childcare Centre which she attended. The alleged abuse occurred between September – December 2014.

The matter was reported to the Sexual Offences and Child Abuse Investigations Team (SOCIT) and Child Protection (CP) by the child's mother. The parents also spoke to the alleged perpetrator.

SOCIT interviewed the child who did not disclose, so there was no Video Audio Recorded Evidence (VARE) and the case has not proceeded to prosecution.

The Childcare centre were interviewed by CP as it seemed there were unclear policies in place to manage disclosures. The Gatehouse Centre clinician who worked with this child followed this up with the DEET, however they would not get involved in the case.

4. A nine year old girl who has been in out-of-home care since aged three weeks of age was allegedly sexually assaulted by her adolescent foster brother when she was two year's old. Although no disclosures were made, the concerns were reported to CP following another of the girl's foster brothers having expressed suicidal ideation. It became apparent through the process of the CP investigation that the then two year old was sleeping with the adolescent. The placement broke down and the then two year old was removed from care.

The girl later developed problem sexual behaviours and was referred at that point to The Gatehouse Centre. It is not known if this case was ever referred to Police.

5. Two young women aged 14 who have been in a Residential unit in recent years following a history of familial physical, emotional and sexual abuse. Both of these young women alleged that one of their residential carers has sexually abused them. The matters were reported to the police. One of the two young women died of an overdose prior to these matters being advanced to prosecution. The cases were being treated separately.

In the case of the young woman who has passed away, the matter did not proceed criminally; however the Department of Human Services undertook an investigation into the Residential Service and the matter was referred to the Suitability Panel for review of the alleged perpetrator's suitability to remain as a carer. Communication about the purpose, expectations and processes of this panel has been poor. Gatehouse Centre staff were required to give evidence at this panel, during which time they were required to sit at the

same table as the alleged perpetrator and his partner who behaved, unfettered, in a particularly intimidating manner towards them. There has been no communication since as to the outcome of the panel's findings.

### **Issues arising from these examples:**

A number of concerns about institutional, police and prosecution responses arise from these examples:

**1. *A constrained and constraining approach to response from different components of the system.***

The Police (SOCIT) focus on the criminal element. Where there is no disclosure, or limited detail in a disclosure, there is little on which to proceed, so cases are dropped. Cases that do not proceed to prosecution as a result of a child's perceived or actual (because of developmental constraints) lack of ability to provide information that meets the threshold for evidence have no alternative pathway through which to validate the impact on the young person. This can lead to significant distress for the young person, arising from feeling not believed, blamed and/or invalidated and leaving them feeling shamed, abandoned, vulnerable, unworthy and disempowered.

CP focus on issues of safety and if it is established that a child is not at risk of being abused again by the alleged perpetrator and parents are assessed as acting protectively, the case is closed.

Neither of these responses adequately address the potential ongoing vulnerability of a child who has been abused once to be abused again, or to develop symptomatic behaviour that or the potential for an alleged perpetrator to simply move to another place of employment and continue their abusive behaviour.

**2. *A lack of protocols/guidelines to facilitate communication between organisations***

Issues of privacy and confidentiality often constrain organisations (either in reality, or as a result of a misunderstanding of privacy legislation and its breadth). This results in information that could alert others to risk factors not being communicated between organisations.

**3. *"Investigations" which occur outside of the Criminal Justice system***

"Investigations" undertaken by agencies that are not a part of the Criminal Justice system, such as internal DEET investigations, DHS Suitability Panel investigations, or other non-government agency investigative procedures may be unregulated, may take place without the oversight of an external/disinterested auditing body, are not linked into, nor do they have their own support/advocacy processes and services for children and young people, such as the Child Witness support program or independent advocates. Not only does this potentially leave children and young people poorly informed, supported and not understood, but vulnerable to a sense of intimidation and other forms of systemic abuse.

### **Suggestions for improvement**

It is important for any organisation that deals with children and young people to ensure that its staff are educated in the developmental needs of children and young people. This includes understanding how to communicate with children and young people, how to support them to be able to communicate their experiences and concerns and what to expect of children and young people in being able to provide information about their experiences. In particular, a criminal justice system that

expects young children, children and young people who may have an intellectual disability, or those who have been significantly traumatised by their experience to be able to provide dates and times and such specific details, is a system that will fail these children and young people.

The development of legislation/protocols/guidelines/frameworks for organisations to make reports of sexual abuse allegedly perpetrated by their staff and to be able to share this information with other organisations needs to be considered.

Organisational bodies who conduct their own “investigations” need to be audited and/or have these “investigations” undertaken with the oversight of a disinterested/independent body. Such investigations also should provide protective/supportive services for particularly the children and young people who may be required to provide evidence.

### **Professional Experience**

#### **8. What are your observations of and suggestions for improvements or reforms to police processes for receiving reports of allegations and investigating and responding to reports in relation to allegations of child sexual abuse in an institutional context?**

The police need training, systems and time to be able to:

- Listen
- ‘believe’ in its broadest sense
- Collect information forensically
- Respond quickly (say in 48 hours)
- To investigate in a timely manner

Children and young people in care need to be able to talk about their allegations whilst still in care. Residential Unit staff need to be able to care, support and talk with children and young people who disclose sexual assault rather than be told by police not to talk about the allegations in case evidence is contaminated. If children or young people are in counselling they too need to be able to talk about their disclosures with their counsellor and not be silenced by the police timelines for investigation.

- To explain police processes and to meet with families if the decision is not to proceed so families can understand this decision

Police therefore need to:

- Review protocols/Memorandum of Understanding (MOU) With:
  - Child Protection, DHHS
  - Residential care providers
  - Department of Education and Training
  - Disability Services

Establish with:

- Local clubs/groups who require Working with Children’s Checks? Local MOUs with police if abuse is suspected in their organisation/club.
- Restorative justice programs need to be considered as the alternative response to institutional sexual abuse.

Some young people and their families want to explore other options other than the criminal justice system.

Parent/s whose children/young people are taken to residential/alternative care are vulnerable. When children and young people disclose sexual abuse in care, adult family members often require much assistance to cope with the implication of this abuse on their child/young person. They were accused of being bad parents who had not adequately cared for their son or daughter. They then find out that another adult/s sexually abused their child/young person. They express anger, despair, impotence and frustration.

A legal response is often not sufficient.

- Children living in detention centres in Victoria are further disadvantaged by Victorian current practice. These children who disclose sexual abuse in the centre by non-family members have the matter reported to the police but not to Child Protection, DHHS Victoria. Child Protection refer the matter to Federal Immigration Service.

Gatehouse Centre does not yet work in a multidisciplinary Centre (MDC). However discussion with Centre Against Sexual Assault (CASA) managers in MDC's informs that these centres enable:

- Child and Young people friendly space
- Video Audio Recorded Evidence (VARE) for Children and young people
- Space for families, Children and young people
- The availability of immediate counsellor support if a child/young person becomes upset during the VARE
- DHHS and Police work very closely
- Referral to CASA is speedy and efficient
- Geography enables staff from each agency to discuss, explore and seek answers from the other areas of the system that are co-located
- Building designs in the future must keep these factors in mind so that new any MDC continues to provide these benefits

The expectation that Child Protection will do the investigation into child risk and protection whilst the police investigate the criminal matter does not occur for these children and young people in the Immigration Detention Centre in Victoria.

## **9. What are your observations of and suggestions for improvements or reforms i.e. prosecution processes in relation to changes relating to child sexual abuse in an institutional context?**

Child Witness Program in Victoria is a terrific service for children, young people and their families going to court regarding sexual assault.

Children and young people with a cognitive impairment and or physical disability need to have a tailored and specific response available to them when facing court (as well as when reporting to police). CASA type services require brokerage funding to develop these specific responses.

The prosecution process needs to:

- Communicate
- Explain – the court and the processes
- Engage in respectful interaction with children, young people and families
- Be mindful of both the developmental needs of children and young people as well as the impact of interpersonal trauma on a child/young person's capacity to tell their story, provide

“evidence” of their assault, respond to questions couched in legal terms and language, respond to people whom they perceive as having power over them – including legal professionals, criminal justice professionals and adults in general.

- Explain that “innocent until proven guilty” does not mean the abuse did not occur and ‘beyond reasonable doubt’

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