



**WESTERN AUSTRALIA'S RESPONSE TO
ISSUES PAPER 9:**

**ADDRESSING THE RISK OF CHILD SEXUAL
ABUSE IN PRIMARY AND SECONDARY
SCHOOLS**

SEPTEMBER 2015



INTRODUCTORY POINT: DEPARTMENT OF EDUCATION SERVICES

The information provided in this response builds on Mr Richard Strickland's witness statement provided for Case Study No 12. Please refer to that in conjunction with the following additional information on non-government schools provided in this response.



TOPIC A: GENERAL QUESTIONS

QUESTION ONE: STATE POLICIES AND PROCEDURES TO PROTECT CHILDREN

GOVERNMENT SCHOOLS

The Department of Education (DoE) is a State Department established under the relevant provisions of the *Public Sector Management Act 1994 (WA)* and the *School Education Act 1999 (WA)*. The Director General, as the Accountable Authority, is responsible to the Minister for Education. DoE is responsible for providing public education throughout Western Australian to just under 300,000 students located in 799 public schools, 441 of which are Independent Public Schools. DoE's Corporate Executive consists of the Director General, Deputy Directors General, and relevant Central Office Executive Directors and Regional Executive Directors.

DoE is committed to the care, safety and protection of all its students and actively promotes child-safe principles and practices in its schools. DoE has already undertaken considerable work to identify key principles and practices that improve the prevention, identification and management of child abuse, including the development of the Protective Behaviours curriculum and teacher resources.

Child Protection Policies and Procedures

DoE regularly reviews its policies, procedures and practices in response to recommendations from parliamentary reports to ensure responses to risks and instances of child sexual abuse are dealt with efficiently, appropriately and with the protection of the student at the forefront of considerations.

Previous reports include:

- *Gordon Report 2002 (Special Inquiry into the Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities)*;
- *Ford Report 2007*; and
- *Blaxell Inquiry 2012*.

In response to these recommendations, DoE's Child Protection policy:

- contains procedures for the identification and reporting of possible child sexual abuse, physical and emotional abuse or neglect of a child, and provides all DoE staff with advice on matters relating to child protection;
- includes a requirement that principals implement preventive curriculum (the type of program delivered is at the discretion of the principal and as deemed appropriate for the particular need of a school); and
- requires all children in the care of the Chief Executive Officer of the Department for Child Protection and Family Support (CPFS) to be identified as at risk and to have a documented plan that is



developed in collaboration with CPFS in accordance with the Memorandum of Understanding between both departments.

DoE's Child Protection policy was reviewed in 2009 in response to the Corruption and Crime Commission Report titled "Sexual Contact with Children by Persons in Authority in the Department of Education and Training of Western Australia (2006)" and changes to the *Children and Community Services Act 2004 (WA)* mandating teachers to report child sexual abuse. The policy provides DoE staff with advice on matters relating to child protection, including reporting procedures for a wide range of situations which involve child abuse (sexual, physical, emotional abuse and neglect).

DoE's Child Protection policy includes reference to other relevant legislation, and DoE policies and guidelines as follows:

Legislation includes:

- *Children and Community Services Act 2004*
- *Corruption and Crime Commission Act 2003*
- *Criminal Code (WA and Commonwealth)*
- *Public Sector Management Act 1994*
- *School Education Act 1999*

Policies include:

- Attendance
- Behaviour Management in Schools
- Discipline
- Duty of Care for Students
- Emergency and Critical Incident Management
- Enrolment
- Public Interest Disclosure
- Records Management
- Staff Conduct
- Working with Children Checks

Guidelines include:

- School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self-Injury.



- Guidelines for Appropriate Staff-Student Behaviour.

Support provided to schools to implement the Child Protection policy includes:

- provision of specialist advice and support;
- a memorandum of understanding for children in care which prioritises support for children in care in schools;
- mandatory online professional learning in child protection (since its release in 2009, 44 018 staff have completed the mandatory course);
- online and face-to-face professional learning in preventive education and the impact of abuse related trauma (between 2009 and June 2015, 223 workshops have been held across the State);
- customised professional learning and associated resources for diverse populations, including Aboriginal and Islander Education Officers;
- face-to-face training in the DoE's Protective Behaviours program delivered in country and remote locations by external providers (Protective Behaviours WA and Safe4Kids);
- access to free online protective curriculum;
- active support and participation in the Statewide Professional Interagency Collaborative Working Group on Mandatory Reporting of Child Sexual Abuse (DoE, Western Australia Police, the Department of Health and CPFS have worked together to provide 243 workshops between 2009 and June 2015);
- presentations and material designed for principals and senior administrative staff in regional offices based on current issues which are having a direct impact on schools; and
- information on child protection on the DoE's website.

Professional Standards and Conduct

In late 2006, DoE established a Professional Standards and Conduct Division with responsibility for the Misconduct and Management Framework. The Executive Director of the Division reports directly to the Director General and sits on a number of executive governance committees. The Division consists of the Legal Services Unit, the Internal Audit and Assurance Directorate, the Screening Unit, and the Standards and Integrity Directorate.

NON-GOVERNMENT SCHOOLS

Functions of the Department of Education Services: Child Protection

The Department of Education Services (DES) assists the Minister for Education in the administration of the regulation of non-government schools. DES staffs the secretariat of the Teacher Registration Board of Western Australia (TRBWA) that is responsible for the registration of teachers in Western Australian schools, juvenile detention centres and child care settings. DES also staffs the secretariat of the Training



Accreditation Council (TAC) which is responsible for the registration of training organisations, including those providing training to minors.

A key objective of the registration functions across DES is to foster a safe environment for children and to ensure consistency of standards and expectations of professional conduct, child protection and levels of care expected in all educational settings in Western Australia.

In relation to non-government schools, the Minister for Education determines standards and DES establishes policies and procedures for their regulation, in particular the granting, refusal, renewal and cancelling of registration, in accordance with the requirements of the *School Education Act 1999 (WA)* and *School Education Regulations 2000 (WA)*. Registration provides assurance that the schools meet acceptable standards of education and care. The standards take account of the principles for child-safety in organisations and include requirements as to the curriculum, qualifications of teaching staff, buildings and facilities, enrolment and attendance procedures, board and lodging arrangements, disputes and complaints, financial resources sufficiency and compliance with written laws.

Under the *School Education Act 1999 (WA)* and the *School Education Regulations 2000 (WA)*, schools are required to submit critical incident reports to DES. Under the *School Education Act 1999 (WA)*, the DES Director General may also, if warranted, authorise an inspection after notice given of a non-government school for the purpose of ensuring that the school is complying with the *School Education Act 1999 (WA)*, any condition of the school's registration, or a direction given. Similarly, the DES Director General may authorise an inspection with no notice of a non-government school if he is of the opinion that it is necessary to do so because the health or welfare of a person may be at risk. The governing body of a registered non-government school may also be required, by notice in writing, to provide statistical, educational and financial information about the school and any other information relating to the standards or matters of which the DES Director General's is to be satisfied.

DES also manages State government funding of non-government schools and special education per capita funding for non-government schools for qualifying students with special education and high support needs. Among the matters of which the DES Director General is to be satisfied before registering a school, or renewing its registration, are the levels of care afforded the students.

Independent schools are inspected by the DES to ensure compliance however, through a system agreement between the Minister and the Catholic Education Commission of WA (Commission), the Minister delegates to the Commission the function of registration or renewal of registration of schools in the system. The Commission's internal processes and system documentation relating to the registration and renewal of registration of Catholic schools are monitored and audited by DES to ensure consistency and comparability with the DES's own processes and documentation.



Teacher Registration Board of WA

The TRBWA has regulatory responsibility for registration of all teachers teaching in Western Australian education venues including schools, juvenile detention centres, childcare services and places where centre-based services (long day care and regular occasional care) operate. Under the *Teacher Registration Act 2012 (WA)*, the TRBWA considers notifications received from employers, WAPOL, the DPP and teachers themselves, the results of criminal record checks, complaints received directly about teachers from other sources and other information it considers relevant. This information may involve disciplinary and impairment matters that are dealt with under Part 5 of the Act. The TRBWA is also responsible for the accreditation of initial teacher education programmes.

Training Accreditation Council (TAC)

TAC is Western Australia's VET registering and course accrediting body, responsible for the quality assurance and recognition of vocational education and training services in WA. As part of its functions, the TAC conducts audits of registered training providers (RTOs) delivering nationally recognised training and assessment services, which may include delivery to school-age children from a non-government school.

QUESTION TWO & THREE: COMPLIANCE WITH CHILD PROTECTION POLICY AND LEGISLATIVE REQUIREMENTS

GOVERNMENT SCHOOLS

DoE's policies and procedures are detailed and robust in terms of child protection matters in the education system in Western Australia. The particular strengths for DoE in terms of child protection issues include:

- the available training (online and face-to-face);
- the prevention education training available to all staff and parent groups; and
- improvements to information sharing practices between government agencies.

Child Protection Policy

Under DoE's Child Protection policy, all staff are responsible for the care, safety and protection of children attending public schools. This responsibility extends to the identification and timely response to concerns regarding the possible sexual, physical and emotional abuse or neglect of a child.

DoE's processes related to non-compliance with this policy include:

- obligations to report non-compliance;
- investigating complaints and allegations against staff, including public interest disclosures, serious misconduct and breaches of discipline; and



- the provision of proactive professional learning strategies related to ethical behaviour and reporting obligations.

DoE also has well publicised processes in schools for raising concerns and making inquiries or complaints which are available to parents, students and members of the local community.

Further, principals must complete mandatory online child protection professional learning courses. If they do not complete the course, they are contacted personally and those who still do not complete the course receive a letter from the Director General instructing them to complete the course and alerting them to the possibility of disciplinary action if they fail to do so.

Working With Children Checks

It is compulsory for all DoE staff who are in child-related employment to have a Working With Children Check (WWCC) and to complete online child protection professional learning on child abuse and mandatory reporting. Compliance with this requirement is monitored centrally. Principals are responsible for compliance at the school level. Staff who do not have a current WWCC are not permitted to work in a school environment.

Standards and Integrity Directorate

DoE schools in Western Australia have access to the integrated functions and oversight of the Department's Standards and Integrity Directorate in relation to complaints about misconduct and child abuse. That Directorate administers and investigates complaints, coordinates disciplinary processes, completes internal risk assessments of staff and leads the development of policy and professional learning related to professional standards and conduct for DoE schools.

Mandatory Reporting

Currently, the *Children and Community Services Act 2004 (WA)* stipulates that all teachers are mandatory reporters, regardless of whether a school is a government or non-government school (Section 124A). The *Children and Community Service Act 2004 (WA)* also includes penalties for not making a report as soon as practicable after a mandatory reporter has formed a belief that child sexual abuse has occurred or is occurring or for not making a written report following a verbal report.

The number of mandatory reports submitted by staff from public schools is second only to Western Australia Police. In 2014, 532 reports of child sexual abuse were submitted by DoE staff who are mandatory reporters. This is an increase of 32% since 2009 when mandatory reporting was introduced in Western Australia.

The Government also coordinates a Mandatory Reporting Interagency Training Group (the Training Group) comprising representatives from CPFS, WAPOL, Department of Health, Catholic Education Office of Western Australia and Association of Independent Schools of Western Australia.



The role of the Training Group is to provide a collaborative and integrated interagency approach to delivering information, professional learning and training to mandatory reporters and notifiers. It also seeks to increase their knowledge, skills and collaborative practices in the management, reporting and response to child abuse. The Training Group will continue to develop and maintain partnerships and linkages across government and non-government agencies. It will also promote inter-agency collaborative practices as the cornerstone of effective intervention management and response to child abuse.

NON-GOVERNMENT SCHOOLS

Governing bodies of non-government schools are responsible for the management of complaints about misconduct and child abuse, including ensuring compliance with legislation requiring mandatory reporting. Schools that are part of the Catholic system are subject to additional oversight at arm's length and specialised support is usually available. Independent schools on the whole must rely on the expertise of the principal and governing body, although support for professional learning, advocacy and advice is available to members of AISWA.

DES also provides staff, services and facilities to enable the TAC to perform its statutory functions in relation to the registration and regulation of vocational education and training (VET) providers, including those which deliver VET in schools in Western Australia. Note that the Australian Skills Quality Authority (ASQA), and not TAC, regulates some providers of VET in schools in WA.

Compliance with the *School Education Act 1999*

Recent changes to the legislation governing the registration of non-government schools have included penalties for non-compliance. Under section 160 of the *School Education Act 1999 (WA)*, the DES Director General is to be satisfied about the levels of care at non-government schools. One measure of the levels of care will be the school's policies and procedures for preventing child abuse and responding to any incidents which occur.

Following amendments to the *School Education Act 1999 (WA)*, which came into effect in February 2015, the Minister is now able to determine a stand-alone child protection standard. That standard is currently in the consultation phase with a view to implementation from the beginning of 2016 and will build on child protection mechanisms in the current system. These mechanisms are outlined in Mr Richard Strickland's witness statement provided for Case Study No 12.

The incentive for schools to comply with the legislation lies in the maintenance of registration, the associated state government funding and the duration of the period of registration. Regulatory tools to promote compliance include giving a quality improvement notice while the Director General can also place conditions on registration or issue a direction during which the school is unable to enrol any new students. Ultimately a non-compliant school may have its registration cancelled with resulting loss of State and Federal government funding.



The Minister has commenced the process of consultation on the new standard with the non-government school sector. The new standard will apply to all schools at all times while they hold registration, from the date stipulated by the Minister.

Compliance with the *Teacher Registration Act 2012 (WA)*

DES supports the TRBWA with the staff, facilities and resources it reasonably requires in order to perform its statutory functions of teacher registration, teacher discipline and accreditation of initial teacher education programs.

Under the *Teacher Registration Act 2012 (WA)* (TRA), which commenced on 7 December 2012, any member of the public may make a complaint to the Board about the conduct of a registered teacher, or a person who was a registered teacher at the time of the alleged conduct.

Also of interest are employer notifications about any registered teacher no longer working at a particular educational venue due to an investigation about serious misconduct instigated by the employer. Employers (governing bodies in the case of non-government schools) are required to notify the TRBWA of such matters and the range of matters that must be reported to the TRBWA has widened under the TRA compared with the matters which had to be reported to the former teacher regulatory body, the WA College of Teachers. After considering the information in the notice, the Board may decide to pursue a complaint.

Complaints made to the Board and those formulated by the Board itself are assessed and investigated by the Board as appropriate, noting that the Board must regard the best interests of children as paramount in the performance of the function. It should also be noted that information relevant to external agencies (Western Australia Police, CPFS, the Corruption and Crime Commission, DoE) would be reported without delay and contact maintained with them to determine when actions under the regulatory scheme for teachers could be initiated if required.

The Board deals with the complaint in one of five ways:

- reject the complaint as inappropriate or trivial;
- make an interim disciplinary order;
- refer the complaint, together with a report, to a disciplinary committee;
- if the complaint concerns the impairment of a registered teacher, refer the complaint, together with a report to the impairment review committee; or
- refer the complaint to the State Administrative Tribunal.

If a child or group of children is at risk of injury or harm, or if a teacher is charged with a sexual offence involving a child, an interim disciplinary order (IDO) can impose condition(s) on, or suspend, the teacher's registration. An IDO must be referred to the State Administrative Tribunal by the Board within 14 days.



The Board may determine that the nature of serious misconduct engaged in by a teacher may render him or her unfit to be registered. Without registration, the teacher is not lawfully able to be employed as a teacher or seek employment as a teacher.

The TRA requires a registered teacher to give written notice to the Teacher Registration Board no later than 14 days after an interim negative notice or negative notice is issued to the person, under the *Working with Children Check (Criminal Record Checking) Act*. Under these circumstances a teacher is no longer entitled to be registered, their name is removed from the Register of Teachers and they are no longer entitled to teach.

Subject to a complaint being appropriately investigated and proven to the satisfaction of the State Administrative Tribunal that a teacher has engaged in serious misconduct the nature of which renders them unfit to be registered, the maximum penalty available is the cancellation of that teacher's registration with the prospect of being disqualified from reapplying for a period of time. Other penalties include the imposition of a caution or reprimand, a fine not exceeding \$5000 and the imposition of conditions on a person's registration.

Pursuant to s 42 of the TRA, employers have an obligation to notify the Board if, as a result of an investigation into a teacher's serious misconduct or incompetence, a teacher has been suspended or dismissed from teaching at the educational venue or dismissed from teaching at the educational venue or resigned or no longer teachers at the educational venue. The Board has been proactive in informing employers of their obligations in this space and will shortly be commissioning research on the issue of the scale of reporting and to identify factors influencing the scale of reporting.

The Australasian Teacher Registration Authorities (ATRA) has separately developed professional boundaries guidelines (which are yet to be finalised) to assist teachers in complying with professional codes of conduct. It is anticipated that these will be released for local comment shortly.

QUESTION FOUR: 2009 NATIONAL SAFE SCHOOLS FRAMEWORK

DoE has implemented the National Safe Schools Framework through the inclusion of elements of the framework in policy and procedures. For instance:

- the Behaviour Management in Schools policy focuses on the mandatory procedures for schools to ensure that students develop positive pro-social behaviours and to deal effectively with inappropriate student behaviour; and
 - the Child Protection policy assists staff to respond appropriately where there is a concern for a child's wellbeing or a disclosure of abuse.
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QUESTION FIVE: 'SAFE SCHOOL' ELEMENTS

GOVERNMENT SCHOOLS

Public schools have access to evidence-based programs and tools aligned to the safe school elements to assist in the development of a whole-school approach, including ethos, policy and practice, physical environment, online environment, social environment, engaging families, learning environments and behaviour management. Schools are also encouraged to participate in national strategies such as KidsMatter/MindMatters which promote resilience and wellbeing.

Public schools are required to develop a plan for the effective management of student behaviour under DoE's Behaviour Management in Schools policy. Public schools collect data on student behaviour to inform their planning to build and maintain positive student behaviour. DoE monitors and reports system-level data on behaviour-related measures such as suspensions and online incident notifications.

In relation to students' online environment, DoE applies content filtering technologies, appropriate use policies, user education and local behaviour management strategies to provide high level protection to students from inappropriate online content. In addition, a Students Online policy has been developed to assist principals and staff to put in place school-based processes and procedures which protect and inform students and parents about their responsibilities in relation to the appropriate use of our online services.

DoE monitors incidents, including suspected child abuse, in schools through its online incident notification system. Included are incidents that have the potential to adversely affect or disrupt the safe and orderly operation of the school, and/or threaten the safety and wellbeing of staff and/or students. The principal is required to report incidents as soon as practicable after the incident. All incident notifications are read and monitored. Support may be provided by regional and central office staff or outside agencies.

NON-GOVERNMENT SCHOOLS

Registration and renewal of registration are the principal processes through which the DES Director General can be assured that schools are complying with the *School Education Act*. For instance, meeting the registration standards, including that related to child protection, implementing sound governance, and providing satisfactory levels of care to students. DES has reviewed its risk assessment methodology and is now in the process of adopting a risk-based approach that includes a risk assessment framework and consideration of a school's demonstrated capacity to monitor and manage risks. The risks relate to educational outcomes, the safety and wellbeing of students, the governance and leadership of the school or a combination of these types of risks.

DES will apply the risk assessment framework consistently to all applications from schools. It will guide the specification and differentiation of evidence required in a school's application for registration and ensures



that the scope, depth and nature of regulatory activity, if any, is proportionate to any non-compliance and/or risk of future non-compliance.

Any potential risks identified by DES would lead to examination of the governing body's compliance, proportionate to the concerns that have been identified.

It is essential that the governing body is undertaking ongoing auditing and assessment of the effectiveness of the policies, procedures and/or practices adopted to minimise or prevent, report and respond to risks and instances of child sexual abuse. DES would expect evidence of this to be available on an inspection.

There is also the opportunity for DES to evaluate effectiveness through strategic themed audits of, for example, a sample of schools.



TOPIC B: GOVERNANCE AND LEADERSHIP

QUESTION ONE: SCHOOL GOVERNANCE ARRANGEMENTS

GOVERNMENT SCHOOLS

Whole-of-school planning tools such as the National Safety Schools Framework and the Health Promoting Schools Framework are utilised by schools in reviewing the implementation and efficacy of their response to child protection.

Staff with specialist skills are available to support schools with whole-school planning processes using initiatives such as Positive Behaviour Support, KidsMatter and MindMatters.

DoE requires an annual school risk analysis and report which includes consideration of child protection issues through:

- undertaking a situational analysis of the safety of the physical environment with particular reference to areas where there is little supervision;
- identifying situations and places on school grounds where they feel safe or unsafe; and
- ascertaining other risks identified by staff, school councils or boards and the wider school community using surveys and other forms of feedback.

Public schools have a number of communication systems such as newsletters, parent and school board meetings, school assemblies and the school's online community. In relation to child protection issues, the following information is provided to the school community by the principal and through DoE's website:

- school councils or boards and the broader school community are informed of the DoE's Child Protection policy and of the obligations teachers have under the mandatory reporting legislation;
- parents are informed of behaviours that constitute sexual abuse and behaviours that could be considered to be 'grooming' behaviour; and
- parents are informed about processes for reporting concerns of child sexual abuse to their local CPFS district office.

In addition, DoE's Behaviour Management in Schools policy requires school plans and strategies to prevent and manage bullying/cyberbullying and the safe use of social media. DoE's Students At Educational Risk policy requires school principals and teachers to identify and support students at educational risk. Other relevant policies include the Staff Code of Conduct, Excursions and Duty of Care.

Employee Screening

Working With Children Checks

DoE also works very closely with CPFS' Working with Children Screening Unit. DoE's Standards and Integrity Directorate has responsibility for maintaining the DoE's Working with Children Check Reporting



System and ensuring compliance in schools and other areas of DoE where staff are required to work with children.

DoE's Human Resource Management System is configured in a way which does not allow the employment of a person in a position, which is identified as working with children, without them having met the requirements to work with children under the *Working with Children (Criminal Record Checking) Act 2004 (WA)*.

Pre-employment Criminal History Screening

DoE's Screening Unit undertakes the pre-employment screening of prospective employees, post-compulsory students and volunteers working in schools. DoE has a "No Screen No Start" policy stance which is strictly enforced, ensuring that all prospective employees, volunteers and post-compulsory students have to be screened and cleared by the Screening Unit prior to commencement. DoE's Human Resource Management System is also configured to prevent the appointment of an individual who has not been screened, cleared and issued with a valid screening check.

Teachers are screened by the WATRB as part of their registration process, unless they have not worked for DoE for more than 12 months, in which case they are required to be screened by the Screening Unit.

Oversight

DoE's misconduct management function is subject to several forms of internal and external oversight. The primary oversight bodies in respect of how DoE deals with misconduct risks are the Public Sector Commission (PSC) and the Corruption and Crime Commission (CCC).

In addition to the oversight of misconduct matters undertaken by the PSC and CCC, disciplinary matters are subject to review by the WA Industrial Relations Commission on application by an aggrieved staff member or their Union.

Internal oversight is achieved through the Executive Director of DoE's Professional Standards and Conduct Division reporting directly to the Director General. Regular reporting on the function is also overseen by the Corporate Executive on a program basis as well as on individual cases as the need presents. This ensures a high level of visibility and accountability for misconduct risks and how they are managed. Critical incident briefings are also prepared for the Minister for Education for sensitive or high risk matters.

NON-GOVERNMENT SCHOOLS

Governing bodies of non-government schools are responsible for the management of complaints about misconduct and child abuse, including ensuring compliance with legislation requiring mandatory reporting. Schools that are part of the Catholic system are subject to additional oversight at arm's length and specialised support is usually available. Independent schools on the whole must rely on the expertise



of the principal and governing body, although support for professional learning, advocacy and advice is available to members of AISWA.

DES also provides staff, services and facilities to enable the TAC to perform its statutory functions in relation to the registration and regulation of vocational education and training (VET) providers, including those which deliver VET in schools in Western Australia. Note that the Australian Skills Quality Authority (ASQA), and not TAC, regulates some providers of VET in schools in WA.

Child Protection Policy

Currently, registered non-government schools must develop and implement a child protection policy as a component of duty of care obligations to students. The policy is to include:

- procedures for safeguarding students from harm;
- identifying neglect or emotional, physical or sexual maltreatment;
- responding to allegations of students being harmed or put at risk;
- dealing with allegations of misconduct within the school; and
- providing access to qualified counselling support and referring situations of maltreatment or neglect to relevant outside agencies.

The policy must refer to, and be consistent, with mandatory reporting requirements which came into force on 1 January 2009.

Working with Children Checks

The *Working with Children (Criminal Record Checking) Act 2004* requires all teachers to hold a WWC card. Non-teaching staff, and certain volunteers (i.e. those who are not parents of students in the school and parent volunteers who undertake a professional role in the school), must also hold a current WWC card. As best practice, schools could request those volunteers exempt from WWC checks to apply for a National Police Check.

The school must maintain a staff register that includes the details required for the employing authority to exercise its responsibility in relation to teacher registration, employment of non-teaching staff and requirements for WWC checks and/or Police clearances.

School Education Act 1999

The *School Education Act 1999* (WA) was amended with effect from 2 February 2015 to:

- require that the day-to-day management and control of the school by the principal will be separate from the overall governance of the school by its governing body (this was already required by the regulations but was just shifted into the Act.)
- make clear the matters for which the governing body is to be accountable including the levels of care of the students and observing the standards
- set out the matters to be taken into consideration in assessing the fitness and propriety of governing body members.



QUESTION TWO: REPORTING OF CHILD SEXUAL ABUSE

GOVERNMENT AND NON-GOVERNMENT SCHOOLS: MANDATORY REPORTING

The *Children and Community Services Amendment (Reporting Sexual Abuse of Children) Act 2008* mandates that individual teachers are personally responsible for making a written report directly to the CPFS in the following instance:

- If he/she believes on reasonable grounds that a child has been the subject of sexual abuse or is the subject of ongoing sexual abuse; and
- He/she forms the belief in the course of his/her work.

Failure to do so can result in a fine of up to \$6000.

Currently, the *Children and Community Services Act 2004 (WA)* stipulates that all teachers are mandatory reporters, regardless of whether a school is a government or non-government school (Section 124A). The *Children and Community Service Act 2004 (WA)* also includes penalties for not making a report as soon as practicable after a mandatory reporter has formed a belief that child sexual abuse has occurred or is occurring or for not making a written report following a verbal report.

The *Children and Community Services Act 2004 (WA)* affords protection to persons who fulfil the mandatory reporting obligations.

Names are generally only released after a mandatory reporter or the courts provide written permission. The penalty for disclosing a mandatory reporter's identity can be up to two years imprisonment and/or a \$25,000 fine.

It will not always be possible to keep the identity of the reporter hidden and there are a number of ways a mandatory reporter may be identified including:

- situations where the report can only come from one source;
- in smaller communities where the reporter is easily identified;
- the person 'guessing' the source of the report; and
- a person confronting the reporter with the pretence they have been told.

Interagency mandatory reporting on child sexual abuse workshops are presented each year across the State. These workshops are co-presented by the Department of Health, DoE, Western Australia Police and CPFS. The risks associated with mandatory reporting and the issue of confidentiality are addressed in these sessions. A key focus for these sessions is on interagency collaboration. With the four agencies working together, the risk to the reporter of being identified is significantly reduced.

Department of Education

DoE's Child Protection policy outlines procedures for the protection and support of employees who report child abuse. Where there are concerns for the safety of the reporter, the policy indicates that the



school should put in place a safety plan and inform their local police team. The principal can contact the regional education office for support.

Staff may have concerns about the impact reporting will have on their relationships with colleagues, the family and the child. These issues can be discussed with the principal, line manager, other relevant DoE staff or the CPFS duty officer. Staff are entitled to counselling.

Principal workshops are available to be delivered in each region upon request. At these sessions, issues associated with confidentiality around mandatory reporting are discussed and feedback is used to determine future actions and recommendations.

Department of Education Services

Under the *Teacher Registration Act 2012* (TRA), any member of the public may make a complaint to the Board about the conduct of a registered teacher, or a person who was a registered teacher at the time of the alleged conduct.

DES is also collaborating with CPFS, the Catholic Education Office of WA and AISWA to develop an MOU and schedule of procedures to assist non-government schools in ensuring effective responses by schools subsequent to a receiving a report. There will be a particular emphasis on procedures for coordinating responses with the relevant government agencies.

DES has also relied on school reviewers' expert assessment of non-government school policies, procedures and practices on mandatory reporting in response to instances of child sexual abuse.



TOPIC C: PROTECTION AND SUPPORT SERVICES FOR CHILDREN AND SPECIFIC STUDENT POPULATIONS

QUESTION ONE: EQUAL PROTECTION FOR VULNERABLE CHILDREN

GOVERNMENT SCHOOLS

DoE's student-centred funding model, implemented in 2015, provides for the needs of every student (i.e. per student funding based on the year levels of students and additional funding for students needing extra support). Schools can flexibly use the additional funding to support vulnerable students in ways best suited to the needs of the school community.

DoE's Students at Educational Risk policy requires principals and teaching staff to develop and implement processes to identify, provide for, monitor and report on students who may be at educational risk. Schools take into account the community and student context and the needs of children with particular vulnerabilities, such as children with disability when implementing programs and responding to concerns. This includes the development of documented plans.

Programs in education support settings have a strong focus on protective behaviours suitable to the needs of the children with disability and those with particular vulnerabilities.

DoE provides a range of courses, programs, services and support for school-aged English as an Additional Language or Dialect (EAL/D) students to engage successfully in public schooling and in the acquisition of Standard Australian English (SAE). Schools are assisted Statewide through the Statewide services centre to support EAL/D students including newly arrived EAL/D students, Aboriginal students in remote and country schools and EAL/D students born in Australia whose home language or dialect is one other than SAE.

DoE is a key partner with the Department of Health and other agencies in the culturally appropriate and holistic services provided by two Integrated Service Centres (ISC). The ISCs support humanitarian entrants and refugee students and their families with regard to their health and their social and community needs. These centres are co-located with an Intensive English Centre and provide increased opportunities for these families to access targeted multi-disciplinary services to address child protection issues.

Preventive programs are also delivered within the Health and Physical Education learning area. Programs encourage the learning and development of skills in order for students to feel, be and keep safe. These skills are taught throughout all phases of learning over a range of contexts and situations with students given the opportunity to practice in a variety of scenarios.



Public schools make local decisions about the resources and strategies to support the delivery of teaching and learning programs. DoE supports a number of evidence-based preventive programs such as Friendly Schools Plus, Promoting Alternative Thinking Strategies, Aussie Optimism and the Positive Parenting Program. Schools are also encouraged to participate in national strategies such as KidsMatter and MindMatters, which promote resilience and wellbeing.

All public schools have access to school psychologists who are available to students to provide support, guidance and referral for a range of issues including children with vulnerabilities.

NON-GOVERNMENT SCHOOLS

Schools are required to develop and implement a Documented Education Plan for each child or young person in the care of the Chief Executive Officer of the CPFS. Documented Education Plans will be examined during the visit for each school's renewal of registration, or at any other time if requested by the Minister under section 176 or 177 of the *School Education Act 1999*.

Additionally, a *Health Plan* must be developed and implemented where a child or young person in the care of the Chief Executive Officer of the CPFS resides in the school boarding facility.

COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

The WA Commissioner for Children and Young People has developed and promotes high quality resources that schools can use to support the development of child friendly complaints mechanisms. The Commissioner has also conducted surveys of children seeking their views on their safety that are also highly informative for schools.

Protective Behaviors WA has produced resources specifically about protective behaviours for children with particular vulnerabilities, such as children with disability. These resources are available to schools.

QUESTION TWO: SUPPORT SERVICES

Western Australia's child protection system provides specialised support services for children, parents and guardians.

GOVERNMENT SCHOOLS

DoE does not directly provide therapeutic services for children affected by abuse. However, where appropriate, school psychologists connect the family to sexual abuse therapeutic services and may also have a role in supporting the child receiving treatment services. Through pastoral care systems, case management processes and documented plans for individual students, schools are able to link children and families to external providers.



DoE has specialist staff available to provide schools with advice and support relating to child protection which ensures that responses can be timely. DoE works closely with other agencies to ensure that they are up-to-date and linked to those agencies that provide direct therapeutic services and are able to provide current and informed advice.

NON-GOVERNMENT SCHOOLS

The proposed new standard about preventing and responding to child abuse will build on the current system by requiring that steps be taken by schools to enable complainants to obtain personal and professional support throughout an investigation.

Further, the proposed new critical and emergency incidents standard would require that incidents are managed in such a way as to give the highest priority to the best interests of the student or students affected.

QUESTION THREE AND FOUR: REGIONAL AND REMOTE AREAS

GOVERNMENT SCHOOLS

Support is provided to regional and remote schools in the area of child protection through:

- the availability of online professional learning in child protection and preventive education;
- customised professional learning and associated resources for diverse populations, including Aboriginal and Islander Education Officers;
- face-to-face training in DoE's Protective Behaviours program delivered in country and remote locations by external providers (i.e. Protective Behaviours WA and Safe4Kids);
- presentations and material designed for principals and senior administrative staff in regional offices based on current issues which are having a direct impact on schools; and
- active support and participation in the Statewide Professional Interagency Collaborative Working Group on Mandatory Reporting of Child Sexual Abuse (DoE, Western Australia Police, the Department of Health and CPFS have worked together to provide 243 workshops between 2009 and June 2015).

DoE provides targeted face-to-face child protection training for staff working in boarding environments. Residential supervisors and teaching staff at a Country High Schools Hostel or Western Australian College of Agriculture boarding facility must complete the child protection online training.



Further, residential managers and principals ensure new staff receive appropriate induction in terms of policy requirements, particularly in the area of child protection. Staff changes are closely managed by managers and principals to ensure communication of expectations is ongoing.

Boarding facilities

DoE provides training to any person in a Country High Schools Hostel or a Western Australian College of Agriculture boarding facility whose duties include the supervision of children living at the facility. DoE's Protective Behaviours program is also delivered in country and remote locations by external providers (Protective Behaviours WA and Safe4Kids).

Country High School Hostels Authority

The Country High School Hostels Authority has introduced a residential student complaint phone line, operated by the Department's Standards and Integrity Directorate, where calls are answered by staff who have expertise in child protection. Details of the complaint line are provided to students and parents within handbooks, wallet cards, posters and at orientation. Protective Behaviours awareness training is delivered annually to all residential college students and staff within the residential college. Residential colleges have a 'No touch rule' for all students and staff. Behaviour records are kept for each student, incidents at the residential college between students and or between students and staff and appropriate interventions and risk minimisation are recorded and reported to senior staff in central office. Parents are informed of all incidents involving their child and are engaged in the resolution process. Lessons learned discussion occurs between manager and supervisory staff following incidents and processes and practices revised where necessary. During 2015, the residential college supervisory staff have received training in mandatory reporting of sexual abuse in readiness for impending legislative changes which will deem them to be mandatory reporters.

Particular measures required by residential college students of all types is increased access to required external services e.g. confidential psych services, mental health support services, support from child protection services for students in State care.

Boarding in Agricultural Colleges

A 'home away from home' boarding environment is a core value of DoE's Agricultural College boarding institutions. A high level of communication is maintained between the parent and the boarding staff. Student buddy systems are a common feature.

Well trained supervisors (Cert IV in Residential Care) are pivotal to ensuring that staff are well prepared to deal with the full range of students who are boarding. Cultural awareness training is provided to all staff.

The National Boarding Standards have been communicated to all staff at Agricultural College boarding facilities. These standards provide a sound base and guidelines for the delivery of staff training and student protective behaviours training. It has also strengthened responses to victims and others affected by child sexual abuse.



NON-GOVERNMENT SCHOOLS

THE DES 2014 *Non-Government Schools in Western Australia: Registration Standards* (at **Attachment A**) at 6.5 requires that all Boarding Staff are to:

- have completed a National Police Check, to confirm that they have no conviction which renders them unfit to work in a boarding school. (This applies also to volunteers);
- be qualified and competent to administer first aid;
- know, understand and practise their legal duty of care responsibilities;
- know and practise the school's boarding policies and procedures;
- have up to date information, induction and training in all matters necessary for the safety and health of boarding students, including that they report through the Principal suspected child abuse; and
- provide close and caring supervision at all times.

WA COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

The WA Commissioner for Children and Young People recently undertook consultations with Aboriginal children across WA. The report titled 'Listen to Us' will provide insights into how the needs of regional and remote children might be addressed.

QUESTION FIVE: CHILD-ON-CHILD SEXUAL ABUSE

GOVERNMENT SCHOOLS

DoE has developed age-appropriate teaching and learning resources that are available to teachers and students in all schools.

DoE's Protective Behaviours program teaches lifelong skills and knowledge that can be used by children and adults as a strategy to promote wellbeing and develop respectful relationships. The protective behaviours resources and associated training are aligned with the Western Australian Curriculum. Resources include *Keeping Kids Safe* (an activity workbook for Aboriginal students) and *A Teenagers Guide to Personal Safety* which aims to raise awareness of the grooming process used by perpetrators of child sexual abuse.

Other evidence-based social and emotional learning programs provided to students include Promoting Alternative Thinking Skills, Friendly Schools Plus and Aussie Optimism. These programs teach children protective behaviour skills and raise their awareness of the issue of bullying and misuse of power.



A range of professional learning and classroom resources is available to schools to assist in teaching about the safe use of social media. Recommended online programs are available to schools to support students to function safely and positively as digital citizens.

Student safety is underpinned by DoE's Behaviour Management in Schools policy which includes the prevention and management of bullying between students. A growing awareness of the need to help protect younger children from the risk of abuse including sexual abuse by older children during school hours includes the importance of improved systems of staff supervision at susceptible times such as break times and between classes.

DoE also runs parenting programs, which is an initiative with the Department of Health. DoE's school psychologists run the Positive Parenting Program (Triple P) jointly with Health Department staff for the early years as well as teens. The importance of parental supervision is one aspect of this program.

NON-GOVERNMENT SCHOOLS

DES, as noted in *Non-Government Schools in Western Australia: Registration Standards*, requires schools to have a Staff Handbook which outlines the school's context, procedures and standards. The standards require the handbook to:

- refer to the Professional Standards for Teachers in Western Australia;
- set out expectations about interactions between staff members, students and their parents/carers; and
- include procedures for non-teaching staff to report through the principal, all forms of suspected child abuse.

Further, registered non-government schools must develop and implement a child protection policy as a component of duty of care obligations to students.



TOPIC D: REGISTRATION OF NON-GOVERNMENT SCHOOLS, NOT-FOR-PROFIT AND CORPORATE ENTITIES

Please refer to DES' 2014 *Non-Government Schools in Western Australia: Registration Standards*.

As noted in the introduction, please also refer to the Witness Statement of Mr Richard Strickland, Director General of Department of Education Services, at the hearing of Case Study 12 for more information on the registration of non-government schools.

Further information on school registration is also provided at the questions one and five in Topic A.



TOPIC E: EDUCATION, TRAINING, PROFESSIONAL SUPPORT AND PREVENTION

QUESTION ONE: STAFF AWARENESS

GOVERNMENT SCHOOLS

Staff Development and Training in Child Protection

Over the first 30 months of teaching, graduate teachers in the public school sector are required to undertake the Graduate Teacher Professional Learning Program comprising four modules, each of two days duration. Module 1 of the professional learning includes information about Department policies and required professional learning. School leaders are also supported to develop an induction kit with practical information and the professional learning graduates should undertake.

All DoE staff who have contact with children are required to complete the online child protection professional learning program, which provides information about indicators of child abuse and reporting processes.

Misconduct Management Framework

DoE has a framework to address issues of staff misconduct, including allegations of sexual misconduct involving children. DoE established a Professional Standards and Conduct Division in late 2006 following criticisms around how the Department handled allegations of sexual contact between staff and students.¹

The Executive Director of the Division is a direct report to the Director General and sits on a number of executive governance committees. The Division consists of the Legal Services Unit, the Internal Audit and Assurance Directorate, the Screening Unit, and the Standards and Integrity Directorate.

Standards and Integrity Directorate

The Standards and Integrity Directorate (SID) has responsibility for the oversight of DoE's Misconduct Management Framework, including dealing with complaints and allegations involving sexual abuse of children by staff. SID has three functional areas: Intake and Assessment; Investigation; and Prevention and Education. Each area is staffed by individuals with expertise relevant to the functional area.

Experience has shown that children will choose to whom they report any concerns that they may have; they will select a trusted adult, often this may be a parent or caregiver, but it can also be a trusted adult in a school, including a classroom teacher, school psychologist, counsellor, Deputy Principal, or Principal.

DoE's expectation, clearly articulated in relevant policies, is that complaints from children are taken seriously and acted upon. The expectation is that complaints are reported to the Principal and the Principal then reports to the SID. Staff can also report directly to the SID if they so choose. Children

¹ *Sexual Contact with Children in Persons in Authority in the Department of Education and Training of Western Australia: 2006: Corruption and Crime Commission*



and/or their parents can also report matters directly to SID and/or Police. The SID has a dedicated 1800 complaints line that is available to children, staff and members of the public.

Misconduct Prevention and Education

The prevention and education function within SID coordinates the development of newsletters and information resources around complaints management, reporting complaints and misconduct prevention. Online and face to face professional development is also available in Accountable and Ethical Decision Making and Complaints Management. This training includes child protection risks, maintaining professional boundaries, and complaint reporting.

Relevant Policy Framework

DoE has clear expectations around staff conduct and misconduct reporting obligations. These expectations are set out in DoE's Staff Conduct and Discipline Policy, Code of Conduct, and Guidelines as to how to comply with the Code of Conduct.

The Policy, Code of Conduct, and Guidelines deal with issues around expected standards of behaviour, including issues such as: the need for staff to at all times maintain appropriate professional boundaries with students; discussion of grooming behaviours; and reporting obligations on staff.

DoE also takes disciplinary action in instances where there has been a failure to report staff misconduct, particularly in cases involved child protection risks.

NON-GOVERNMENT SCHOOLS

As noted in the DES *Non-Government Schools in Western Australia: Registration Standards*, schools must develop policies and procedures related to student welfare including child protection (including mandatory reporting) and maintaining appropriate relationships between staff and students.

Further, and as noted above, registered non-government schools must develop and implement a child protection policy as a component of duty of care obligations to students. The standard relating to the Staff Handbook as above is also relevant.

Finally, the proposed non-government school standards that will be introduced will build on this by outlining the obligations regarding awareness of and compliance with applicable codes of conduct, professional standards or child protection policies.

QUESTION TWO: TEACHER SUPPORT

GOVERNMENT SCHOOLS

Over the first 30 months of teaching, graduate teachers in the public school sector are required to undertake the Graduate Teacher Professional Learning Program comprising four modules, each of two days duration. On request, schools can access the In-Class Coaching Program. This program provides up



to 20 hours of individual support with trained Graduate Teacher Advocate. The program provides personalised professional learning and contextualised support.

DoE has also implemented pre-service training in child protection and mandatory reporting to the tertiary sector following comments from principals that new teachers were entering the system with insufficient knowledge of their responsibilities in keeping children safe and the legal requirements of mandatory reporting. Courses focus on the legislation, how to make a report, indicators of child abuse and how to respond to a child who has disclosed abuse.

Course are delivered to tertiary institutions in the metropolitan and regional areas:

- Edith Cowan University – Mount Lawley campus
- Edith Cowan University – Joondalup campus
- Edith Cowan University – Bunbury campus
- Murdoch University – Murdoch campus
- Murdoch University – Rockingham campus
- The University of Western Australia – Perth campus
- The University of Western Australia – Albany campus
- South West Institute of Technology.

Curtin University accessed pre-service training in child protection and mandatory reporting provided by the Department in January 2011 but has not requested further training.

Teacher education and refresher/update activities play a vital role in assisting in keeping children safe. Teachers are offered a range of delivery options to accommodate different learning styles. Specially developed case studies are an effective approach in engaging teachers in this professional learning.

Workshops are supported with the necessary resources to provide a timely and responsive service to schools. This is particularly the case with emerging issues such as sexting and the increase in inappropriate sexualised behaviour.

NON-GOVERNMENT SCHOOLS

The role of training and professional support is fundamental to the professional standards for teachers and required for initial teacher registration. In particular, teachers are required to demonstrate that they meet the professional standards at the proficient level in order to gain full Registration with the TRBWA. Professional development is also required for renewal of teacher registration. Standard 4 concerns the creation and maintenance of supportive and safe learning environments.

The TRBWA has the statutory function of accrediting initial teacher education programs against the AITSL accreditation requirements.



QUESTION THREE: SEXUAL ABUSE PREVENTION EDUCATION

GOVERNMENT SCHOOLS

DoE has developed a range of resources for Kindergarten to Year 10 students to teach effective sexual abuse prevention, including curriculum support material and culturally and linguistically appropriate protective behaviours workbooks for Aboriginal students. A workbook resource for students with special needs is currently under development. As well as the online curriculum freely available to public schools, face-to-face professional learning will remain available to targeted groups.

DoE's protective behaviour professional learning and curriculum materials consider ways to overcome the barriers to children disclosing abuse, including the specific needs of children with disability, with English as a second language or with other particular vulnerabilities. The protective behaviour program and professional learning continue to be updated as new research comes to light.

In order for staff to maintain currency of knowledge, roles and responsibilities in child protection and to increase the implementation of protective behaviours, the existing mandatory online Protective Behaviours professional learning course will be merged with the online child protection course. Compliance with the requirements for completing child protection professional learning will continue to be monitored by principals and Statewide Services. Where compliance is not met, a reminder email will automatically be issued after six months of non-completion. In the event of non-completion following the first reminder, a follow up through the principal will occur.

NON-GOVERNMENT SCHOOLS

The proposed new child protection standard will require the delivery to all students of a protective behaviours curriculum, developed by experts in child abuse prevention, and covering what the boundaries are between appropriate and inappropriate interactions and when, how and who to tell when a boundary is crossed. It will also require the provision of information to parents and guardians about the protective behaviours curriculum, the Staff Code of Conduct and when, how and who to tell when they have concerns about grooming or child abuse.



TOPIC F: REPORTING, INFORMATION SHARING, COMPLAINTS AND INVESTIGATIONS

QUESTION ONE: BARRIERS TO REPORTING CHILD SEXUAL ABUSE

GOVERNMENT SCHOOLS

Matters involving potential criminal issues, including all allegations of a sexual nature involving a child, are immediately reported to the WA Police Child Abuse Unit and there is close liaison between Police and DoE's Intake and Assessment Team about how each matter ought to be handled.

The Intake and Assessments Team includes staff with significant expertise in child protection, risk assessment, and complaints management and response. In 2014/2015 over 600 complaints in total alleging staff misconduct and over 400 complaints around issues other than misconduct were handled by the team.

Reporting to oversight agencies (i.e. the Public Sector Commission and the Corruption and Crime Commission) also takes place at this point.

Standards and Integrity Directorate

The Standards and Integrity Directorate (SID) has responsibility for the oversight of DoE's Misconduct Management Framework, including dealing with complaints and allegations involving sexual abuse of children by staff. SID has three functional areas: Intake and Assessment; Investigation; and Prevention and Education. Each area is staffed by individuals with expertise relevant to the functional area.

The majority of complaints come to SID via school reporting. DoE's Staff Conduct and Discipline policy requires staff to report misconduct, and in instances where they fail to report, staff risk being the subject of formal disciplinary action.

Possible barriers

The following possible barriers to reporting child sexual abuse in schools have been raised by a few staff through face-to-face workshops run by DoE:

- teachers wanting to be sure that child sexual abuse has occurred or is occurring so delaying the report;
- uncertainty regarding indicators of abuse;
- fear of taking responsibility and fear of filling out forms;
- linking child sexual abuse to cultural differences and the belief that although child sexual abuse is wrong, it is condoned as a new norm; and



- concerns about personal safety (particularly in rural/remote areas), fear of lack of confidentiality, fear of the results of making a report, i.e. the impact on trust within communities and students and the fear of retaliation, including rejection by family and community.

Possible organisational barriers include:

- the reporter believing they will not be believed and the reporting agency either dismissing the report or being slow to respond;
- confusion by school staff in their understanding of roles and legislative responsibilities due to the different pathways for reporting different types of child abuse;
- the belief that child sexual abuse does not occur in certain social structures, e.g. high socio-economic areas, and
- a lack of consistency in timely feedback on the status of cases by CPFS to schools.

DoE is addressing many of the barriers through:

- clear, unambiguous policies and supporting procedures that assist staff in making a report;
- an updated Memorandum of Understanding between the CPFS and DoE to outline enhanced:
 - sharing of information to support a child's wellbeing;
 - access by CPFS to a child at school;
 - referral of mandatory reporting concerns of child abuse (including sexual abuse) and neglect;
 - exchange of information about student enrolments; and
 - systems of support for children in the care of the Chief Executive Officer of CPFS.
- a comprehensive professional learning program for all the sectors within education using multiple delivery methods and supported by a range of updates/seminars/workshops;
- clear demonstration that key agencies are working together to address child sexual abuse, including the Statewide Professional Interagency Collaborative Working Group on Mandatory Reporting of Child Sexual Abuse involving the Department of Education, Department for Child Protection and Family Support, Western Australia Police, Department of Health, Catholic Education Office of Western Australia, and the Association of Independent Schools of Western Australia;
- staff from child protection agencies to connect at school level so that principals have an opportunity to meet case workers other than when there is a reported incident; and
- multiple avenues/opportunities provided for staff to seek help and advice at school and agency levels.

Where the concern is around staff conduct, including volunteers in schools, then there are clear expectations that concerns are taken seriously and reported. DoE's Staff Conduct and Discipline policy, the Code of Conduct and Guidelines set out the reporting obligations on staff working in schools. These



documents include useful information on identifying breaches of the Code of Conduct and seeking advice and support in reporting concerns.

NON-GOVERNMENT SCHOOLS

Matters involving potential criminal issues, including all allegations of a sexual nature involving a child, are immediately reported to the Western Australia Police Child Abuse Unit.

Amendments proposed in subclauses 25(4), 25(5) and 27 of the *Children and Community Services Legislation Amendment and Repeal Bill 2014* would extend the sharing of information powers (relevant to the wellbeing of a child or class or group of children) of prescribed authorities to the non-government school sector and would override express legislative prohibitions or restrictions on information sharing.

The proposed new child protection standard would require the provision of information to parents and guardians about the protective behaviours curriculum, the Staff Code of Conduct and when, how and who to tell when they have concerns about grooming or child abuse.

QUESTION TWO: MANDATORY REPORTING

MANDATORY REPORTING

The *Children and Community Services Amendment (Reporting Sexual Abuse of Children) Act 2008* mandates that individual teachers are personally responsible for making a written report directly to the CPFS in the following instance:

- If he/she believes on reasonable grounds that a child has been the subject of sexual abuse or is the subject of ongoing sexual abuse; and
- He/she forms the belief in the course of his/her work.

Failure to do so can result in a fine of up to \$6000.

Currently, the *Children and Community Services Act 2004 (WA)* stipulates that all teachers (as defined) are mandatory reporters, regardless of whether a school is a government or non-government school (Section 124A). The *Children and Community Service Act 2004 (WA)* also includes penalties for not making a report as soon as practicable after a mandatory reporter has formed a belief that child sexual abuse has occurred or is occurring or for not making a written report following a verbal report.

GOVERNMENT SCHOOLS

The number of mandatory reports submitted by staff from public schools is second only to Western Australia Police. In 2014, 532 reports of child sexual abuse were submitted by DoE staff who are



mandatory reporters. This is an increase of 32% since 2009 when mandatory reporting was introduced in Western Australia.

The Government also coordinates a Mandatory Reporting Interagency Training Group (the Training Group) comprising representatives from CPFS, Western Australia Police, Department of Health, Catholic Education Office of Western Australia and Association of Independent Schools of Western Australia.

The role of the Training Group is to provide a collaborative and integrated interagency approach to delivering information, professional learning and training to mandatory reporters and notifiers. It also seeks to increase their knowledge, skills and collaborative practices in the management, reporting and response to child abuse. The Training Group will continue to develop and maintain partnerships and linkages across government and non-government agencies. It will also promote inter-agency collaborative practices as the cornerstone of effective intervention management and response to child abuse.

NON-GOVERNMENT SCHOOLS

The proposed DES standards will explicitly include child sexual abuse and Staff Code of Conduct breaches, where there are reasonable grounds to suspect grooming, within the definition of a critical incident and as such non-government schools will be required to report these incidents to DES.

QUESTION THREE: OBLIGATIONS ON SCHOOLS TO REPORT PROBLEM BEHAVIOUR

DoE of has secure systems and processes in place to ensure schools are kept informed of child protection issues when a child changes schools.

As a result of findings from the Ombudsman’s Child Death Reviews, processes and systems for sharing and transferring of information about students who put others at risk due to sexually abusive behaviour are constantly being reviewed and improved.

QUESTION FOUR: INVESTIGATIONS OF CHILD SEXUAL ABUSE IN SCHOOLS

Investigations into allegations of child sexual abuse are a primary responsibility of Western Australia Police, working together with CPFS.

GOVERNMENT SCHOOLS

DoE’s Child Protection policy states that investigations should not be undertaken by staff within schools. Where Police take up the matter, DoE works closely with them to assist their investigation. In such cases



protective steps are also put in place, including standing down of the staff member, to ensure they do not have contact with children while the police investigation is underway.

If matters are referred back to DoE for action they are assessed as to whether they can be managed at the school level (minor matters) or whether they are suitable for central disciplinary investigation (serious matters). A risk assessment is also undertaken to determine if protective measures, such as standing down the staff member is required.

In 2014/2015, 354 investigations were handled locally and 265 were managed centrally. All matters managed centrally were the subject of formal disciplinary investigation.

Internal Investigation

Where matters are referred for internal disciplinary investigation these investigations are undertaken by experienced child protection investigators, who are required to undertake specialist accredited vulnerable witness training as part of their employment with DoE.

Internal disciplinary investigations follow a robust but procedurally fair process where the rights of the employee are balanced against the interests of children. Child protection is a paramount consideration in these matters.

The outcome of these matters is subject to external oversight by either the Public Sector Commission or the Corruption and Crime Commission. Employees can also seek redress through application for review by the WA Industrial Relations Commission.

The WA Industrial Relations Commission and the WA State Administrative Tribunal do not have equivalent provisions. Fortunately, DoE has negotiated similar supports for children giving evidence in discipline matters, however, that has been dependant on the goodwill of the parties involved. Children called to give evidence in the WA Industrial Relations Commission do not have an entitlement to those child friendly supports. The WA State Solicitor's Office has been proactive in educating and encouraging all parties to embrace child focussed practice so that children may give best evidence.

NON-GOVERNMENT SCHOOLS

There is an onus on governing bodies and staff at schools to meet their legal and professional obligations by notifying and reporting matters, as well as potentially taking disciplinary action themselves.

GOVERNMENT AND NON-GOVERNMENT SCHOOLS

Child Witness Provisions

In criminal court the provisions of the Western Australian *Evidence Act 1906* apply. Broadly these include:



- The name of the complainant or information that may identify the school they attend must not be published;
 - No corroboration warning that the evidence of children is unreliable may be given;
 - Child Witness Service may support and assist the child prior during and after giving evidence;
 - Evidence may be pre-recorded and given via CCTV;
 - Accused person may not directly cross examine the child; and
 - Use of the child's interview is highly restricted.
-

QUESTION FIVE: SHARING OF INFORMATION

GOVERNMENT SCHOOLS

The *Children and Community Services Act 2004 (WA)* allows for the exchange of relevant information between 12 prescribed public authorities provided the information is relevant to the wellbeing of the child. Principals may request and provide information to the prescribed authorities. Principals may also request feedback from the child protection agency if it is related to child protection referrals or information provided to the agency in response to a specific request.

A Memorandum of Understanding has been developed between DoE's Professional Standards and Conduct and the Sex Crimes Division of WA Police. This enables simple, effective and practical information exchange, which has proven to be effective and valuable to both agencies in numerous specific cases.

NON-GOVERNMENT SCHOOLS

The amendments proposed in subclauses 25(4), 25(5) and 27 of the *Children and Community Services Legislation Amendment and Repeal Bill 2014 (WA)* would extend the sharing of information powers (relevant to the wellbeing of a child or class or group of children) of prescribed authorities to the non-government school sector and would override express legislative prohibitions or restrictions on information sharing with non-government schools.

Note that the amendments do not address school-to-school information-sharing.