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Royal Commission into  
Institutional Responses to  
Child Sexual Abuse  
GPO Box 5283  
Sydney NSW 2001  
via email: [solicitor@childabuseroyalcommission.gov.au](mailto:solicitor@childabuseroyalcommission.gov.au)

Dear Commissioners

**RE: Issues Paper 9: Addressing the risk of child sexual abuse in primary and secondary schools.**

We refer to this Issues Paper and the invitation to make submissions to the Commission's consideration of this area.

**Preamble**

Christian Schools Australia Ltd (CSA) is an association of over 140 schools, with over 60,000 students and more than 3,000 teaching staff. CSA's commitment is to see Christian beliefs and values impact on all aspects of practice and community life in its member schools. With Biblically based beliefs as our foundation CSA provides leadership, services and resources for its members, and generally works to advance the cause of Christian schooling.

Our member schools are autonomous legal entities, independently governed, locally based charitable organisations. Each is subject to oversight as a charity by the Australian Charities and Not for Profit Commission (ACNC) and, depending on their corporate structure, either the Australian Securities and Investments Commission (ASIC) or State/Territory regulators. All member schools comply with State/Territory requirements in relation to the registration and accreditation of non-government schools as well as meeting requirements under Commonwealth legislation applicable to schools.

While in most states support related to child protection issues are largely provided by other Independent School sector bodies, however in New South Wales and the Australian Capital Territory CSA provides its members with comprehensive support in this area. In NSW this support has a unique characteristic, being a 'class and kind' order in place through the NSW Ombudsman. Underpinning this a comprehensive range of support and training materials have been developed. We have engaged a specialist external provider to deliver training for schools into the conduct of investigations, and handling of allegations of reportable conduct. This is provided to all participating member schools in

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NSW/ACT. Under our service provision schools can outsource their investigations to the specialist external provider. CSA conducts regular professional development and briefings for schools covering Duty of Care and Mandatory Reporting.

The Ombudsman was heavily involved in assisting CSA to develop its processes prior to approving the Class or Kind Agreement, and monitors compliance and outcomes. A recent review by the Ombudsman found that “CSA has complied with its obligations in order to secure inclusion for its participating member schools in the determination... the overall initiative by CSA through its engagement of (CSA’s provider) structured support systems, and the goodwill and engagement by schools, is well progressed. The overall management of investigations, documentation and record keeping by (CSA ‘s provider) in relation to its training, advice sought and received, investigations conducted and other services to schools, is of a high standard.”

CSA considers that this system has been of great benefit in assisting schools to improve practice and meet their obligations under Child protection legislation. The ongoing training requirement is considered a major benefit in ensuring relevant staff are up to date. The system also provides greater certainty that correct procedures will be followed when handling complaints.

On balance, Christian Schools Australia considers the legislative and procedural framework in New South Wales, and in particular the Class and Kind procedures overseen by the NSW Ombudsman, are superior to arrangements in other jurisdictions. Our submission is that this framework should be considered at a national level.

#### **A framework for addressing the risk of child sexual abuse in primary and secondary schools.**

In considering the broad span of questions raised in the issues paper a number of foundational principles have been identified which we believe should underpin a response to addressing the risk of child sexual abuse in primary and secondary schools.

Firstly, there should be a **nationally harmonised approach** to this issue. The teaching profession is relatively mobile, especially at the leadership level within non-government schools. Principals are often appointed from interstate and while familiar with the educational aspects of schooling the differences and nuances of compliance regimes can lead to misunderstand of responsibilities and requirements. As unfortunately demonstrated in some of the Case Studies by the Commission, without clear leadership in addressing these issues within a school responses are likely to be unacceptable and not meet legislative requirements. Discontinuity between the approaches and requirements of different States and Territories is a significant contributor to these failings.

Secondly, any response **should encompass three elements**, all on a nationally consistent basis:

- Pre-employment screening;
- Clear mandatory reporting requirements;
- Defined requirements for dealing with allegations against staff.

Jurisdictions across Australia currently vary in each of these areas. Differences in the scope of mandatory reporting requirements, for example, simply lead to confusion. It is also highly questionable how some jurisdictions, such as the ACT, justify the narrow scope of these requirements.

Requirements for dealing with allegations against staff are inconsistent across jurisdictions and in some cases non-existent. While appreciating and supporting the need for natural justice and procedural fairness, processes need to be robust and focussed primarily upon the protection of

children. We would encourage careful consideration of the NSW legislation as the basis for a national model.

Thirdly, oversight and responsibility for assisting, monitoring and enforcing compliance should be assigned to a **specialist regulatory body**. Put simply, neither the regulators of charities, corporate entities nor schools more generally have the expertise to deal with the specific needs of responding to issues of this kind. Little benefit is likely to arise from ‘strengthened’ governance arrangements (however this vague term may be defined), nor by mandating ‘strong’ child safe ‘principles, policies or procedures’ as a condition of school registration, absent a specific model being adopted nationally. Most jurisdictions already have some form of oversight of child protection policies as part of registration requirements. Governance arrangements are similarly reviewed in those processes in many states and subject to the oversight of ACNC, ASIC and other regulators.

The blunt instruments of ‘strengthened’ governance and ‘strong’ policies monitored by non-specialist bodies will do little to bring the consistent national approach needed. A far more effective approach is to have a specialist body with the skills and expertise in the area of dealing with and responding to child sexual abuse. Such a body will almost invariably also develop a large corpus of knowledge and experience that can be used to assist schools in meeting their obligations – which should, after all, be the priority. Prevention is far and away the preferred outcome in relation to this issue.

Fourthly, all those involved with schools should have **appropriate obligations to respond** to these issues. Obligations should apply to regular volunteers, teaching and non-teaching staff, and school leadership including school board members and governors. The obligations should be commensurate with to the applicable duties and functions of the roles and encompass **non-delegable duties**.

It is suggested that the national harmonisation of workplace health and safety legislation provides a helpful benchmark for the development of such a regulatory framework. While some inconsistencies remain this process has largely standardised legislation across the country in this area. The legislation is administered by specialist agencies with the detailed knowledge and expertise to deal with the often complex issues involved. The harmonised legislation also encompasses a range of appropriately structured obligations on volunteers, employees, employers and, personally, in relation to those involved in the governance.

It is respectfully suggested that if nationally consistent legislation can be established to protect the safety of workers can any lesser approach be justified in relation to addressing the risk of child sexual abuse?

We look forward to the Commission’s recommendations in this area. In the meantime if you have any particular questions please do not hesitate to contact myself or our Executive Officer, National Policy, Mark Spencer.

Yours faithfully

Stephen O’Doherty

CEO