

# Royal Commission into Institutional Responses to Child Sexual Abuse

The State of Victoria's response to the Royal  
Commission's consultation papers on

## Institutional responses to child sexual abuse in out-of-home care

and

## Best practice principles in responding to complaints of child sexual abuse in institutional contexts

# Contents

- Executive summary .....3**
- 1 Building national consistency.....5**
  - 1.1 National strategy on child sexual abuse prevention education .....5
  - 1.2 Data and outcomes.....7
- 2 Enabling information sharing.....10**
- 3 Establishing effective regulation and oversight mechanisms .....12**
  - 3.1 Role of the Child Safe Standards .....12
  - 3.2 Introduction of a Victorian Reportable Conduct Scheme .....14
  - 3.3 Regulation and screening .....15
- 4 Strengthening the service system .....16**
  - 4.1 Responding to child sexual exploitation .....17
  - 4.2 Child to child sexual abuse .....20
  - 4.3 Strengthening placements and responses .....20
  - 4.4 Training and support for carers .....22
  - 4.5 Post-care support .....23
- 5 Responding effectively to complaints.....25**
  - 5.1 The Human Services Standards.....25
  - 5.2 Education and Training.....26
- Appendix 1: Child Sexual Exploitation Enhanced Response Model (ERM) Project.....29**

# Executive summary

This paper provides the Victorian Government's response to the Royal Commission into Institutional Responses to Child Sexual Abuse's two consultation papers, *Institutional responses to child sexual abuse in out-of-home care* and *Best practice principles in responding to complaints of child sexual abuse in institutional contexts*.

It contains input from the Department of Health and Human Services, Victoria Police, the Department of Education and Training, and the Department of Premier and Cabinet and refers to information already provided to the Royal Commission in response to earlier issues and consultation papers, in particular:

- *Issues Paper 3: Child-safe environments*
- *Issues Paper 4: Preventing sexual abuse of children in out-of-home care*
- *Issues Paper 9: Risk of child sexual abuse in schools*
- *Issues Paper 10: Advocacy and support and therapeutic treatment services*

Information has also been provided through roundtables and meetings with Royal Commission researchers.

On 29 March 2016, the Victorian Royal Commission into Family Violence released its final report<sup>1</sup>. The Victorian Government has accepted the report's 227 recommendations and committed to implementing all of them. This work will require a long term reconfiguration of the Victorian social service system and, by recognising family violence as one of the main drivers of family breakdown requiring children to be placed in out-of-home care, will touch on a number of issues relevant to children who have experienced or are vulnerable to institutional child sexual abuse.

The Victorian Government released the *Roadmap for Reform: strong families, safe children*<sup>2</sup> (the Roadmap) on 13 April 2016.

In the Roadmap, the Victorian Government outlines the first step in the whole-of-government strategy to reshape and strengthen services for children and families in Victoria, and is accompanied by a \$168 million funding boost. Initial actions to progress three overarching reform directions include:

- Building supportive and culturally strong communities and improving access to universal services
- Supporting children, young people and families in need with integrated wraparound supports and targeted early interventions
- Strengthening home-based care and improving outcomes for children and young people in out-of-home care.

The transformation of the out-of-home care system will be prioritised by building the capacity of home-based and culturally appropriate models of care and trauma informed treatment for victims of child abuse and neglect.

The Royal Commission's out-of-home care and complaints consultation papers canvas a range of issues. This submission responds to a number of key themes:

- **Building national consistency:** Victoria supports a consistent national approach to issues such as education strategies and data collection and analysis to help drive improved outcomes for children in out-of-home care across Australia.

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<sup>1</sup> Available at <http://www.rcfv.com.au/Report-Recommendations>

<sup>2</sup> *Roadmap to Reform: strong families and safe children*, State of Victoria, Department of Health and Human Services, April 2016, available at <http://strongfamiliesafechildren.vic.gov.au/roadmap-for-reform-strong-families-safe-children>

- **Enabling information sharing:** Victoria agrees that effective information sharing processes and systems allow government, community service organisations and the criminal justice system to respond more effectively to children and adults affected by institutional child sexual abuse. Work is underway to reform current information sharing arrangements.
- **Establishing effective regulation and oversight mechanisms:** Victoria continues to strengthen its oversight and regulation mechanisms with the introduction of the Child Safe Standards on 1 January 2016 and the development of a reportable conduct scheme modelled on the NSW scheme.
- **Strengthening the service system:** Victoria agrees that supporting the sector to improve its ability to prevent, identify and respond to child sexual abuse in out-of-home care is essential.
- **Responding effectively to complaints:** Victoria supports the best practice complaints principles proposed by the Royal Commission. The principles align closely with existing requirements under the Department of Health and Human Services Standards (the Human Services Standards) and the Department of Education and Training's current complaint-handling policies, practices and procedures.

The Victorian Government welcomes this opportunity to update the Royal Commission on the progress of its reform agenda and continues to support the work of the Royal Commission.

# 1 Building national consistency

The Royal Commission proposes actions aimed at building nationally consistent approaches to prevent and respond to child sexual abuse in out-of-home care. This includes:

- a national strategy on child sexual abuse prevention education for children in out-of-home care.
- the collection of data (including agreement on key terms and definitions across jurisdictions) and a proposed data model.

The Victorian Government supports a nationally consistent approach to many of the issues identified in the consultation papers, and recognises the value of learning from the experiences of other jurisdictions when developing new approaches, policies or programs.

Victorian learnings or expertise are shared with other jurisdictions through the Council of Children and Family Secretaries (CAFS), and through regular contact with other interstate agencies, such as the NSW Ombudsman. Where Victoria is proceeding with key reforms ahead of an agreement on a national approach (for example, the introduction of a reportable conduct scheme), legislative arrangements will allow a level of flexibility to respond in the future to the work of the Royal Commission, or other jurisdictions.

## 1.1 National strategy on child sexual abuse prevention education

The Victorian Government recognises the importance of educating children, parents, the sector and the broader community on child sexual abuse.

A national framework that sets out the minimum requirements or core elements for an effective child sexual abuse education strategy, and identifies and promotes examples of best practice approaches or materials, would assist governments and community service organisations (CSOs) to develop and communicate consistent messages, and create consistent community expectations about preventing and responding to instances of child sexual abuse. Capacity should exist to tailor materials to reflect local circumstances, for example, Victoria's 'failure to disclose' and 'failure to protect' offences.

A consistent approach would facilitate consolidation and shared understanding of expertise on how to communicate with vulnerable cohorts, such as Aboriginal<sup>3</sup> children, children from culturally and linguistically diverse backgrounds, children with disabilities, and children who are same sex-attracted or gender questioning, which would enable the development of more effective and targeted education strategies. Strategies to deal with emerging issues, such as cyber safety practices can also be shared and adapted at a local level. Materials for children and young people must be reflective of the developmental age of the audience.

Any national framework should be designed to encourage the development of tailored and innovative local approaches and should not act as an impediment.

In July 2015, the Victorian Government endorsed the whole-of-government *Keeping Children Safe from Sexual Exploitation Strategy* which is overseen by an interdepartmental committee chaired by the Department of Health and Human Services. As part of the strategy, the Department of Education and Training is developing sexual exploitation prevention training material for universal use by all Victorian children and their families engaged in the school environment. It includes adapting existing resources to incorporate prevention of sexual exploitation. The Department of Education and Training is also

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<sup>3</sup> Where the term 'Aboriginal' is used, it refers to both Aboriginal and Torres Strait Islander peoples.

collaborating with the Department of Health and Human Services to review and adapt sexual exploitation prevention resources specifically for children and young people in out-of-home care. This includes targeting children and young people in out-of-home care who may not be attending school, and will be supported by the rollout of LOOKOUT Education Support Centres and stronger monitoring of educational status of children and young people in out-of-home care.

Key resources must be provided in formats that are accessible to people from a range of cultural backgrounds and people with disabilities. An example of this is Victoria Police's implementation of accessible formats within its key initiatives and strategies, for example, by providing Auslan interpreters at key community safety media events, providing an Easy English resource for reporting crime and using inclusive language in publications. The Victorian Government strongly supports and recommends the inclusion of accessible resources within any education strategy.

The Victorian Government also supports the development and distribution of resources that include material for same sex-attracted and gender questioning young people. The resources developed and distributed by the Safe Schools Coalition are a good example of the types of materials and information that assist and support children and young people to be their whole self.

While resources tailored to a diverse range of cultural backgrounds are important these must also emphasise what legally constitutes abuse and the sanctions that apply. Age and language specific information accessible to children and young people should be distributed at key access points including orientation periods for pre- and post- refugee settlement arrivals and the network of English language schools.

### **1.1.1 Victorian education programs**

Too often there have been situations where children have not disclosed abuse because they were confused or embarrassed about what happened to them, they thought their stories would not be believed, that nothing would be done or that they would be punished. Ensuring that children and young people are empowered through education about appropriate behaviours and know how to seek help when they feel unsafe is critical to strong and effective practice in responding to child sexual abuse allegations.

This will support children and young people to trust their own responses to situations, to trust that child abuse will not be tolerated, and to know that they will not be blamed and that their concerns will be addressed.

In Victoria, sexuality education has been a core component of the health and physical education curriculum since at least 1995. In addition, respectful relationships education, as well as education on safety in the home, school and community have been introduced as mandatory components of the Health Education and the Personal and Social Capability areas of the new *Victorian Curriculum Foundation to Year 10*, introduced in 2016. Schools must assess and report on students' progress against these areas of the new Victorian curriculum.

Curriculum content will focus on challenging negative attitudes such as prejudice, discrimination and harassment that can lead to violence. Curriculum resources will help teach students a range of knowledge and skills, including emotional literacy, empathy, altruism, problem-solving, help seeking and positive relationships.

To support implementation of the curriculum, and in response to the Victorian Royal Commission into Family Violence, the Government will invest \$21.8 million over two years in schools and early childhood settings. The investment will drive a 'whole school' approach, focussing on teaching practices, culture, and partnerships with the community. The investment, which is informed by a 2015 pilot program, is part of the \$572 million initial response to the Royal Commission into Family Violence in the 2016-17 Victorian Budget.

The Victorian Government will work with schools, educators and peak bodies to ensure that respectful relationships education is effectively delivered across the education sector, including through promotion of existing evidence-based resources, such as:

- *Building Respectful Relationships: Stepping Out Against Gender-based Violence.*
- *Building Resilience Social and Emotional Learning (SEL):* a series of learning materials and online resources that aim to equip children and young people with the tools to deal with the range of changes and challenges they face as they grow up.
- *Catching on Early and Catching on Later,* a suite of age-appropriate sexuality education teaching and learning activities.
- *Daniel Morcombe Child Safety Curriculum,* which focuses on child abuse prevention.

In addition to these resources, the Department of Education and Training will release a suite of new respectful relationships education resources for Prep to Year 12 to support schools to deliver the respectful relationships curriculum.

When delivering the curriculum, schools will not be required to use specific programs or resources, but will be provided with comprehensive advice and guidance to help choose from a range of resources to support curriculum implementation in their local context.

In addition to the expected longer term benefits of respectful relationships education in reducing family violence, these measures will have a positive impact on the capacity of children and young people to engage in positive, respectful and non-violent relationships with each other in a school setting, to recognise and 'call out' inappropriate behaviours and to seek help when they feel unsafe.

## 1.2 Data and outcomes

The building of a 'learning system' is one of the key enablers of reform. Such a system requires consistent data collection, and engagement with children, young people and their families to better capture and understand outcomes.

A nationally consistent approach to data collection on instances of child sexual abuse in out-of-home care would provide an evidence base for future analysis of the effectiveness of prevention, response and support interventions. There are however significant operational, financial and legislative challenges of implementing such an approach across each state government and sector.

While many of the elements proposed for a data model are already captured by Victorian data systems, there are limitations to the data (for example, demographic descriptors) as they may not be consistently recorded by practitioners, and definitions can vary across databases.

Thorough implementation of each of these elements into existing systems would require further consideration particularly in terms of any proposed training strategy, and ongoing, rigorous quality assurance required to vet and verify the data provided.

The Victorian Government agrees in principle with the Royal Commission's proposals in points five and six (using data to monitor treatment effectiveness and outcomes, and including police reports and outcomes of civil and criminal justice responses). The Department of Health and Human Services is currently developing a new client incident management system that will focus on the most serious incidents and will strengthen processes, systems and workforce capability to prevent, and effectively manage client incidents. The new system will apply to all departmentally funded services (excluding hospitals and some Community Health Services, which report through an alternative mechanism).

The Department of Health and Human Services is also currently working with community services organisations to measure outcomes for children and young people in out-of-home care. Departmental, non-government sector and Aboriginal community representatives have worked together to identify key

outcome domains and associated outcomes indicators. Together they have tested and refined these domains and indicators, and an associated survey and reporting tool.

Data on the outcomes being achieved for children and young people in out-of-home care will be collected for the first time in 2016. Data from the survey will be reviewed and analysed at a statewide, local area and cohort level to identify areas of concern that require follow up action and areas in which strong outcomes are being achieved. The survey and associated reporting will now be undertaken on an annual basis. This work recognises that as Victoria moves to a more individual and family focused system, it is important to measure the outcomes being achieved through more flexible and tailored service responses.

A new client incident management system will strengthen reporting, investigation, review and monitoring of allegations and incidents. It will establish more robust arrangements for monitoring agencies, benchmarking patterns of allegations or incidents and encouraging agency improvement. A new client incident management system will better equip the Department of Health and Human Services and its service providers to identify children at highest risk, and intervene appropriately.

The Victorian Government supports the proposed data model, with the inclusion of the child's age and placement type at both the time of the incident and the report. A national and state based data system will need to:

- address functionality issues across agencies, within and between jurisdictions, to facilitate the easy transfer of data between disparate systems
- incorporate an intuitive data model that as much as possible minimises the need for administrative resourcing, including by avoiding manual data input requirements
- align to data models proposed by or implemented in accordance with the recommendations of the Royal Commission into Family Violence, allowing a whole-of-system response that addresses the link between family violence and children in out-of-home care
- ensure data models are actively applied to inform practical responses and therefore deliver enhanced outcomes that protect children
- be supported by an academically rigorous research agenda
- be actively supported through appropriate additional funding, including funding for the operational implementation of the model in all relevant agencies.

Access to any data system containing confidential client and/or criminal investigation information, whether as a standalone national data base or a network of separate data bases, must be both secure and regularly audited. The parameters for use must be clearly specified and the security clearance for people accessing the system must also be very tight.

The collection of demographic data (including Aboriginal or Torres Strait Islander status, cultural, gender identity, sexuality, and any disability and/or mental health considerations) allows for the provision of appropriate services and supports that respond to people's individual needs. It is important to consider whether the data capture should record the presence of a particular issue or factor, such as a known mental health condition, or should instead capture the support service or resource the person requires, such as whether they require an advocate or someone they are comfortable with for support. The latter approach emphasises the person rather than the disability (for example) and avoids stereotyping or categorising of individuals.

The purpose of collecting the data should determine the format in which it appears. For example, Victoria Police needs to collect information in order to provide an appropriate, individualised response to victims and perpetrators, but this needs to be done in a way that is clearly contextualised, so information cannot be used or be seen to be used in a manner that would amount to racial or ethnic profiling. For example, descriptors relating to Aboriginal and /or Torres Strait Islander people and culturally and linguistically



diverse backgrounds need to be contextualised. There may be sound reasons for including a person's background so as to source appropriate and relevant services, including interpreters.

The Victorian Government recognises that preservation of cultural identity and connection to country and community is a protective factor and of central importance to children from Aboriginal and/or Torres Strait Islander backgrounds and their families.

## 2 Enabling information sharing

The Royal Commission proposes a number of actions to improve the effectiveness and appropriateness of information sharing, with the objective of improving the prevention, identification and response to child sexual abuse in out-of-home care. This includes:

- all jurisdictions having nationally consistent arrangements, modelled on Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW), for intra-jurisdictional and inter-jurisdictional exchange of information related to the safety and wellbeing of children, including information related to child sexual abuse in out-of-home care contexts.
- A carers register in each jurisdiction that is accessible by all jurisdictions' accredited out-of-home care service providers and appropriate regulatory and oversight bodies.

The right of privacy is recognised as a fundamental human right, but evidence given to the Royal Commission has demonstrated the adverse outcomes that can arise from emphasising privacy at the expense of a child's safety. Whether the information being shared concerns a child's personal history of abuse to better inform their carers about their support or therapeutic needs, to track the work history of a staff member, or to help substantiate an allegation, timely access to relevant and accurate information is critical to ensuring the safety and well-being of children.

The Royal Commission into Family Violence report identifies the importance of effective information sharing. Effective information sharing is critical to:

- improve outcomes for children
- strengthen safeguarding approaches
- strengthen organisations' responses to complaints
- strengthen police's ability to respond to and investigate allegations.

Effective information sharing is fundamental to improving outcomes for citizens and ensuring strong system governance. Effective information sharing supports better frontline service delivery, by providing workers with better information about the person they are interacting with. This means services can be tailored to more effectively safeguard people against harm, and that people are not re-traumatised by being required to retell their story as they move between different service providers.

The Royal Commission into Family Violence heard evidence of problems in the way information has been used by government, including the complexity, sensitivity and siloed nature of service delivery across the system. Currently, the majority of information captured is used for a single, immediate purpose and the broader value of data for operational or research purposes is not systematically considered.

The Royal Commission into Family Violence recommended that Victoria:

- create a specific family violence information sharing regime to provide relevant information about a perpetrator or a victim to prescribed organisations to facilitate effective risk assessment and management (similar to Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW), Part 13A of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW), and the *Children, Youth and Families Act 2005* (Vic))
- support the development of an information sharing culture and assist organisations to put information sharing arrangements into operation

- consider options for using technology systems to support and facilitate improved information sharing.

Many of the information sharing issues identified by the Royal Commission into Family Violence are similar to those explored by the *Institutional Responses to Child Sexual Abuse in Out-of-home care: Consultation Paper*, such as: organisational culture; limitations and complexity of privacy laws; and the need to strike an appropriate balance between individual rights to safety and individual rights to privacy.

The Victorian Government has committed to implementing all recommendations of the Royal Commission into Family Violence, and work is currently underway to progress recommendations regarding information sharing. This work could also address a number of information sharing issues raised by the Royal Commission into Institutional Responses to Child Sexual Abuse, where appropriate.

At a national level, the Victorian Government is working with other states and territories through CAFS to develop cross-jurisdictional information sharing arrangements for child protection, and for registered carers. The emphasis of this work is on achieving nationally consistent approaches and clear expectations and mechanisms regarding cross-jurisdictional information sharing. These approaches will better protect children across Australia where there are concerns for their wellbeing, and improve carer screening and assessment processes.

The Victorian Government also notes the Productivity Commission's public inquiry into data availability and use, which will investigate ways to improve the availability and use of public and private sector data. This inquiry could provide a useful mechanism to promote cross-jurisdictional collaboration and engagement around data and information.

The need to ensure the safety and wellbeing of children in care is of paramount importance. Minimising risks to the child through the appropriate sharing of information must be a consideration for the long-term well-being of the child. In support of this, Victoria Police has a general protocol with the Department of Health and Human Services<sup>4</sup> which includes multi-disciplinary processes to deal with reports of abuse in out-of-home care.

The protocol requires that any allegation of possible physical or sexual abuse, or serious neglect be notified to Victoria Police. It also requires the Department of Health and Human Services to convene a quality of care screening meeting including representatives from the community service organisation, Child Protection and Victoria Police, to determine the outcome of the allegation, including any actions to be taken, and people responsible for carrying them out.

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<sup>4</sup> Available here: [http://www.dhs.vic.gov.au/\\_\\_data/assets/pdf\\_file/0019/442603/Protecting-Children-CP-and-VicPol-protocol-2012.pdf](http://www.dhs.vic.gov.au/__data/assets/pdf_file/0019/442603/Protecting-Children-CP-and-VicPol-protocol-2012.pdf)

## 3 Establishing effective regulation and oversight mechanisms

The Royal Commission proposes a number of actions to improve the approach to child safety in out-of-home care and other settings, such as schools. This includes:

- requiring institutions to consider the application of child safe organisational elements, including the regulatory, oversight, monitoring and implementation support mechanisms, in the out-of-home care context.
- independent oversight of complaints handling conducted by a body independent of the lead department and all service providers. That is, a 'reportable conduct scheme' in each jurisdiction.
- all carers are assessed and authorised according to minimum, nationally consistent standards.

On 13 November 2013, the Family and Community Development Committee of the Victorian Parliament completed its *Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations* (the Betrayal of Trust Inquiry). The *Betrayal of Trust Report* made 15 recommendations that focus on five broad areas:

- reforming criminal law
- preventing criminal child abuse in organisations
- monitoring responses by organisations to criminal child abuse
- creating an independent, alternative avenue for justice
- improving access to civil litigation.

The Victorian Government supports the recommendations and has already implemented a number of recommendations. Work to implement the remaining recommendations continues.

The introduction of a nationally consistent out-of-home care regulation and oversight framework will require long term reform efforts. Currently work is underway to strengthen safeguards, practice and organisational culture and responses within the Victorian sector. The Victorian Government's responses to the Issues Papers released by the Royal Commission to date outline current practice and key reforms that are being undertaken to strengthen regulation of out-of-home care<sup>5</sup>.

### 3.1 Role of the Child Safe Standards

The *Child Wellbeing and Safety Amendment (Child Safe Standards) Act 2015* (Vic) commenced on 1 January 2016. It introduced statutory Child Safe Standards to improve responses to and prevention of child abuse<sup>6</sup>, including sexual abuse, in all organisations that provide services for children across a range of sectors. Category 1 entities<sup>7</sup>, including out-of-home care services, early childhood services and

<sup>5</sup> For reference, see responses to *Issues Paper 3: Child safe organisations*, *Issues Paper 4: Preventing Sexual Abuse of Children in Out-of-home Care*, and *Issues Paper 9: Risk of child sexual abuse in schools* available at <https://www.childabuseroyalcommission.gov.au/research/issues-papers-submissions>

<sup>6</sup> Defined under section 3 of the *Child Wellbeing and Safety Act 2005*.

<sup>7</sup> Category 1 entities are those organisations currently funded or regulated by government that provide services for children, including out-of-home care services, hospitals, schools, etc. For a list of Category 1 entities see Schedule 1 of the *Child Wellbeing and Safety Act 2005* and page 3 of *An overview of the Victorian Child Safe Standards*, available at <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/child-safe-standards>

schools, are required to work towards compliance from 1 January 2016 and Category 2 entities<sup>8</sup> from 1 January 2017.

The seven standards emphasise the need to embed a child safe culture across all aspects of an organisation, including leadership, recruitment and training practices, proactive approaches to identifying and responding to risks to children's safety, and the need to ensure children are empowered and engaged in any reporting process. The Child Safe Standards also explicitly recognise the importance of creating culturally safe and responsive environments for Aboriginal children and children from culturally and/or linguistically diverse backgrounds, as well as children with disability, and require organisations to develop strategies to address these factors in order to meet the Child Safe Standards.

It is proposed that legislation to implement further compliance mechanisms will be introduced during 2016. In the interim, the compliance of certain Category 1 entities will be monitored through existing arrangements such as funding and service agreements, accreditation under the Human Services Standards, and compliance with Ministerial Order No. 870 made under the *Education and Training Reform Act 2006* (applicable to registered schools from 1 August 2016). From April 2016, the Commission for Children and Young People is leading capacity building activities to support organisations to meet the Child Safe Standards. It is expected that from 1 January 2017, the Commission for Children and Young People will assume principal responsibility for overseeing compliance of Category 1 and 2 entities, continuing to focus on building capacity of all organisations to be child safe.

However, where organisations are already subject to other regulatory frameworks, it is proposed that the Commission for Children and Young People will work with the relevant regulatory bodies to minimise any duplication of roles and responsibilities. For example, schools' compliance with the Child Safe Standards would continue to be monitored by the Victorian Registration and Qualifications Authority (VRQA) as part of its existing regulatory functions, in consultation with the Commission for Children and Young People.

In line with feedback from stakeholders obtained during an extensive consultation process, the proposed compliance monitoring arrangements focus on education and capacity building in recognition of the different levels of awareness and capacity that currently exists within organisations, and the support that will be required to embed a sector-wide culture shift.

### **3.1.1 Child Safe Standards in schools**

The Victorian Government has made compliance with the Child Safe Standards a minimum requirement of registration for all government and non-government schools. Ministerial Order No. 870 (the Order), which gives effect to the registration requirement, was made on 22 December 2015 and comes into effect on 1 August 2016. The Order imposes specific requirements on schools by identifying a number of actions that schools need to take to meet each of the Child Safe Standards.

The VRQA regulates all Victorian schools, training organisations and student exchange organisations, and assesses their compliance with minimum standards for registration, including the Standards.

In February 2016, the VRQA distributed a child safe standards readiness tool that allowed school professionals to check their current level of readiness to comply with the new requirements. The data will also help the VRQA understand how to assist schools in implementing the Child Safe Standards.

Implementation of the registration requirements will also be accompanied by resources to assist schools to develop policies and procedures suitable for their particular school environment. This will include training, policy and procedural resources to build the capacity of schools to better protect children and

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<sup>8</sup> Category 2 entities are organisations with limited or no funding or regulatory arrangements with government that provide services for children, including coaching or tuition services, sports and recreation groups and religious organisations. For a list of Category 2 entities see Schedule 2 of the *Child Wellbeing and Safety Act 2005* and page 4 of *An overview of the Victorian Child Safe Standards*, available at <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/child-safe-standards>.

young people from child abuse. The Department of Education and the VRQA are working together on the delivery of resources for Victorian schools.

### **3.1.2 Child Safe Standards and early childhood services**

All early childhood services operating under the National Quality Framework and the *Children's Services Act 1996* (Vic), regulated by the Department of Education and Training's Quality Assessment and Regulation Division, have been required to meet the Child Safe Standards since 1 January 2016.

The Standards build on the principles, objectives and requirements of the National Quality Framework and the *Children's Services Act 1996*. The focus for 2016 will be on helping early childhood services create and maintain child safe environments through education and training. Resources have been developed to inform service providers about the Child Safe Standards and assist them in implementation, including a training package for managers in early childhood services. Forums are also being delivered across the State to raise awareness of the Child Safe Standards.

## **3.2 Introduction of a Victorian Reportable Conduct Scheme**

The Betrayal of Trust Inquiry recommended that all relevant Victorian Government and non-government organisations should report allegations of misconduct relating to children to a central location, with certain findings taken into account when assessing or reassessing an individual's eligibility to hold a Working with Children Check. The Betrayal of Trust report also recommended that the Victorian Government authorise an independent statutory body to:

- oversee and monitor the handling of allegations of child abuse by relevant government, religious and non-government organisations
- scrutinise and audit the systems and processes in non-government organisations for handling allegations of child abuse
- monitor and report on trends associated with allegations
- build the capacity of relevant government and non-government organisations to competently handle allegations of suspected child abuse.

In response to recommendation 10.1 and 18.1 of the Betrayal of Trust report, the Victorian Government committed to introduce a reportable conduct scheme. The proposed scheme will require centralised reporting of child abuse by workers or volunteers in organisations with a high level of responsibility for children. The proposed design of the scheme will build on existing requirements including Victorian and national employee misconduct, professional registration and reporting obligations and will be informed by the scheme in place in NSW and administered by the NSW Ombudsman. The reportable conduct scheme will not interfere with reporting obligations to police or with police investigations.

It is intended that the introduction of a reportable conduct scheme in Victoria, informed by the scheme in NSW, will assist with developing a nationally consistent approach to reportable conduct, in line with the Royal Commission's recommended approach.

The Commission for Children and Young People will be responsible for the Victorian reportable conduct scheme. The Victorian Government recently held a series of consultations with key sector stakeholders on the scope and features of the proposed scheme, including appropriate information sharing provisions, to inform the development of legislation. The reportable conduct scheme, operating in conjunction with the newly-introduced Child Safe Standards and the Working with Children Check, will build the sector's capacity to reduce the risks of, and respond to allegations of, child sexual abuse.

### 3.3 Regulation and screening

The Department of Health and Human Services regulates Victoria's out-of-home care services and engages with community service organisations on an ongoing basis to identify concerns early and continuously improve service quality. The Human Services Standards are comprised of four service delivery standards (empowerment, access and engagement, wellbeing, and participation) and the governance and management standards of the chosen Independent Review Body. The Human Services Standards apply to a range of in-scope department-funded programs providing services to clients, including out-of-home care and require organisations to have in place processes that empower their clients to raise all issues of concern.

The Victorian Government has previously provided information to the Royal Commission regarding regulation, screening and assessment processes to approve kinship and foster carers in its response to *Issues Paper 4: Preventing Sexual Abuse of Children in Out-of-home Care*, submitted in November 2013.

Since then, the Royal Commission's report on Working with Children Checks was released in August 2015. The Victorian Government plans to further progress work to consider the implications of requiring Working with Children Checks for kinship carers.

The Department of Health and Human Services has already commenced work to update the framework for assessing prospective foster carers, *Step by Step Victoria*. A new version of the framework has been developed in New South Wales by the Association of Children's Welfare Agencies, and the Department of Health and Human Services will work with this organisation to develop a suite of assessment resources for the Victorian context.

## 4 Strengthening the service system

The Royal Commission has identified that current responses to the sexual exploitation of children in out-of-home care around Australia are inadequate, and that more needs to be done to better protect children from, and respond to issues of, child-to-child sexual abuse in out-of-home care. The Royal Commission has also identified improvements that may be required to better support children who have been sexually abused in out-of-home care, and their carers and families.

The Royal Commission seeks submissions regarding:

- details of any action or strategies in place to respond to child sexual exploitation in out-of-home care.
- details of any action or strategies in place to respond to child-to-child sexual abuse in out-of-home care.
- establishment of a nationally consistent therapeutic framework for out-of-home care service delivery.
- expanding trauma-informed therapeutic treatment and advocacy and support services.
- enhancing placement stability and increasing the availability of placement options.
- providing better workforce planning and development for residential care staff.
- increasing support when leaving care, and in the care leaver's post-care life.

Preventing and responding to the sexual abuse of children in out-of-home care is a collective responsibility that sits across governments, institutions and the wider community. Responses require collaborative approaches that draw on the different areas of expertise of governments, oversight bodies, government funded and private institutions, academia, and of course, survivors and children currently living in out-of-home care.

The Victorian Government has committed to work with young people, families and services providers to progress:

- An enhanced role for high-quality universal services providing intensive interventions for children and families at risk. A key priority is for universal services and supports to be better connected to targeted and statutory services, and to ensure they are and accessible to all members of the community – including children in out-of-home care.
- Integrated wrap-around family supports such as family mentoring, trauma-informed care and proven models of behavioural intervention combined with practical support to families, all of which will build the capacity of vulnerable parents to protect and care for their children.
- New ways to access services and a new 'service navigation' function to enable greater coordination of early interventions and responses for vulnerable families. A new system will make it easier to scale up or down services as needed – enabling at-risk families to re-engage with services quickly, rather than having to re-engage through formal intake processes.
- Strong child and family engagement by involving families early and at every decision-making point to recognise families' rights and expertise and to build trust. Building on existing family decision-making models, young people, parents and extended families will be active participants in planning and decision-making processes.



- Improving responses to adolescents, keeping them engaged in education, and supporting effective transitions to training and employment.

The Victorian Government is also strengthening home-based care and providing greater support to grandparents, extended family, and foster carers and families to achieve better outcomes for children who cannot live with their own parents. For children, young people and families this will mean:

- Parents, children, young people and families are connected to their communities, supporting each other to learn and thrive.
- People can access support through a single, visible ‘front door’ that is based in their local communities and is free of stigma. Families will not need to be in crisis before getting the help they need, and will benefit from coordinated service pathways that provide the mix, sequence and intensity of support they need.
- Children and their families feel supported by workers with strong capability to identify and respond to risks of violence, child abuse and neglect – within a safe and accessible community setting.
- For children who cannot live safely at home, they are safe and secure and living in home-based care with a family. These stable homes will give children the security and support that comes from enduring and committed relationships.
- Residential care will transform to be part of a care pathway and not a destination or placement of last resort. Young people with complex behaviours will experience a program of intensive treatment and stabilisation, so that home-based care becomes a sustainable option.

Achieving shared responsibility for the outcomes for vulnerable children, young people and families requires different parts of the social services sector to develop a common language and shared understandings to bring together their different practice approaches.

The Victorian Government will transform the out-of-home care sector. This will include:

- practical problem-solving techniques to respond to complex behaviour
- training to work effectively with children, young people and parents with complex needs
- the development and maintenance of workforce skills in cultural competency.

The introduction of new safeguarding mechanisms, policies and practices must be supported by effective communication and engagement strategies, including workforce capacity building, if they are to achieve the permanent cultural change required.

An update on Victorian projects to strengthen the service system is provided below.

## 4.1 Responding to child sexual exploitation

The consultation paper on institutional responses to child sexual abuse in out-of-home care notes the work underway in Victoria to strengthen responses to the sexual exploitation of children in residential care, including improved identification and disruption strategies.

In July 2015, the whole of government *Keeping Children Safe from Sexual Exploitation Strategy* was endorsed by the Victorian Government. An interdepartmental committee chaired by the Department of Health and Human Services is tasked with overseeing the strategy, with four key priorities:

- an enhanced and consolidated response to child sexual exploitation.
- the development and implementation of an education plan.
- residential care workforce quality initiative.
- enhanced information and data sharing.

As noted in the response to the Royal Commission's Issues Paper 10, the Enhanced Response Model is a joint project between the Office of Professional Practice in the Department of Health and Human Services and Victoria Police's Family Violence Command. The Enhanced Response Model is part of the whole-of-government *Keeping Children Safe from Sexual Exploitation strategy*. The Enhanced Response Model project proposes a best practice model for responding to children and young people known to child protection who are at risk or experiencing sexual exploitation. The model includes earlier and stronger responses to children missing from care. The joint enhanced response project will deliver:

- new guidance and structures for the joint response to sexual exploitation. This guide will include divisional level governance arrangements, role definitions, collaborative practice guidance and shared principles for operational responses.
- strengthened Department of Health and Human Services practice advice and procedures that guide child protection and out of home care practitioners in responding to sexual exploitation, and working with high risk youth, care teams, and children who are missing.
- the introduction of a new practice approach by child protection and Victoria Police with respect to children who are missing from placement.

See Appendix 1 for further information on the Enhanced Response Model project.

Practice changes will include a return-to-care conversation, assessing episodes of a child or young person unlawfully missing from care as an independent risk, place based risk assessments, and improved inter- and intra-agency information gathering and sharing.

A key part of the *Keeping Children Safe from Sexual Exploitation Strategy* also includes the establishment of four new specialist Sexual Exploitation Child Protection Practitioner roles. The 2015-16 Victorian Budget provided \$2 million over four years to employ four Child Protection Practice Leaders to focus on sexual exploitation of children in out-of-home care. The new positions complement the role of the Senior Child Protection Practitioner co-located at the Victoria Police Sex Offender Registry. A priority for the Practice Leaders is to actively support the Department of Health and Human Services' relationship with Victoria Police and out-of-home care providers to prevent and respond to sexual exploitation.

There are ongoing challenges in encouraging children to report instances of child sexual exploitation. Children who are victims of child sexual exploitation often have extensive contact with the police prior to disclosing—usually in relation to offending behaviour or frequent episodes of missing from care—which creates another barrier to reporting. Offenders are also likely to groom children by encouraging them to engage in behaviours and create emotional proximity that make it difficult for them to disclose to police or other appropriate adults. Victoria Police has developed strategies to improve the ability of front line police to build trusting connections with children at risk of sexual exploitation.

Since 2012, Victoria Police and the Department of Health and Human Services have delivered joint training sessions on identifying and responding to sexual exploitation to police, out-of-home care service providers and child protection practitioners. This training is continuing. The training provides participants with:

- the knowledge of what constitutes child sexual exploitation.
- an understanding of how children are groomed into sexually exploitative situations.
- the ability to identify when child sexual exploitation may be occurring.
- the knowledge and ability to respond appropriately.
- the expertise to support the system's response to child sexual exploitation.

Victoria Police has identified a number of ways to improve the identification and reporting of child sexual exploitation. These include enhancing intra- and interagency governance and information sharing

processes, improving internal fit-for-purpose recording processes and the inclusion of child sexual exploitation as a lens when assessing repeat missing reports relating to children.

In the last few years, Victoria Police and the Department of Health and Human Services have worked together on a number of discreet local responses focusing on the investigation of child sexual exploitation, including:

- Taskforce Cider House (Dandenong).
- Operation Bellarmine (Shepparton).
- Morwell SOCIT's Prevention, Intelligence, Enforcement, Reassurance & Support plan to address child sexual exploitation at a local level.

The Victorian Government recognises that education is a critical component of a holistic, system-wide response to the sexual exploitation of children and young people, as reflected in its commitment to develop and implement an education plan as part of the broader *Keeping Children Safe from Sexual Exploitation Strategy*. The Department of Education and Training is developing a sexual exploitation prevention education plan, which will complement the learning and development needs highlighted above.

The education system provides a universal platform to influence the health, wellbeing, engagement and achievement of children and young people by working across a continuum from prevention, through early identification and early intervention, to comprehensive system responses and targeted supports.

The Victorian Government, through the Department of Education and Training, provides a range of services across this continuum including the employment of allied health workforces, capacity building for these workforces and school staff to better address the support needs of students, development of resources and the management of programs promoting health, wellbeing and engagement (for example, alternative settings programs, anti-bullying and resiliency learning modules and grants).

Targeted supports for vulnerable cohorts include the establishment of four LOOKOUT education centres<sup>9</sup> across the state to advocate for and support all children and young people in out-of-home care to improve their learning and wellbeing outcomes.

There are a range of supports and resources currently available through the education system that address issues related to sexual exploitation (for example, cyber-safety). However, these resources are not specifically targeted on the topic of preventing sexual exploitation. Current resources are also not specifically targeted at vulnerable cohorts such as students in out-of-home care, nor members of the out-of-home care workforce.

The development of the education plan aims to address these identified gaps and will include:

- A review of current supports and resources and the development of tailored supports and resources addressing sexual exploitation of children and young people, including prevention and response. Consideration will be given to differing levels of need (for example, enrolled and engaged in education, enrolled but disengaged, and unenrolled and unengaged). The suite of supports and resources will also cater to a broader range of audiences including residential, foster and kinship carers.
- A central, public repository/access point to house the resources to allow for ease of access and navigation. Content will be curated for specific audiences, including parents, carers, students and teachers.
- The tailoring of current professional development and training for school staff and allied health workforces to specifically address the issue of preventing sexual exploitation of children and

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<sup>9</sup> Further information on LOOKOUT education support centres can be found here <http://www.education.vic.gov.au/about/educationstate/Pages/lookout.aspx>

young people. This training will be incorporated in the LOOKOUT Centre professional development for school staff, being developed to improve targeted responses and supports for students in out-of-home care. This will be developed in conjunction with the Department of Health and Human Services and align with training for out of home care service providers.

Further information regarding the response to child sexual exploitation in Victoria has been provided to the Royal Commission into Institutional Responses to Child Sexual Abuse through:

- The Victorian whole-of-government response to the *Royal Commission into Institutional Responses to Child Sexual Abuse Issue Paper 4: Preventing sexual abuse of children in out-of-home care*.
- The Victorian Department of Justice and Regulation and Victoria Police paper *Victorian Government Response to the Royal Commission: Current approaches to policing in child sexual abuse matters*.
- The Victorian whole-of-government response to the *Royal Commission into Institutional Response to Child Sexual Abuse Issue Paper 10 - Advocacy and Support and Therapeutic Treatment Services*.

## 4.2 Child to child sexual abuse

As outlined in the Victorian Government's response to the Royal Commission's roundtable on child-to-child sexual abuse, and its response to the Royal Commission's Issues Paper 10, Victoria's Therapeutic Treatment Board provides advice to the Secretary regarding the appropriateness of a Therapeutic Treatment Order for children between the ages of 10 and 14 who demonstrate sexually harmful behaviours. Children may be referred by the Children's Court or voluntarily attend a Sexually Abusive Behaviour Treatment Service for therapeutic treatment.

The Royal Commission into Family Violence recommended that the Victorian Government amend the *Children, Youth and Families Act 2005* to extend the Therapeutic Treatment Orders regime to young people aged 15 to 17 years within two years.

The Royal Commission into Family Violence's recommendation recognises that exposure to family violence is a key contributing factor to the development of sexually harmful behaviour in children, as well as one of the main drivers of family breakdown requiring children to be placed in out-of-home care.

Planning for the implementation and resourcing of the recommendations from the Royal Commission into Family Violence is currently underway.

In addition, while some elements of the Child Safe Standards specifically aim to address child abuse by adult personnel in an organisation (for example the standard requiring organisations to undertake screening, supervision, training and other human resources practices when recruiting employees or volunteers), it is expected that the Child Safe Standards will also increase organisational awareness of the risk of all forms of abuse, including abuse between children. It is expected that the requirements of the Child Safe Standards will lead to improved prevention and responses to abuse, including child to child abuse.

From March 2015, an injection of funding was provided to support increased overnight supervision requirements for 150 residential care placements in out-of-home care. The increased supervision strengthens overnight safety and support for vulnerable children and young people. The 2016-17 Victorian Budget continues this funding uplift and extends its coverage to all residential care placements in four-bedroom units, over 200 placements in total.

## 4.3 Strengthening placements and responses

The Victorian Government is progressing critical reforms to out-of-home care, with a specific focus on strengthening home-based care, transforming the residential care model, implementing further

enhancements to the provision of therapeutic responses to young people in home-based care and improving outcomes for children and young people in out-of-home care.

The Victorian Government will:

- Through early intervention, prevent the need for out-of-home care placements where appropriate and provide intensive home visiting and structured parental support to maximise opportunities for reunification.
- Transform residential care from a placement of last resort to a program of intensive treatment and stabilisation for young people with complex behaviours, so that home-based care is sustainable.
- Develop residential care services into more personalised adolescent care and treatment services. The Victorian Government will work with experts, clinicians and the community sector to design sub-acute and intensive trauma-informed residential treatment programs for young people between 12 and 17 years of age who have highly complex or extreme symptoms and challenging behaviours caused by recent or past histories of sexual, physical, and/or emotional abuse and/or placement disruptions.

#### 4.3.1 Key out-of-home care reform initiatives

Key initiatives that the Victorian Government will progress to strengthen therapeutic responses and placement options in out-of-home care include:

- **Targeted Care Packages:** The process of moving children out of residential care started in April 2015, driven by the Victorian Government's investment in Targeted Care Packages. As at 29 February 2016, 109 young people, including 14 Aboriginal children, had been transitioned from residential care and are now with foster carers, extended family, their parents or supported to live independently. In October 2015 the scope of this initiative was expanded to include Targeted Care Packages aimed at preventing children entering residential care.
- **Family Preservation and Reunification Packages:** In February 2016 the Victorian Government announced \$2 million for more individualised Family Preservation Packages, to give at-risk families the support and programs they need to address concerns about the exposure of children to the risk of abuse or neglect.
- **Development of new targeted home-based support models:** It is vital for children under 12 to be kept out of residential care. To achieve this objective, new support models for children under 12 with complex behaviours will be developed to provide them with support at home or in home-based care. Further actions will also include support placements arrangements for larger sibling groups to keep them together in a home-based setting, including specific foster family recruitment strategies and potentially new care models.
- **Transformation of the residential care model:** Residential care will be transformed from the current model to a clinical treatment model. While reform will take some time, the Victorian Government will take immediate action to improve the level of care provided to all children and young people currently in residential care and to commence a process of co-design with children and young people who have experience of residential care, service providers and other experts in the area of child development, trauma and treatment. The role and function of therapeutic practitioners in residential care facilities will also be considered in this context, including their potential to move to a more hands-on role that includes observation, coaching and assisting in the development of strategies to manage challenging behaviours.
- **Mandatory qualifications and upskilling the residential care workforce:** As part of the first stage of transforming residential care, the Victorian Government is establishing mandatory qualifications for residential care workers and supporting the upskilling of the existing workforce.

The Department of Health and Human Services and the Department of Education and Training will support the upskilling of residential care workers, through a new scheme that will work with employers to assist workers with no formal qualifications to undertake vocational training. A Project Worker to be employed by the Centre for Excellence in Child and Family Welfare will promote the upskilling, work closely with sector partners, and develop strategies to address barriers to training (for example, onsite and online training options; foundation literacy skills training opportunities; specific strategies for Aboriginal workers with no formal qualifications). The Department of Health and Human Services will work in collaboration with the Department of Education and Training to ensure the Vocational Education and Training sector (including TAFEs and non-TAFE Registered Training Organisations) has capacity to respond to increased demand for training in the relevant courses.

- **Improving outcomes for Aboriginal children in out-of-home care:** The 2016-17 Victorian Budget includes \$16.48 million over the next two years to improve outcomes of Aboriginal children in out-of-home care through the following initiatives:
  - the development of a staged plan for the transition of placement and case management supports for Aboriginal children from the Department of Health and Human Services and mainstream service providers to Aboriginal community-controlled organisations (ACCOs)
  - the expansion of the Aboriginal Child Specialist Advice and Support Service
  - a stronger focus on the recruitment of Aboriginal foster and kinship carers
  - additional resources to ensure cultural support plans for Aboriginal children in care.

In addition to these initiatives, the Victorian Government recognises that there is an imperative to maintain engagement in key universal early childhood services to optimise children's learning and development. The *Early Childhood Agreement for Children in Out of Home Care*<sup>10</sup> (the Agreement) reflects the shared commitment of the Victorian Government, local government and the early childhood sector towards children who live in out-of-home care. It outlines the requirements and responsibilities of all parties to collaborate to ensure that children have access to high quality early childhood education and care experiences, with a focus on Maternal and Child Health services and kindergarten programs. The Agreement identifies a strengthened role for local government as a pivotal local contact.

#### 4.4 Training and support for carers

To ensure young people are provided with stable and supportive home-based care, foster carers and kinship carers need to be equipped with the training and support necessary to help children overcome traumas associated with abuse and neglect, as well as be culturally sensitive to the needs of the child and preserve, if not strengthen, that child's connection to their family, culture and country.

The Victorian Government acknowledges that kinship and foster carers need support to achieve the best possible outcomes for children who cannot live with their own parents. Government and non-government agencies will work more closely to deliver that support through initiatives such as education and training to better manage complex behaviours and help children and young people overcome the traumatic impacts of abuse and neglect.

The Victorian Government will:

- fund the provision of vocational qualifications for those residential care staff without relevant qualifications, to improve their ability to work effectively with children and their families
- enhance foster family and kinship carer recruitment, supports and capacity building. This will include new models of support and training for foster carers and families and kinship carers, and testing and refining models of professional foster care so that foster carers and families are a

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<sup>10</sup> Available at <http://www.education.vic.gov.au/Documents/childhood/providers/edcare/ecagrchildrenoutofhomecare.PDF>

valued part of the treatment team for children and young people overcoming the impact of trauma. These will go hand in hand with culturally sensitive training and a formal qualifications program for carers, and enhancing Aboriginal carer recruitment and supports.

To implement these initiatives, the 2016-17 Victorian Budget includes the following funding allocations:

- \$16.19 million over the next two years to provide more support to children in home-based care and their carers in order to stabilise these placements and deliver positive life outcomes.
- \$34.16 million over the next two years to sustain the out-of-home care system and meet unavoidable placement demand, including funding for additional kinship, foster and permanent care placements for children in out-of-home care.
- A component of the \$16.48 million allocated to improve outcomes for Aboriginal children in out-of-home care is also targeted specifically to deliver grassroots engagement and support to increase the number of Aboriginal carers and provide support, and where necessary, training, to those carers.

## 4.5 Post-care support

In Victoria, young people between 16 to 21 years old are eligible for leaving care support services when their guardianship or custody order expires.

Specific supports for care leavers include:

- **Leaving Care Support Services:** information, referral, support services, hotline, brokerage, mentoring and a specific program for Aboriginal young people
- **Springboard program:** for young residential care leavers to transition to independence through intensive support to access stable housing and engage in education, training and employment.

In addition, specialist homelessness services receive funding from the Department of Health and Human Services to assist young people transitioning from state care. Young people can be supported by case workers for up to two years to find and maintain housing, including access to transitional accommodation and assistance to access education, employment and training opportunities and develop independent living skills.

Support is also provided through the Department of Education and Training to ensure that 'zero tuition fee' training places are available to young people leaving care. More broadly, the Department of Education and Training is implementing a number of initiatives to better support engagement in and address disengagement from education and training, including for care leavers:

- The Navigator initiative, a new approach to re-engage school aged young people who are disengaged and not connected to a school, will provide assertive outreach, follow-up, advocacy, pathway planning and broker educational and/or training placements for young people.
- Local Learning and Employment Networks are incorporated associations of stakeholders that facilitate networks and partnerships to address local education and training issues facing young people at risk of disengaging, or who have already disengaged from education and training, to improve their participation, engagement, attainment and transition outcomes.
- The Reconnect program, which forms part of the Back to Work Scheme, enables eligible Registered Training Organisations to provide outreach to engage young people aged 15 to 24 who are not in education, training or full time employment and who left school without Year 12, assess their learning and non-learning needs and career goals, and develop an agreed learning plan, provide support services that will help them start and stay in training, arrange supervised workplace experience to increase employability and assist students in transitioning to employment or further training.
- Schools Focused Youth Service targets 10 to 18 year olds who are at school but vulnerable to or showing signs of disengagement from school. The Schools Focused Youth Service providers

work with schools and partners using evidence to identify the location and needs of young people within the target group and support the school to implement evidence-based approaches to keep the young person engaged in school. Providers work with families (where appropriate), with the understanding that engaging, supporting and upskilling families is often critical to a young person's successful engagement in education.

The Department of Health and Human Services funds two separate streams of supports for care leavers, depending on whether they left care before or after 1989. The department is currently reviewing the delivery of support services provided to people who left institutionalised or out-of-home care before 1989, and considering whether specialised responses are also required for those who left care after 1989.

The Department of Health and Human Services is further considering how to enhance opportunities for young people to disclose prior child sexual abuse across a range of service delivery settings, including out-of-home care.



## 5 Responding effectively to complaints

The Royal Commission has proposed six best practice principles that support strong and effective practice in responding to complaints of child sexual abuse. The Royal Commission seeks submissions regarding:

- the proposed best practice principles.
- oversight of complaints handling (reportable conduct schemes).
- how to improve institutions' access to advice and support when responding to complaints of child sexual abuse.

The Victorian Government recognises the importance of accessible, well-publicised and responsive complaints processes in developing and delivering quality services to the broad range of people who use its services and supports the complaints principles proposed by the Royal Commission. The principles proposed by the Royal Commission reflect the expectations of the Victorian Government as set out in the Human Services Standards<sup>11</sup> and the Department of Education and Training's complaints handling policies and procedures.

However, while any complaints process should be able to respond appropriately to 'complaints' of child sexual abuse, the Victorian Government proposes 'allegation' as a more appropriate word in this context as it underlines the serious and sensitive nature of the matter, the formal nature of the response required, and duty of care owed to any potential victims. It also emphasises the different ways in which an allegation of child sexual abuse may be made, and the need for organisations to have different strategies to encourage children and adults to come forward, and not rely solely on a complaints process, no matter how robust.

The use of the word complaint could be seen to be equating a matter of child sexual abuse with any other service delivery problem, and thereby further discourage people already facing barriers to disclosure by creating an incorrect perception of the how sensitively the matter may be recorded and handled.

For example, Standard 5 of the Child Safe Standards—which requires organisations providing services for children to develop and implement policies and processes for responding to and reporting allegations of child abuse—does not use the word complaint at all. It is acknowledged that a robust complaints handling process is a key element of any organisation's ability to create a culture that is able to draw out and respond appropriately to allegations of abuse.

### 5.1 The Human Services Standards

The Human Services Standards apply to in-scope department-funded services and align with the six principles identified by the Royal Commission. The Human Services Standards support the development of an accessible, accountable and child-centred approach to complaints and require organisations to have in place accessible processes that empower their clients to raise all issues of concern.

The Child Safe Standards extend this responsibility beyond department-funded services to a range of entities that provides services to children, and require them to put in place measures to prevent and respond to the risks of child abuse.

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<sup>11</sup> Information on the Human Services Standards and supporting documents can be found at <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/human-services-standards>

Detailed information outlining the role of the Department of Health and Human Services and independent bodies (such as the Victorian Ombudsman and the Commission for Children and Young People) regarding complaints handling processes and advocacy and support was included in the Victorian Government response to *Issues Paper 4: Preventing sexual abuse of children in out-of-home-care* and *Issues Paper 10: Advocacy and support and therapeutic treatment services*.

## 5.2 Education and Training

The Department of Education and Training recognises and acknowledges the inherent vulnerability of the children and young people in its care, and is dedicated to protecting their best interests. This recognition guides the department's approach to handling allegations of child sexual abuse. In responding to complaints, the department seeks to be responsive and transparent, and to position children at the centre of its approach.

The Victorian Government supports the principle, proposed by the complaints consultation paper, that policies and procedures relating to allegations of child sexual abuse should be clear and accessible to anyone disclosing abuse, whether they are children, young people or adults. In particular, the department acknowledges the need for an organisational culture that gives a voice to children and young people, empowers them to raise concerns, and ensures that the response is effective and appropriate when they do.

The Best Practice Principles proposed in the complaints consultation paper align well with the Department of Education and Training's ongoing work to review and continuously improve its complaints policies and procedures, including those for responding to allegations of all forms of abuse. The department is exploring ways to improve its approach to complaints handling, to ensure independence, transparency and a focus on effective resolution of serious and complex complaints from parents and students.

### 5.2.1 Response guidelines

The Department of Education and Training is currently undertaking a thorough review of its policies and guidelines on identifying and responding to all forms of abuse. As part of this review, the department is developing a new resource to assist school staff to correctly and appropriately identify and respond to abuse. Consistent with Best Practice Principle 1, it is crucial that these policies and procedures underpin a culture in which school staff and early childhood service providers and staff exercise their paramount duty to protect and preserve the safety, health and wellbeing of children and young people in their care and have a clear understanding of the procedures for responding to abuse, including their reporting obligations.

The department's current *Responding to Allegations of Student Sexual Assault – Procedures for Victorian Government Schools*<sup>12</sup> outlines procedures for government schools when responding to allegations of student sexual assault and problem sexualised behaviours by students under 10 years of age. The procedures provide guidance on:

- immediate response to disclosures or incidents, including contacting police and parents.
- duty of care.
- support for students immediately and in the long term, including safety plans for each student involved.
- communication with the school community and with the media.

The department's child protection policies for Victorian government schools and education and care services outline roles and responsibilities of staff and service providers in protecting the safety and

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<sup>12</sup> Available at <http://www.education.vic.gov.au/Documents/school/principals/spag/safety/respallegsexuala.pdf>

wellbeing of children and young people. In addition to outlining reporting obligations under the *Children, Youth and Families Act 2005*, the policies also provide guidance on:

- duty of care.
- types of child abuse and indicators of harm.
- when to report.
- guidance on what indicates a belief on reasonable grounds.
- the offence of failing to protect a child from the risk of sexual abuse.

They also provide information on dealing with potential consequences of reporting, including information about support for the child or young person.<sup>13</sup>

Reporting obligations are also outlined in the *Protecting the safety and wellbeing of children and young people* joint protocol between the Department of Health and Human Services, the Department of Education and Training, licensed children's services and Victorian Catholic and Independent schools (the Joint Protocol)<sup>14</sup>.

## 5.2.2 Training

As identified in the consultation papers, it is extremely important to ensure that staff, volunteers and members of governing bodies are trained appropriately in relation to responding to disclosures or allegations of child sexual abuse.

The Department of Education and Training's Mandatory Reporting eLearning Module provides information about the legal and policy requirements for responding to and reporting child abuse and neglect. The training module recently has been extended to early childhood teachers and will be further reviewed shortly, to ensure a comprehensive, best practice approach.

## 5.2.3 Employment response

The *Guidelines for Managing Complaints, Misconduct, and Unsatisfactory Performance in the Teaching Service* (Guidelines)<sup>15</sup> set out the department's policies and procedures for addressing complaints, and unsatisfactory performance and misconduct involving employees. The Guidelines support a culture that promotes high standards of conduct and encourages performance improvement in government school education. They uphold the position that misconduct and unsatisfactory performance is expected to be dealt with promptly and fairly and with a focus on improving performance.

Principals and managers must contact the department's Employee Conduct Branch for procedural advice and support regarding allegations of misconduct involving sexual abuse or sexual offences. School-based employees who are the subject of allegations of sexual misconduct will be removed from duty while an investigation takes place.

If the employee accused of a sexual offence is not charged, convicted or found guilty, the department may still take disciplinary action in relation to the person's conduct. If the employment relationship ends before the discipline procedure is concluded, an employment limitation will usually be imposed on the employee, ensuring that the individual cannot seek re-employment in a Victorian government school or otherwise with the department without the allegations being addressed.

Additionally, the Department of Education and Training notifies the Victorian Institute of Teaching (VIT) when an employment limitation is placed on a teacher, irrespective of whether an investigation was

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<sup>13</sup> <http://www.education.vic.gov.au/school/principals/spag/safety/Pages/childprotection.aspx>

<sup>14</sup> [http://www.dhs.vic.gov.au/\\_\\_data/assets/pdf\\_file/0018/527211/Protocol-DEECD-updated-2013.pdf](http://www.dhs.vic.gov.au/__data/assets/pdf_file/0018/527211/Protocol-DEECD-updated-2013.pdf)

<sup>15</sup> Human Resources Guidelines for Managing Complaints, Unsatisfactory Performance and Misconduct - Teaching Service, page 4: [http://www.education.vic.gov.au/hrweb/Documents/Complaints Misconduct and Unsatisfactory Performance.pdf](http://www.education.vic.gov.au/hrweb/Documents/Complaints%20Misconduct%20and%20Unsatisfactory%20Performance.pdf)

completed. This is to avoid a teacher being able to move from the Government to the non-Government sector without the teacher registration body being made aware of unresolved conduct or performance issues.

## **5.2.4 Investigation of complaints by regulatory bodies**

### **5.2.4.1 Victorian Registration and Qualifications Authority**

The Victorian Registration and Qualifications Authority (VRQA) must investigate complaints alleging any breach by a registered organisation of an obligation to implement any of the principles underlying the enactment of the *Education and Training Reform Act 2006*.<sup>16</sup> A breach may result in consequences for the organisation's registration. VRQA's Director is responsible for reviewing complaints and deciding the process for complaint investigation.

Where other oversight bodies are empowered to investigate complaints or allegations of child sexual abuse in schools, it is important that effective information-sharing arrangements are in place to allow school system regulators such as VRQA to act on the complaint or allegation, for instance by reviewing the school's policies and practices to identify breaches of registration requirements or areas for improvement.

### **5.2.4.2 Victorian Institute of Teaching**

It is a legal requirement for all teachers to be registered with the VIT in order to be employed in an early childhood service or a school. The VIT's role, functions and powers are focused on individual teachers rather than institutions or workplaces.

The VIT's activity is not primarily directed toward child protection or child safety, however it does have a public protection role which is achieved by setting standards for teachers. The VIT's mandate is to ensure that only suitable persons are permitted to teach, which includes investigating complaints and taking disciplinary action as appropriate.

Employers are required to notify the VIT of any action taken against a teacher in respect of serious incompetence, serious misconduct, where the person is unfit to be a teacher or where the teacher's ability to practice as a teacher is detrimentally affected by impairment.<sup>17</sup> If the VIT becomes aware of a sexual offence charges brought against a teacher it may take action without the need for further inquiry.<sup>18</sup> The VIT is required to cancel the registration of a teacher without a formal hearing if the teacher is convicted or found guilty of a sexual offence in Victoria, or elsewhere. The effect of the cancellation of the teacher's registration is that he/she is disqualified from teaching in a Victorian early childhood service or school.

When a teacher's Victorian registration is cancelled, suspended or conditions are imposed, VIT must notify the teacher's employer, the Secretary of the Department of Justice and Regulation via a notification to the Working With Children Check Unit, and all teacher registration authorities in Australia and New Zealand.<sup>19</sup> The VIT is similarly notified by teacher registration authorities in other Australian jurisdictions under equivalent state or territory legislation.

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<sup>16</sup> *Education & Training Reform Regulations 2007* (Vic) r 82. The principles underlying the enactment of the *Education and Training Reform Act 2006* (Vic) are set out at s 1.2.1 of that Act.

<sup>17</sup> *Education and Training Reform Act* section 2.6.31.

<sup>18</sup> *Education and Training Reform Act*, section 2.6.27 and 2.6.29.

<sup>19</sup> *Education and Training Reform Act*, section 2.6.51.

# Appendix 1: Child Sexual Exploitation Enhanced Response Model (ERM) Project

In July 2015, the Victorian Government endorsed a whole of government *Keeping Children Safe from Sexual Exploitation Strategy*. The strategy aims to improve the systemic response to child sexual exploitation, articulating four priorities:

1. an enhanced and consolidated approach to responding to child sexual exploitation;
2. the development and implementation of a sexual exploitation prevention education plan;
3. the introduction of mandatory residential care staff qualifications; and
4. enhanced information and data analysis.

The Enhanced Response Model is a time limited project between the Department of Health and Human Services and Victoria Police, which will learn from and build upon the successful localised, collaborative efforts undertaken to date. The Enhanced Response Model project will scope and design an enhanced model of intervention, protection and recovery for young people who are at risk of sexual exploitation.

The objectives of the project are to deliver a suite of recommendations for policy and practice that will enhance capacity to identify, intervene in and investigate cases where children are at risk of or subject to CSE. The project scope recognises that whilst the risk of CSE is highest for children in out-of-home care, Victoria Police must be able to effectively respond to any child in Victoria who is the target of sexual exploitation.

The Enhanced Response Model project includes the following activities:

- research into international approaches to CSE.
- learning from local innovative responses that have already been developed or implemented.
- establishing internal organisational reference groups to draw upon existing expertise and experience and consider potential solutions.
- analysis of Department of Health and Human Services and Victoria Police data holdings to gain a better understanding of CSE in Victoria.
- Mapping of relevant departmental initiatives and arrangements including governance mechanisms that respond to sexual exploitation.
- A process map for the current practice and the new joint enhanced response model to allow for comparison.
- A review of the operational practice and practice advice with a focus on children who go missing from care, with a strong focus on links to risk of sexual exploitation and priorities needed for protection, support and recovery. Key documents include sexual exploitation practice advice, the sexual exploitation information template, high risk youth and missing practice advice and the existing Victoria Police and Department of Health and Human Services protocols.
- Sharing project related resources, material and information between Victoria Police and the Department of Health and Human Services for the purpose of the enhanced response.
- Consideration of learning and development needs associated with the implementation of the enhanced response model.
- An implementation plan for the enhanced response model.

- Consideration will be given to the communication and potential media strategy for the enhanced response model project.

The project, which is jointly resourced by the Department of Health and Human Services and Victoria Police, will produce a 'joint model' for responding to young people in out-of-home care who are experiencing or are at risk of sexual exploitation. This includes:

- Agreed roles and responsibilities for each organisation.
- New policy and practices for engaging with young people.
- Shared practice guidance (or protocol document).
- Divisional/operational governance structures.
- A proposed implementation plan and supporting documentation.
- Recommendations for further work that will address sexual exploitation.

The project will improve:

- Early identification of children in out of home care who are at risk of sexual exploitation through a consistent state-wide multi-agency response that prevents, protects and aids recovery.
- Recognition in policy and operational responses to children missing from care and their risk of sexual exploitation.
- Capacity to identify perpetrators of sexual exploitation and share information with Victoria Police to disrupt their activities and enable prosecution.
- Development of evidence informed operational policy and practice guidance that protects and engages children at risk of sexual exploitation and promotes recovery.