

NSW Annual Report on Progress

Royal Commission into Institutional
Responses to Child Sexual Abuse

December 2020



In 2018, the NSW Government publicly responded to the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), accepting the majority of recommendations. Following the release of the response, the NSW Government announced a \$127 million financial investment to support the implementation of its response, highlighting the NSW Government's commitment to work with government and non-government organisations to take action to keep children safe, and prevent child sexual abuse.

As part of its response, NSW committed to report on the implementation of NSW's response to the recommendations through five consecutive annual progress reports to be tabled in the NSW Parliament. Annual Reports on Progress were published in December 2018 and December 2019. Throughout 2020, the NSW Government has continued to make significant progress in implementing its response to the Royal Commission. The key achievements in preventing and responding to child sexual abuse throughout 2020 are outlined in this third Annual Report on Progress.

While significant progress has been made in 2020, the COVID-19 pandemic has caused an unprecedented demand on the public system and changes to how people are able to engage. This has affected some projects, particularly those requiring consultation. However, despite these challenges, the NSW Government has continued to deliver on its commitments by adapting to the current circumstances.

No child should suffer abuse and the NSW Government remains committed to protecting children from harm. The progress outlined in this report demonstrates this continued commitment. In 2021, the NSW Government will continue implementing reforms to keep children safe and deliver justice for survivors of child sexual abuse. The fourth Annual Report on Progress will be delivered in December 2021.

NSW has made significant progress in 2020

The *Children's Guardian Act 2019* and legislation to expand mandatory reporter groups commenced on 1 March 2020

On 1 March 2020, legislative amendments to the *Children and Young Persons (Care and Protection) Act 1998* commenced, expanding mandatory reporter groups to include all registered psychologists and people in religious ministry. Amendments have also been made to strengthen protections for reporters who make reports in good faith against all civil and criminal liability, reprisals and other detrimental action. These protections apply to reports or complaints made about child abuse to any institution engaging in child-related work.

The NSW mandatory reporting scheme now includes all groups of individuals the Royal Commission recommended should be mandatory reporters. Commencement of the amendments to strengthen protections for reporters also completes the NSW Government response to Royal Commission recommendation 7.6.

The *Children's Guardian Act 2019* also commenced on 1 March 2020. The Act expands the functions of the Children's Guardian by transferring oversight of the Official Community Visitors and Reportable Conduct schemes from the Ombudsman to the Children's Guardian. The Act also expands the Reportable Conduct Scheme to apply to religious bodies, and to conduct outside of work for employees of public authorities (such as local councils), contractors and sub-contractors if they engage in child-related work.

Retrospective community services checks have been completed

The NSW Government accepted the Royal Commission's recommendation for comprehensive community services checks to be conducted for all carers and household members who were exempted under legislative amendments introduced in 2015, and who are still caring for children.

The project to complete retrospective community services checks for identified carers and household members commenced on 1 July 2019. The dedicated project team identified that 6,446 carers and household members required community services checks, and all of these checks have been completed. In addition, the project team completed an audit of 6,533 carers and household members who were authorised to provide care for the former Department of Family and Community Services in 2015. Completion of this project has contributed to improving the safety and wellbeing of children and young people in out-of-home care (OOHC).

A mandatory child safe scheme is expected to commence in mid-2021

The Office of the Children's Guardian is developing a regulatory scheme to support implementation of the Child Safe Standards in child-related organisations in NSW. This is based on feedback received from extensive consultations undertaken in 2019. Further consultation with government partners on a revised approach to regulating child safe standards occurred in 2020. The legislation that will underpin the scheme is currently being developed. It is anticipated this legislation will be introduced to Parliament in early 2021, with the scheme anticipated to formally commence in mid-2021.

Although the scheme will not formally commence until at least mid-2021, efforts to implement and prepare organisations for the Child Safe Standards have commenced. The *Guide to the Child Safe Standards* was released in June 2020, which supports organisations to develop and implement strategies to keep children safe. The Office of the Children's Guardian has also released a guide for faith-based organisations to help them implement the Child Safe Standards. The guide gives practical tips and provides examples which showcase how different organisations are already implementing the standards and how they have established systems to prevent, detect and respond to child abuse.

A resource on children's participation and empowerment will be released by the end of 2020.

Training has been delivered on what it means to be a child safe organisation

Due to COVID-19, the delivery of face-to-face training on the Child Safe Standards, which had an estimated attendance of 2,500 people across NSW, had to be cancelled. In response to this, there was a substantial increase in those accessing online eLearning programs about child safe practices provided by the Office of the Children's Guardian.

The Office of the Children's Guardian has also developed YouTube videos and webinars about child safe practices as a new way to reach stakeholders.

The NSW Government will implement new initiatives to strengthen oversight and further protect Aboriginal children and young people in OOHC

In recent years, the NSW Government has implemented reforms to help reduce the number of Aboriginal children and young people entering OOHC. These include the Permanency Support Program, evidence-based family preservation and restoration programs and the Aboriginal Case Management Policy. These reforms have contributed to a 33% reduction in the number of Aboriginal children entering OOHC between 2015-16 and 2019-20.

In addition to this reform work, in 2016, the NSW Government commissioned an independent review into the high rates of Aboriginal children and young people in OOHC. Professor Megan Davis was engaged as the Chairperson of this review. In October 2019, Professor Davis delivered her findings in the *Family is Culture* Review Report (Review Report). The NSW Government carefully considered the recommendations of the Review Report and released its response on 8 July 2020.

In its response, the NSW Government committed to new initiatives that will strengthen oversight and accountability, providing Aboriginal children and young people in OOHC with greater protections. These initiatives include:

- The creation of the Deputy Children’s Guardian for Aboriginal Children and Young People to provide leadership within the sector to elevate the rights and wellbeing of Aboriginal children and young people and drive further change.
- Establishing a Department of Communities and Justice (DCJ) Aboriginal Outcomes Taskforce to further consider and implement recommendations relating to improved data collection and reporting, stronger casework policy and practice, enhanced services and supports for Aboriginal families, and better interagency coordination.
- The establishment of an Aboriginal Knowledge Circle comprising community leaders and sector experts, who will provide advice about how to improve outcomes for Aboriginal children and young people in OOHC.
- Requesting a special report from the Children’s Guardian into matters identified in the Review Report as requiring independent review, including the implementation of the Aboriginal Case Management Policy, and improvements to casework policies and screening and assessment processes. The report will be completed by 30 June 2021.

These initiatives will support implementation of the Royal Commission recommendation relating to Aboriginal and Torres Strait Islander children in OOHC.

There are several recommendations in the Review Report which relate to changing care and protection legislation and court processes. These require further consideration and will be considered as part of a review, commencing in 2024, into the effectiveness of recent reforms including the Permanency Support Program and legislative amendments that commenced in February 2019.

Also, on 22 July 2020, the Premier signed the ten year National Agreement on Closing the Gap, developed jointly by governments and the Coalition of Peak Aboriginal Organisations. The Agreement takes a holistic approach to the systemic change needed to improve outcomes and includes targets to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in OOHC. The Agreement provides a way of working across governments to address these issues.

Transition to Intensive Therapeutic Care continues

Since 1 July 2019, Intensive Therapeutic Care (ITC) has been gradually replacing residential care in NSW. In order to support a transition that minimises disruption to vulnerable children and young people, the transition period for residential care providers has been extended in some cases to 30 June 2022. ITC – Significant Disability (ITC-SD) contracts commenced in August 2019 to better support eligible children and young people with significant disabilities. Children are being transitioned to ITC-SD over a similar time period to the ITC transition.

A kinship carer assessment tool to improve cultural competence has been implemented in several districts across NSW

The Winangay Kinship and Carer Assessment Tool has been designed to assist practitioners to develop stronger ways of working with Aboriginal children, families and communities by undertaking culturally-informed kinship carer assessments.

DCJ has completed implementation of the tool across the following four district clusters: South Western Sydney; Sydney, South Eastern Sydney and Northern Sydney; Hunter and Central Coast and New England. Feedback during the implementation and evaluation indicate use of the Winangay Aboriginal Kinship Carer Assessment Tool has achieved practice change, including increased

confidence and cultural competence of staff and supporting improved working relationships with Aboriginal families.

DCJ and Winangay Resources are exploring how Winangay Assessment Tools can be rolled out further.

Improving the stability of placements in out-of-home care

The Permanency Support Program (PSP) is focused on achieving permanency through restoration to family where it is safe and in the best interest of the child, or through guardianship and open adoption (the least preferred option for Aboriginal children) where restoration is not possible. Under the PSP, funding packages are tailored to the individual needs of children, young people and their families. Packages are flexibly applied to be able to respond to any change in a child's needs.

In 2019-20, more children exited OOHC than the previous year with 1,134 children achieving permanency, up from 1,050 children in 2018-19 (an 8% increase). This included 553 children being restored to their families, 419 children exiting to guardianship and 162 children being adopted. In 2019-20, 21% more Aboriginal children were restored to their families than in 2018-19 and 35% more Aboriginal children exited to guardianship than in 2018-19. Over 70% of children exiting OOHC to restoration, guardianship or adoption achieved permanency within two years.

The PSP is delivered by 48 non-government service providers, in partnership with DCJ. This includes 14 Aboriginal service providers and four Aboriginal partnerships. External evaluators have been engaged to deliver a three year implementation, outcomes, and economic evaluation of the PSP, to be completed by December 2021.

Operated by the Australian Childhood Foundation on behalf of the NSW Government since 2018, OurSPACE is a statewide assertive outreach service providing genuine trauma-informed therapies to create placement stability for up to 270 children, under 16 years old in OOHC. The program is a multi-component therapy for children and their carers that tailors individual plans and creates Care Teams that address the trauma in the child's life. The program also offers consultation and support for up to 1,500 children annually to improve placement stability and relational continuity through empowering Care Teams and carers to better understand and respond to the needs of children in their care. To date this program has exceeded its targets, including providing therapeutic intervention for more than 50% of its targets with Aboriginal children.

Improving the leaving care experience

The Futures Planning and Support pilot project commenced in November 2019 when a Human Services Agreement was signed with the lead service provider, Burrun Dalai. After program promotion and staff recruitment, services commenced on the Mid North Coast in April 2020. The pilot offers young people tailored responses based on need, capacity, strengths and opportunities. The pilot targets young people aged 17-24 years who have left OOHC, and includes access to a 'futures coach' and intensive casework support. The intensity of support depends on the needs of each young person.

DCJ continues its focus on improving the quality of leaving care planning so young people are well prepared and supported as they transition to adulthood. Quality planning by both DCJ and service providers includes talking to young people about their goals for the future and developing a high quality leaving care plan that is both realistic and hopeful. In 2019-20 about 1,400 young people benefitted from service providers working closely with them to develop plans as a result of the service providers PSP Leaving Care funding package.

Overall there is still a need to improve the scale of leaving care planning. Although around two in three young people have a leaving care plan, there is clearly more work to do. The Office of the Children's Guardian is reviewing leaving care plans for young people from March to December 2020.

This review will make recommendations to improve leaving care planning and practice across the sector.

Improved recordkeeping practices to keep children safe

NSW is committed to improving recordkeeping in institutions that engage in child-related work. NSW State Archives and Records has completed its program of work in response to the recommendations relating to records and recordkeeping, including the development of promotional materials, online training and access to information on recordkeeping practices.

NSW State Archives and Records is providing ongoing access to relevant information resources through a dedicated section of the NSW State Records and Archives website, which will be updated as required. The web-based resource includes guidance for identifying and retaining records which may become relevant to an actual or alleged incident of child sexual abuse, relevant retention and disposal authorities for NSW public sector and the non-government sector, standards for records management, online training courses, and a range of new leaflets on recordkeeping specifically for the non-government sector.

‘Connect for Safety’ – a new approach to sharing child protection information

Connect for Safety is a new online information sharing solution that will enable statutory child protection officers from every Australian state and territory to find out in near real-time if a child or young person, or a person of interest, is known to other jurisdictions. It is intended to enhance casework practice by enabling faster and more targeted information exchange, thereby giving child protection officers the capacity to make more informed decisions and earlier interventions to protect vulnerable children and families. Connect for Safety is a result of the successful Business Research and Innovation Initiative Challenge to share information nationally to ensure child safety.

Connect for Safety was launched in October 2020, with biographical child protection data provided by NSW, Queensland, Western Australia and Victoria. Data from all other states and territories will be added progressively. A training program and staged rollout to child protection staff from all jurisdictions will occur from 2020 to 2022.

Guidelines for schools on children with problematic or sexualised behaviours have been published

The Department of Education has published an updated version of the *Children with problematic or sexualised behaviours: Guidelines for schools*. These guidelines assist school staff to respond effectively to incidents of problematic or sexualised behaviours involving children and young people. Following stakeholder consultation, the updated guidelines now include information on the duty to report to Police, new notification procedures and new resources.

Case Study: The *Children with problematic or sexualised behaviours: Guidelines for schools in practice*

A principal rang the NSW Department of Education Child Wellbeing Unit for advice about a risk management plan for a 12 year old student that had been in place for two years, regarding his use of the school toilets. Staff had referred to the *Children with Problematic or Harmful Sexualised Behaviours: Guidelines for schools* and noted that responses to these behaviours should be child-centred and proportionate to concerns.

The principal raised the issue that the plan around the boy's school toilet use no longer seemed to be required and could be having an unnecessary impact on him.

The assessment officer utilised information exchange provisions with DCJ and provided information to the school that previous ongoing engagement with services by the student and his family had been positive. She suggested the school liaise with the local Learning and Wellbeing Team to consider alternative monitoring strategies for the student within the school.

NSW is taking action to prevent child sexual abuse

Enhanced access to the Joint Child Protection Response Program

Under DCJ's lead, the Joint Child Protection Response Program (JCPRP) agencies, including the NSW Police Force and NSW Health, have completed a comprehensive review of the JCPRP criteria and have developed new criteria for referral and entry into the program. The program aims to provide a more comprehensive response to reports of serious child abuse which may constitute a criminal offence.

The new criteria of the program incorporate 'factors to consider', which provide detailed and practical guidance to the Child Protection Helpline and Joint Referral Unit staff in order to secure better access to the program for the most vulnerable children and young people. Under the new criteria, children and young people with cognitive impairment, sensory impairment or other communication needs; or who live in residential OOHHC, or have had a recent history of OOHHC placement instability, are provided with enhanced access to the JCPRP.

Review of the Local Contact Point Protocol

Under DCJ's lead, the JCPRP agencies have reviewed the Local Contact Point Protocol (LCPP). The LCPP provides clear operational guidelines for staff from the JCPRP agencies, the Child Protection Helpline, Community Service Centres, and relevant stakeholders in communicating with parents, caregivers and other parties during a JCPRP investigation of allegations of child abuse in an institutional setting. The revised LCPP will include additional information about the entities covered by the LCPP and the oversight role of the NSW Children's Guardian in investigations involving institutions.

The review took into consideration learnings from the Royal Commission, including that the LCPP developed in NSW should serve as useful precedent for other Australian governments to consider. The JCPRP agencies are committed to enhancing practice so that NSW continues to be a leading example of best practice in interagency responses to institutional child sexual abuse.

A residential care workers register is expected to be operational in 2021

The *Children's Guardian Act 2019*, which commenced in March 2020, includes provision for the Office of the Children's Guardian to establish a register of residential care workers to promote the

safety of children and young people. In line with sector consultation, designing the residential care workers register commenced in 2018 and the proposed operational date is anticipated for early 2021. Formal consultation on the draft Regulation will also progress in early 2021 in anticipation of the register's commencement. The Office of the Children's Guardian will provide training and guidance to support implementation of the register.

Improved service delivery and safer environments for young people in youth justice centres

Changes to NSW Youth Justice Centres to enhance safety include closed circuit television system upgrades at all six Youth Justice Centres. Frank Baxter and Cobham Youth Justice Centres have also established interim high-risk units to provide a safer, more secure environment to house young people presenting with extreme, high-risk behaviours that may be a safety risk to staff, other young people or themselves.

In addition, a new Enhanced Support Unit (ESU) has been established at Frank Baxter Youth Justice Centre. The ESU is a therapeutic unit which provides a safe, secure and rehabilitative environment for young people, and addresses drivers of offending behaviour to support successful reintegration back into the mainstream custodial population and the broader community.

The Youth Justice NSW (YJNSW) complaints management policy and procedures have been comprehensively reviewed. New guidelines and procedures will enhance support for young people and the involvement of a cultural advisor in the handling of complaints from or concerning young Aboriginal people.

In 2020, the Voice2Action partnership project between YJNSW and NSW Customer Service Commission commenced, which includes hearing directly from young people, their families and carers about safety, empowerment and the complaint handling system at YJNSW. Consultation with young people commenced in February 2020 before being suspended in March 2020 due to COVID-19. The project re-commenced in August 2020 and was completed by 31 October 2020.

YJNSW is also establishing a new operating model for all six Youth Justice Centres. The model will review the induction and assessment process for young people entering custody, including how to ensure that young people understand the internal complaint processes and how to access external oversight bodies.

Due to COVID-19 restrictions, the Counselling in Youth Justice Centre's trial, which provides trauma-informed counselling to young people in custody, has been suspended since April 2020. Victims Services and YJNSW, with advice from the NSW Bureau of Crime, Statistics and Research, agreed to cease the evaluation of the trial. Instead, YJNSW will analyse the impact of the program and conduct a literature review of trauma-counselling in custodial settings. YJNSW will work with Victims Services to ensure both the efficiency and effectiveness of the new processes. This is expected to be completed by December 2020.

Preventing and responding to the sexual exploitation of children and young people in residential care

As outlined in the 2019 Annual Report on Progress, a stand-alone pilot in NSW to address the risk of sexual exploitation of children and young people in residential care was planned. However, the NSW Police Force and DCJ are instead partnering with MacKillop Family Services and the University of Melbourne in a more far-reaching action research pilot to be conducted over three years across three states (NSW, Queensland and Victoria). Planning has commenced for NSW, with the project already underway in Victoria where it is showing promising results.

The outcome of the Disrupting Child Sexual Exploitation (DICE) project will be an improved, evidence-informed policing response to children living in residential care who are experiencing or at risk of sexual exploitation, which can potentially be implemented across other residential and ITC services in NSW and potentially, to other Australian jurisdictions.

DCJ has also engaged the Australian Childhood Foundation to further develop a training package for residential care providers and Police around identifying and responding to child sexual exploitation that includes a whole of house psycho-educational approach. This education and 'whole of house' strategy will strengthen practice that is 'wellbeing led' and not just risk averse within residential care environments, with a focus on better understanding the needs of young people, and building safe and positive relationships. The training package will require slight adaptations for implementation in a COVID-19 context.

DCJ is also developing an e-learning video to promote awareness about child sexual exploitation as part of the Joint Protocol to reduce the contact of young people in residential care with the criminal justice system.

It is anticipated that DICE and the training initiative will commence in 2021.

Trauma informed care training has been provided to caseworkers and carers

The DCJ LINKS Training and Support team is leading a project to develop practice packages and training resources for caseworkers and carers in DCJ and the OOHC non-government sector on trauma informed care and responding to problematic sexualised behaviour. Following COVID-19 restrictions, the LINKS Training and Support team adapted its Trauma Informed Care package for online delivery. The project team has delivered webinars to a wide range of OOHC professionals and carers from DCJ, other NSW Government departments and funded service providers. Initial feedback of the online training is extremely positive.

The team has partnered with the PSP Learning Hub to ensure widespread dissemination of training and resources to DCJ and service provider casework staff. The LINKS Training and Support team has also delivered its Train the Trainer package to the PSP Learning Hub team, which will provide trauma informed care training to caseworkers, particularly in remote/regional locations.

A LINKS Training and Support website was published on 1 April 2020. The website provides access to relevant resources, including webinars, fact sheets and targeted support services on trauma informed care and problematic sexualised behavior.

Increased training and resources for teachers and other Department of Education staff to protect children

In April 2020, while teachers were delivering online learning, the Department of Education provided an online training course to assist teachers to minimise risks, identify concerns that may arise for students and follow procedures for reporting, responding to suspected risks and supporting student wellbeing.

The Department of Education is also promoting the Office of the eSafety Commissioner's suite of materials about online safety to staff, students and parents and carers. The resources have been released throughout 2019 and 2020.

Mandatory child protection training has been delivered for corporate education staff in 2020, including staff who have no contact with children and staff in non-child related positions. The training focuses on identifying and reporting suspected child abuse. Completion of this training will be monitored.

Monitoring has also commenced of completion of mandatory child protection training on recognising, responding to and reporting concerns about suspected sexual abuse of children and young people for school based staff.

Dedicated services for children and young people who display problematic and harmful sexual behaviours have been established

The Ministry of Health, in consultation with government and non-government organisations as well as a newly established Aboriginal Expert Group, is developing a new program called Safe Wayz for children under the age of criminal responsibility (10 years) with problematic and harmful sexual behaviours. The model will inform the development of a NSW Health policy directive. Districts are developing local implementation plans and Aboriginal Action Plans which will support rollout of the program once the model is finalised and allocation of future workforce funding.

The Ministry of Health is collaborating with the Sydney Children's Hospitals Network to establish a statewide clinical leadership model for the program. The NSW Health Education Centre Against Violence is preparing and will deliver training for Health providers of the program.

NSW Health has also funded a statewide roll out of New Street Services for children and young people aged 10-17 years with harmful sexual behaviours and their families.

All services are now operational and taking referrals.

An expansion of statewide support for the New Street Services is underway. The Sydney Children's Hospital Network has been funded to expand its statewide leadership and clinical advice supports through the establishment of an identified Aboriginal clinical and cultural advisor position. NSW Health is consulting with an expert Aboriginal group on the scope of practice and functions of this role. The Education Centre Against Violence is working with Sydney Children's Hospital Network and the Ministry of Health to develop a statewide training package for health services on children and young people aged 10-17 years with problematic and harmful sexual behaviours. In addition, an evaluation plan for New Street Services has been commissioned and is under development.

In its June 2018 response to the Royal Commission, the NSW Government responded to the recommendations relating to improving assessment and therapeutic intervention for children with harmful sexual behaviours (recommendations 10.2 and 10.3) as 'subject to further consideration'. The NSW Government has now accepted these recommendations in principle, having made positive progress towards implementing a response to these recommendations since 2018.

NSW Health violence, abuse and neglect services have been enhanced

NSW Health published the revised *Responding to Sexual Assault (adult and child) Policy and Procedures* in February 2020. This policy provides detailed guidance to improve the provision of health services to people who have experienced sexual assault, including a focus on vulnerable groups and the role of clinical outreach and community engagement. The revised policy requires Sexual Assault Services to develop an Aboriginal Action Plan which will strengthen community engagement and accessibility of the service. An Aboriginal Expert Group has been established to provide support to the districts in the development of these plans.

Implementation of the Integrated Prevention and Response to Violence, Abuse and Neglect (IPARVAN) Framework

NSW Health is implementing the Integrated Prevention and Response to Violence, Abuse and Neglect (IPARVAN) Framework, which is a key element of NSW Health's Violence, Abuse and Neglect (VAN) Redesign Program. The framework outlines the vision, guiding principles, objectives and strategic priorities to strengthen NSW Health's response to violence, abuse and neglect, including for victims and survivors of sexual assault and children with problematic and harmful sexual behaviours. The framework recognises that services must respond to the co-occurrence of multiple forms of violence, abuse and neglect throughout people's lives. Implementation of the framework has commenced with a program of work over a six year timeframe (2019-2025), with a series of evaluations at different milestones, including an economic evaluation.

Implementation of Phase 1 of the IPARVAN Framework took place over 2019-20 and focused on integrating NSW Health's VAN services. Planning for Phase 2 of implementation of the IPARVAN Framework has commenced and will focus on the integration between VAN services and the broader NSW Health system as well as interagency partners (while simultaneously continuing Phase 1). This program of work aims to improve safety and health outcomes for people experiencing violence, particularly women and children, and those who present with complex, overlapping health and social issues. The planned approach for Phase 2 of the IPARVAN Framework is to build on, and learn from, initiatives already underway to integrate responses to violence, abuse and neglect across the Health system and with other government and non-government interagency partners.

Further training and resources have been promoted to schools to improve online safety for children

The eSafety Commissioner has provided a number of free courses on online safety to the NSW Education Standards Authority (NESA). The courses have been registered with NESA and are available for all teachers in NSW. Completion of any of the courses contributes to a teacher's maintenance of teacher accreditation. The free courses focus on building teacher capacity in understanding online risks and protective factors. In their evaluations, a high proportion of teachers who had completed the training indicated that they had put learning from the courses into practice in their classrooms.

The Department of Education continues to improve the Digital Citizenship website. In 2020, further articles and resources were added to the website for teachers, parents and students to provide practical advice on the responsible use of technology and safe online behaviour.

Development of a NSW Framework for Preventing and Responding to Problematic and Harmful Sexual Behaviours is underway

The NSW Government, led by NSW Health, is progressing the development of a *NSW Framework for Preventing and Responding to Problematic and Harmful Sexual Behaviours* (the Framework). The Framework will be based on a public health approach and will guide the implementation of a child and family-centered system that promotes prevention and delivers appropriate, holistic and culturally safe responses to children and young people with problematic and harmful sexual behaviours. A review of the current policy and legislation approach in NSW is underway and will inform the development of improved pathways into treatment for children who need it. The Framework will be delivered in June 2021.

To support development of the Framework, NSW has commissioned the University of Wollongong to conduct a quantitative and qualitative research project with consumers of services for children and young people with problematic and harmful sexual behaviours and their parents and carers. The research will inform areas of improvement across the public health continuum in the NSW service system and develop resources to improve understanding of problematic and harmful sexual behaviours in the community.

Increased support to survivors through better access to treatment and support

Integrated specialist treatment services for survivors of child abuse is being piloted

The Ministry of Health has funded Mid North Coast and South East Sydney Local Health Districts for three years (2019-2022) to develop, pilot and evaluate a new integrated service model for adult survivors of child sexual abuse with complex needs. The pilot aims to improve care through specialist trauma counselling and wrap-around support in sexual assault services and integrated case management with mental health, drug and alcohol, and community support services. The pilot project

has a specific focus on improving access and support for Aboriginal people, people from local culturally and linguistically diverse communities and people with disability. A literature review and evaluation framework have been produced to support implementation of the pilot project.

In June 2020, the Ministry of Health contracted specialist action research, service co-design and evaluation expertise to work with the two pilot sites and the Ministry for two years (2020-22) to develop the new service model using participatory methods and to produce the evidence required to support implementation of the new service model statewide.

A significant component of the pilot project is the development and implementation of workforce capacity building initiatives that are informed by learnings from the two pilot sites. To support this, a statewide steering committee with participation from Local Health Districts, priority population groups, survivor-advocates and content specialists in the co-occurrence of, and responses to sexual abuse, mental health and drug and alcohol needs is being established. The steering committee will champion and guide dissemination of learnings across NSW throughout the pilot project to enhance capacity of Health services to provide appropriate care to adult survivors.

It is anticipated that statewide rollout of the new integrated service model will occur from 2022-23.

In its June 2018 response to the Royal Commission, the NSW Government responded to the recommendation which relates to providing enhanced support and specialist therapeutic treatment to victims and survivors (recommendation 9.6) as 'subject to further consideration'. As there has been positive progress in implementing a response to this recommendation since 2018, the NSW Government response has 'accepted' this recommendation.

NSW Health is developing an Integrated Trauma-Informed Care Framework

NSW Health is developing an Integrated Trauma-Informed Care Framework for vulnerable children, young people and families, which is a key deliverable under the Integrated Prevention and Response to Violence, Abuse and Neglect Framework and is consistent with recommendations of the Royal Commission. It aims to improve the health care experiences of vulnerable children and young people and their families, as well as the experiences of health care providers. The Framework includes practical tips for clinicians and other patient-facing staff based on feedback from community consultations, as well as guidance for policy makers, administrators, managers and executives. Consultation is currently being undertaken on the draft Framework.

Additional funding for community based support services has been distributed

The \$1.2 million funding committed for the 2020-21 financial year has been allocated to selected community-based service providers who provide counselling and a range of other support services to survivors. The additional funding will assist these providers to continue responding to the additional demands for their services following the Royal Commission and establishment of the National Redress Scheme.

Improved service access for Aboriginal people and people with a disability

The Ministry of Health is developing a Sexual Assault and New Street Services Access Strategy for People with Disability in partnership with the NSW Health Education Centre Against Violence. The University of New South Wales and Flinders University has completed a literature review and needs assessment and developed a co-design framework for improving service access for people with disability. A disability portfolio team has been established to support the co design development and implementation of the strategy.

Local Health Districts and Sydney Children's Hospital Network are developing Aboriginal Action Plans, which will support increased access to Sexual Assault Services for Aboriginal people and the allocation of future workforce funding. An Aboriginal Expert Group has been established and is providing guidance and quality assurance for this work. Targeted cultural safety engagement and

development training will be provided to Sexual Assault Service leadership that will inform the development of a strategy to embed ongoing learning, commitment of leadership and staff to continue to improve service access and provision for Aboriginal people.

A cross-government commissioned approach to community-based support services

The Royal Commission recommended that Australian governments should fund support services for victims and survivors, to provide an integrated model of advocacy, support and counselling to children and adults who experienced child sexual abuse in institutional contexts.

During July-August 2019, DCJ undertook targeted consultations to complete a market analysis of the commissioning process for community-based support services. Government agencies, peak bodies and advocacy bodies and organisations that provide community support services to people who have experienced sexual assault were consulted. The consultation findings provided an insight into the current challenges, barriers and key needs for people who have experienced sexual assault.

The final report on consultation has been shared with relevant agencies to ensure the lessons and recommendations outlined in the consultation report are applied within their commissioning and program management processes in order to better align service delivery over time.

Strengthening the justice response to child sexual abuse

Child Sexual Offence Evidence Program continues to operate

The Department of Communities and Justice, Victims Services continues to administer the Child Sexual Offence Evidence Program, which aims to reduce the duration of court proceedings and the stress and trauma experienced by children and young people who are survivors and/or witnesses in sexual offence matters.

The Child Sexual Offence Evidence Program is currently operational in Sydney Downing Centre and Newcastle District Courts. Support is offered from the Hunter, Central Metropolitan and South West Metropolitan Joint Child Protection Response Program sites. Arrangements for child witnesses and Children's Champions (witness intermediaries) to participate in communication assessments and Court matters through audio-visual technology have been implemented during the COVID-19 pandemic. The current focus is on ensuring quality services are delivered by accredited witness intermediaries and maintaining a National Community of Practice with other jurisdictions. Victims Services is focused on implementing a continuous improvement agenda for the Program.

Reforms to criminal justice laws to protect children

In February 2020, the NSW Government introduced the *Evidence Amendment (Tendency and Coincidence) Bill 2020*, which passed Parliament on 3 June 2020. NSW was the first state to pass legislation to facilitate greater admissibility of tendency and coincidence evidence, with a particular focus on criminal proceedings for child sexual offences.

This represents the NSW Government's response to recommendations 45, 46, 47, 49, 50 and 51 of the Royal Commission Criminal Justice Report. These amendments commenced on 1 July 2020.

Tendency evidence is evidence of the character, reputation, conduct or tendency of a person, which is used to prove that a person has or had a tendency to act in a particular way or have a particular state of mind. An example of tendency evidence is evidence that an accused person has a tendency to be sexually attracted to young boys and to act on that attraction.

Coincidence evidence is evidence that two or more similar events occurred, which is used to prove that a person did a particular act or had a particular state of mind, on the basis that it is improbable

that the events occurred coincidentally. An example of coincidence evidence is multiple complainants alleging that an accused person abused them when they were children.

On 20 October 2020, the NSW Parliament passed amendments to the *Criminal Procedure Act 1986* (NSW) to enact two additional supplementary reforms associated with admissibility of tendency and coincidence evidence agreed by the Council of Attorneys-General (CAG). The first reform introduces a presumption in favour of joint trials in circumstances where a defendant has been accused of multiple offences, in respect of which the prosecution is seeking to lead tendency or coincidence evidence. This reform commenced on 27 October 2020. The second reform clarifies that a jury should not be directed as to the standard of proof required for tendency and coincidence evidence, which implements recommendation 48 of the Royal Commission Criminal Justice Report. This reform will commence on 1 March 2021.

Religious confession and how it applies to child abuse reporting was referred to the Council of Attorneys-General for consideration at the national level

In June 2019, CAG established a working group (led by NSW) to consider the recommendations of the Royal Commission to exclude the application of confessional privilege as it applies to criminal and civil laws requiring the reporting of child abuse. CAG considered the report of the working group in November 2019 and agreed that each jurisdiction would consider the application of principles to promote implementation of the Royal Commission recommendations in their respective legislation. The principles are:

- Confessional privilege cannot be relied upon to avoid a child protection or criminal obligation to report beliefs, suspicions or knowledge of child abuse
- Confessional privilege cannot be relied upon by a person, in civil or criminal proceedings, to excuse a failure to comply with any child protection or criminal obligation to report beliefs, suspicions or knowledge of child abuse.
- Confessional privilege cannot be relied upon by a person who had an obligation to report beliefs, suspicions or knowledge of child abuse, to avoid giving evidence in civil or criminal proceedings against a third person for child abuse offences.

NSW is currently considering the application of these principles to relevant legislation.

NSW continues to support the implementation of the National Redress Scheme

NSW continues to participate in the National Redress Scheme (the Scheme). The Scheme provides critical support to people who have experienced institutional child sexual abuse. NSW contributes to ongoing work to ensure the Scheme is providing the most effective response to survivors through the NSW Attorney General's participation on the Ministers' Redress Scheme Governance Board (the Redress Board) and supported by officials from DCJ's membership of the Redress Scheme Inter-Jurisdictional Committee (IJC).

On 14 July 2020, the NSW Attorney General announced that non-participating institutions that fail to join the Scheme will risk exclusion from future NSW Government funding or contracts. This followed statements by the Redress Board in April and July 2020 that responsible institutions have a moral obligation to join the Scheme to ensure survivors of abuse have access to redress.

National collaboration and consistency key to preventing child sexual abuse

Supporting children's behaviours and vulnerabilities by improving how student information is shared

The Australian Institute for Teaching and School Leadership, in conjunction with the Department of Education and other states and territories, is developing a best practice framework to support information sharing between teacher regulatory authorities and improve mutual recognition processes. The framework will help to ensure that appropriate information to support children's behaviours and vulnerabilities is available in the school system by improving how student information is shared.

Jurisdictions will be tasked to examine existing policy and legislation in each jurisdiction against this framework, and develop a roadmap to meet the framework. Advice from employers and teacher regulatory authorities was provided in September 2020, with progress reporting against the roadmap anticipated to begin after this. However, the timeline for further progress on improving sharing of student information is dependent on the inter-jurisdictional aspect of the work and the development of a national information exchange system.

Improving child safety in schools by strengthening national teacher registration requirements

The Department of Education is seeking amendments to the *Teacher Accreditation Act 2004* to comply with national policy on suitability to teach, including considerations of a 'fit and proper' person to improve child safety. The amendments are still in progress as consultation with key stakeholders was postponed from March 2020 to early August 2020 due to the impacts of COVID-19.

The Department of Education is currently considering consultation feedback and will further progress the amendments in 2021.

NSW has continued collaborating with other states and territories to progress national initiatives to prevent child sexual abuse

On 29 July 2020, Ministers agreed to extend the National Framework for Protecting Australia's Children (National Framework) and Fourth Action Plan by six months, to expire on 30 June 2021, rather than 31 December 2020 due to COVID 19. The focus within the next six months is to resume and finalise implementation of the Fourth Action Plan, which includes the work plan of the Child Safety Working Group (CSWG) and determine a post-2020 successor plan to the National Framework, including the scope, timeframe and priorities.

Despite the reprioritisation, NSW has continued to collaborate with other states and territories to progress initiatives which promote national consistency in preventing child sexual abuse where possible. In 2020, NSW has made progress in developing a regulatory scheme for Child Safe Standards, submitted a response to a CSWG scoping paper outlining key information sharing arrangements in NSW and commenced legislative amendments expanding mandatory reporter groups.

Development of a National Strategy to Prevent Child Sexual Abuse

The National Office for Child Safety (NOCS) is leading on the development of a National Strategy to Prevent Child Sexual Abuse, as part of the CSWG work plan. NSW, along with other states and territories, is collaborating with and supporting the NOCS to undertake this project.

The National Strategy will include a range of initiatives with a particular focus on cultural change through education and awareness raising, and will mark a significant step towards achieving a nationally coordinated approach to protecting children from sexual abuse.

Consultations with the NSW government and non-government sector on the design of the National Strategy were planned for April–June 2020. In light of the COVID-19 pandemic and the reprioritisation of national policy work, these consultations have been deferred and are now expected to take place in 2021. The National Strategy will be a core national policy vehicle in reducing the prevalence of child sexual abuse in Australia.

Monitoring future progress

In 2021, NSW will continue to work with its government and non-government partners, the Australian Government and other state and territory governments to implement major reforms to prevent child sexual abuse and ensure better outcomes for children, young people, survivors of child sexual abuse and the NSW community.

The next update on the NSW Government response to the Royal Commission's recommendations will be published in December 2021. The fourth NSW Annual Report on Progress will provide information about the Child Safe Standards regulatory framework, the residential care workers register and the NSW Framework for Preventing and Responding to Problematic and Harmful Sexual Behaviours.

The NSW Government remains focused on preventing child sexual abuse, improving responses to the victims and survivors through better access to treatment and support, and strengthening the justice response to child abuse.