

**Victorian Government Response to the report of the Family And Community Development  
Committee Inquiry into the Handling of Child Abuse by Religious and Other Non-  
Government Organisations 'Betrayal Of Trust'**

## **Foreword**

The Family and Community Development Committee's Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations exposed horrific abuse of children by adults who were entrusted with their care. By initiating this Inquiry, the Government allowed a light to shine on this appalling abuse and its devastating consequences. It has made evident the impact criminal child abuse can have on the lives of victims, some of whom are survivors, and some of whom have taken their own lives, so profound have been the consequences of their abuse. Many victims have suffered severe, ongoing harm and in many cases this was intensified by the failure of those in positions of authority to act when abuse became apparent. There is no doubt this represented an enormous betrayal of trust by institutions that were entrusted with the wellbeing of children. As evidenced by the submissions and testimony received by the Committee, when the abuse occurred in a religious organisation there was also a feeling of betrayal at a deeply personal, spiritual level. As one witness said, they 'stole my soul'.<sup>1</sup>

The Victorian Government welcomes the Committee's report, *Betrayal of Trust*, and supports in principle all of the Committee's recommendations.

The Government thanks and pays tribute to those survivors who were able to share their experiences and views with the Committee. They showed extraordinary strength and courage in telling their stories to the Committee through their testimony and submissions.

The Government has considered the findings and recommendations of the report and is taking positive steps to ensure that in the future, children do not have to endure what these children suffered in the past.

In taking these steps, the Government is mindful of the work of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), and the intersection of its work with some of the Inquiry's recommendations. The Government also recognises the need to consult with organisations in the community to make sure we get the details right to bring real change.

The report's findings and recommendations – and the Government's response – fall under three broad themes: prevention, response, and access to justice.

In responding to the Inquiry's recommendations, the Government has focused its initial attention on those recommendations critical to ensuring the immediate safety of children. For example, the Government has already implemented three of the Inquiry's recommendations by introducing three new criminal offences to protect children from abuse. These are:

- a new grooming law, which prohibits any communications with a child or the child's parents or carers intended to facilitate engaging the child in a sexual offence;
- a new offence for people who hold a position of responsibility who fail to protect a child from sexual abuse when they know someone associated with their organisation poses a risk of sexually abusing children; and
- a new offence for individuals who fail to inform police if they know or believe that a child has been sexually abused.

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<sup>1</sup> *Betrayal of Trust* Report, Part A, Chapter 1, p5

These new offences are critical to preventing further abuse of children and bringing offenders to justice under our criminal laws.

The Government's next priority is ensuring children are safe by strengthening organisations' approaches to preventing and responding to abuse.

The Government will work with the Commission for Children and Young People (CCYP) to strengthen the capacity of organisations that have direct and regular contact with children to prevent and respond to child abuse. Minimum child safe standards will be introduced for these organisations, to promote the adoption of preventive measures to minimise the risk of child abuse. These standards will be mandatory for organisations with a high degree of responsibility for children. The Government will improve oversight of organisations with the highest level of responsibility for children by developing a 'reportable conduct' scheme, which will require centralised reporting of abuse allegations to the CCYP. In addition to existing child safety and welfare requirements, all schools will be required to implement a policy for responding to allegations of child abuse as a condition of registration.

The Government will also introduce legislation to expand the Working with Children (WWC) Check requirements so that a minister with children in their congregation, or who otherwise comes into contact with children as part of their duties as a minister, will be required to get a check.

The third phase of the Government's response to the Inquiry's findings and recommendations is consideration of options for civil law reform and for redress, which the Government supports in principle. As noted by the Chair of the Royal Commission, designing a fair redress scheme raises significant and difficult questions. The Government will continue to explore options for implementing the Committee's recommendations and will follow closely the work of the Royal Commission in its consideration of how to best provide access to justice and redress at a national level.

The Government recognises that these are significant reforms, with implications for organisations working with children. To ensure these reforms achieve their intended outcomes without unnecessarily increasing the compliance burden on non-government organisations, the Government will undertake targeted consultation with relevant organisations, peak bodies, and the CCYP over the coming months. This will include consultation on the scope of organisations that may be required to meet any new obligations, and the timing of implementation.

Some reforms relating to the protection of children may be more effective where there is national cooperation and consistency. The Government will continue to work with other jurisdictions on these issues and will carefully consider all findings and recommendations made by the Royal Commission in its Interim Report (due by 30 June 2014) and reports from individual Royal Commission case studies that have been the subject of public hearings.

### **A Government focused on protecting children from harm**

These proposed reforms are in addition to the already stringent measures in place to protect children from the risk of child abuse. For example, comprehensive background checking and ongoing monitoring, as well as child safety and welfare standards exist for organisations and individuals alike who engage in child-related work. However, this Government is committed to their improvement.

Since 2010, the Government has also implemented a wide range of initiatives to improve outcomes for vulnerable children and keep children safe from harm.

In January 2011, the Government initiated the *Protecting Victoria's Vulnerable Children Inquiry* (the Cummins Inquiry) to investigate systemic problems in Victoria's child protection system. The final report,

tabled in Parliament in February 2012, made 90 recommendations to promote the safety and wellbeing of vulnerable children.

In May 2012, the Government published *Victoria's Vulnerable Children – Our Shared Responsibility Directions Paper* and announced a program of investment to support reform. The Government has made an additional investment of more than \$900 million over the last four State Budgets to better protect and support vulnerable children, young people and families.

In October 2012, consistent with the recommendations of the Cummins Inquiry and commitments made in the directions paper, the Government introduced legislation to establish the CCYP, and appointed Mr Bernie Geary OAM to the role of Principal Commissioner. The CCYP's responsibilities include the power to initiate inquiries into government and government-funded organisations.

In July 2013, Australia's first Commissioner for Aboriginal Children and Young People, Mr Andrew Jackomos, was appointed.

In May 2013, *Victoria's Vulnerable Children – Our Shared Responsibility Strategy 2013–2022* was released. This ten-year strategy outlines the Government's long-term commitment to improving outcomes for vulnerable children and families by preventing abuse and neglect, acting earlier when children are vulnerable, and improving the outcomes for children in out-of-home care.

In March 2014, the Government implemented another of the Cummins Inquiry's recommendations when it released *Out-of-home care: a five year plan*, and has committed \$128 million over four years to support implementation of the plan. It will provide additional support to keep children safe from sexual exploitation, by using 'disruptive policing' and training child protection practitioners, police, service providers and residential care workers about how to detect and prevent the sexual exploitation of young people. In addition, service providers that deliver out-of-home care services will be required to have a formal child sexual exploitation prevention and response strategy in place. The Government will also request that the CCYP undertake an independent annual audit of a number of randomly identified children and young people in out-of-home care and report to the Minister for Community Services on the quality of service they are receiving.

Police investigation of child abuse has been strengthened, including through the establishment of Taskforce Astraea to tackle child exploitation on the internet, and the creation of 27 teams of specialist detectives trained to investigate child sexual abuse across the state.

The Government has also expanded multi-disciplinary centres in metropolitan and regional areas, which co-locate child protection practitioners with specialist police investigators and sexual assault counsellors/advocates. These centres reduce the trauma people experience when reporting sexual abuse to police by providing a holistic, collaborative response. Funding has been provided to establish three new centres, in Dandenong, the Latrobe Valley and Bendigo. Work is under way for the first of these new centres to be completed later in 2014. The remaining two centres will be established by mid-2015.

To assist former state wards who were in care in Victoria, the Government also provides about \$2.4 million each year for support services, such as Open Place. Open Place provides free counselling services, some financial assistance to access health and training services, and helps people access their records as well as trace family members.

To better support schools and other education organisations to respond to issues of abuse, the Government implemented a mandatory reporting e-learning module in July 2012. Over ninety-five per cent of school teachers have completed the training, enhancing their ability to recognise the signs and symptoms of abuse and act accordingly.

In addition, the Department of Education and Early Childhood Development has partnered with Education Queensland to make the Daniel Morcombe Child Safety Curriculum available to all Victorian schools. This curriculum aims to support schools and teachers in promoting safety for all students. It includes lessons about personal safety and awareness, cyber-safety and telephone safety for students from Prep to Year 9, and aims to develop students' knowledge and skills to recognise, react to, and report unsafe situations.

The Government will also shortly release *Building Respectful Relationships: Stepping Out Against Gender-Based Violence*, a new resource providing a whole-school approach to gender-based violence and a series of curriculum activities targeted at Year 8 and 9 students around the central themes of gender, power, violence and respect.

This Government is committed to ensuring that these changes, in addition to the wide-ranging measures already in place in this state, will better protect children from abuse now and into the future.

## Summary of Recommendations

Recommendation	Response	Comment
<p><b>10.1</b> In regard to the operations of the <i>Working with Children Act 2005</i> (Vic) (WWC Act), that the Victorian Government:</p> <ul style="list-style-type: none"> <li>clarify the requirements for religious organisations to ensure ministers of religion have a current Working with Children Check (WWCC)</li> <li>institute a system of compliance monitoring and investigation of the operation of the WWC Act similar to the equivalent system in New South Wales</li> <li>ensure that all relevant non-government organisations are required to report any allegations of misconduct relating to children to the Victorian Department of Justice WWCC Unit</li> <li>raise the awareness of organisations about the importance of regularly reviewing the status of WWCC by personnel, the need to adopt a range of screening tools, and to not over rely on the WWCC.</li> </ul>	Support	<p>The Government will:</p> <ol style="list-style-type: none"> <li>expand the WWC Check requirements so that any minister with children in their congregation, or who otherwise comes into contact with children as part of their duties as a minister, will be required to get a check</li> <li>strengthen WWC Check compliance-monitoring through oversight of child safe standards (see response to recommendation 12.1)</li> <li>introduce a 'reportable conduct' scheme, which would require organisations with the highest level of responsibility for children to notify the Commission for Children and Young People (CCYP) of all allegations and findings of child abuse (see response to recommendation 18.1)</li> <li>expand the role of the CCYP in educating and building the capacity of organisations to implement preventive strategies to minimise the risk of child abuse, including appropriate use of WWC Checks and other screening tools, with assistance from the WWC Check Unit (see response to recommendations 13.1 and 13.2).</li> </ol>
<p><b>12.1</b> That the Victorian Government review its contractual and funding arrangements with education and community service organisations that work with children and young people to ensure they have a minimum standard for ensuring a child-safe environment, including the following principles:</p> <ul style="list-style-type: none"> <li>a statement of zero tolerance of criminal child abuse</li> <li>principles to guide decisions</li> <li>procedures on the employment of new personnel</li> <li>a risk management approach</li> <li>processes for reporting and responding to allegations of criminal child abuse.</li> </ul> <p>That the Victorian Government consider the potential for extending a standard for child-safe environments to other organisations or sectors that have direct and regular</p>	Support	<p>The Government will introduce new child safety standards for all organisations that have direct and regular contact with children. The standards will be developed with the CCYP and outline the types of policies and procedures that organisations working with children should have in place to ensure a 'child safe' environment is established and maintained. The standards are expected to be mandatory for organisations with a high degree of responsibility for children, such as schools; regulated children's services (including kindergartens and out of school hours care); out-of-home care; youth justice services; residential youth mental health and alcohol and drug services and pastoral and spiritual care services. The standards will protect children by assisting organisations providing child-related services to take preventive action to minimise the risk of child abuse within their organisations.</p> <p>The primary aim of introducing child safety standards is to drive cultural change and a focus on risk management within organisations working with children. The standards will be principle-based to enable different organisations and sectors to</p>

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contact with children.		<p>tailor appropriate responses to their circumstances. Some organisations and sectors may already have appropriate policies and practices in place. Other organisations and sectors will be able to use or build on existing regulatory arrangements that support child safe environments.</p> <p>The Government will also grant the CCYP a specific function to keep child safety systems under scrutiny in organisations providing child-related services. Following a period of implementation of the child safe standards, the Government may seek the CCYP's advice on whether further measures are required to improve child safety.</p>
<p><b>13.1</b> That through the relevant statutory body or department the Victorian Government should:</p> <ul style="list-style-type: none"> <li>• identify an effective approach or model for supporting peak bodies to build preventative capacity in sectors that interact with children</li> <li>• identify ways to encourage smaller organisations or activities to be affiliated with peak bodies to enable access to capacity building opportunities.</li> </ul>	Support	<p>The Government will work with the CCYP and the non-government sector, including peak bodies, to build the capacity of child-related organisations to prevent, detect and respond to child abuse (see response to recommendations 12.1 and 18.1). This will build on the CCYP's existing role in promoting the safety and wellbeing of children.</p>
<p><b>13.2</b> That the Victorian Government expand on its response to Recommendation 10 in the <i>Protecting Victoria's Vulnerable Children Inquiry</i> (the Cummins Inquiry) report to ensure that non-government organisations are equipped with high quality information and advice about the prevention of criminal child abuse in organisations.</p>	Support	<p>As indicated in its response to recommendation 13.1, the Government will work with the CCYP and the non-government sector to build the capacity of child-related organisations.</p>
<p><b>16.1</b> That the Victorian Government review the current Department of Education and Early Childhood Development procedures for responding to allegations of all forms of criminal child abuse within all Victorian schools and identifies a benchmark that could be applied more broadly to non-government schools.</p>	Support	<p>The Government will amend legislation to require all schools to implement a policy for responding to allegations of child abuse as a condition of registration, and allow the Minister for Education to prescribe the content of such policies by way of Ministerial Order. The legislation empowering the Minister to make such an Order is expected to be introduced into Parliament this year.</p>
<p><b>18.1</b> That the Victorian Government authorise an independent statutory body with relevant investigatory powers and</p>	Support	<p>The Government will introduce new measures to improve the response to allegations of child abuse, as well as the coordination and oversight of systems to</p>

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<p>legal and operational resources to:</p> <ul style="list-style-type: none"> <li>oversee and monitor the handling of allegations of child abuse by relevant government departments, religious and non-government organisations</li> <li>undertake independent investigations into systems and processes in the context of allegations of reportable conduct and/or reportable convictions</li> <li>scrutinise and audit the systems and processes in non-government organisations for handling allegations of child abuse</li> <li>monitor and report on trends associated with allegations by collecting relevant data, and report to the Parliament on an annual basis</li> <li>build the skill and knowledge of personnel in relevant government departments, religious and non-government organisations to ensure they have the capacity to competently handle allegations of suspected child abuse.</li> </ul>		<p>protect children.</p> <p>The Government will introduce a new 'reportable conduct' scheme which will require organisations with the highest level of responsibility for children to notify the CCYP of all allegations and findings of child abuse. The CCYP will:</p> <ul style="list-style-type: none"> <li>contribute to the development of new standards for responding to allegations of child abuse</li> <li>oversee the new 'reportable conduct' scheme</li> <li>scrutinise the systems in place for keeping children safe in organisations that provide child-related services</li> <li>provide broad systemic oversight and advice to Government on child safety systems, including reporting publicly on trends and systemic issues</li> <li>build the capacity of child-related organisations to prevent, detect and respond to child abuse (see also responses to recommendations 12.1, 13.1 and 13.2)</li> </ul> <p>The new functions will build on the CCYP's existing role to provide support to, and oversight and scrutiny over, all organisations that provide child-related services. A reportable conduct scheme would not interfere with reporting obligations to police or with police investigations.</p> <p>The Government will also consider whether the reforms proposed by the Inquiry would be complemented by broader information-sharing provisions, similar to those in Chapter 16A of the New South Wales <i>Children and Young Persons (Care and Protection) Act 1998</i> (NSW) that enable government and non-government organisations to share information to promote child safety or wellbeing.</p>
<p><b>22.1</b></p> <p>The Committee recommends that the Victorian Government give consideration to an amendment to the <i>Crimes Act 1958</i> (Vic) to create a criminal offence of grooming.</p> <p>The grooming offence should:</p> <ul style="list-style-type: none"> <li>not require a substantive offence of sexual abuse to have been committed</li> <li>recognise that in addition to the primary or intended child victim of sexual abuse, parents and others can be</li> </ul>	<p>Implemented</p>	<p>The Government has amended the <i>Crimes Act 1958</i> to create a new anti-grooming offence. The new offence introduces a prohibition on any grooming of either a child under 16 or their parents or carers, with a penalty of up to 10 years.</p>

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<p>victims of this criminal conduct.</p> <p><b>23.1</b> The Committee recommends that the Victorian Government consider amending section 326 of the <i>Crimes Act 1958</i> (Vic) to remove the element of 'gain', to ensure that a person who fails to report a serious indictable offence involving the abuse of a child will be guilty of an offence.</p>	Implemented	The Government has introduced a Bill to amend the <i>Crimes Act 1958</i> to create a new offence, which will provide that an adult must not fail to disclose to police a sexual offence reasonably believed to have been committed against a child under 16. The Bill will provide appropriate defences to the offence, including where a person holds a reasonable fear for their own or another person's safety and it is reasonable not to report in the circumstances.
<p><b>23.2</b> The Committee recommends that the Victorian Government consider the introduction of a criminal offence relating to child endangerment to cover relevant wanton or reckless behaviour in situations:</p> <ul style="list-style-type: none"> <li>• when a person is aware of and consciously disregards a substantial and unjustifiable risk that their acts or omissions placed a child in a situation that might endanger the child's life, health, welfare, morals, or emotional well-being</li> <li>• where the risk is of such a nature and degree that disregarding the risk would constitute a gross deviation from the standard of conduct that a reasonable person would observe in the situation.</li> </ul>	Implemented	The Government has introduced a Bill to amend the <i>Crimes Act 1958</i> to create a new offence relating to child endangerment. This offence will apply where there is a substantial risk that a child under the authority of an organisation will become a victim of a sexual offence by an adult associated with that organisation. The accused will be guilty if they knew of this risk and had the authority to reduce or remove the risk, but negligently failed to do so.
<p><b>26.1</b> That the Victorian Government consider requiring non-government organisations to be incorporated and adequately insured where it funds them or provides them with tax exemptions and/or other entitlements.</p>	Support in principle	The Government is currently considering options to achieve the objectives of this recommendation. The Government notes that these matters are also the subject of current inquiries by the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission).
<p><b>26.2</b> That the Victorian Government work with the Australian Government to require religious and other non-government organisations that engage with children to adopt incorporated legal structures.</p>	Support in principle	As with recommendation 26.1, the Government is currently considering options to achieve the objectives of this recommendation.
<p><b>26.3</b> That the Victorian Government consider amending the <i>Limitation of Actions Act 1958</i> (Vic) to exclude criminal child abuse from the operation of the limitations period under that Act.</p>	Support in principle	The Government will remove inappropriate time limitations and impediments with respect to access to justice for victims of criminal child abuse, and is currently developing legislation to implement this. The Government is also introducing common guiding principles for departments for responding to civil claims against



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<p><b>26.4</b></p> <p>That the Victorian Government undertake a review of the <i>Wrongs Act 1958</i> (Vic) and identify whether legislative amendment could be made to ensure organisations are held accountable and have a legal duty to take reasonable care to prevent criminal child abuse.</p>	<p>Support in principle</p>	<p>the State relating to child sexual abuse.</p> <p>The Government is currently considering options to achieve the objectives of this recommendation.</p>
<p><b>27.1</b></p> <p>That the Victorian Government consider amending the <i>Victims of Crime Assistance Act 1996</i> (Vic) to specify that no time limits apply to applications for assistance by victims of criminal child abuse in organisational settings.</p>	<p>Support in principle</p>	<p>The Government is currently considering options for redress for victims in relation to this recommendation. The Royal Commission is investigating this matter and has released an issues paper on redress for victims of child sexual abuse in institutional settings. The Government will consider any findings and recommendations of the Royal Commission in its response to this recommendation.</p>
<p><b>28.1</b></p> <p>That the Victorian Government review the functions of the Victims of Crime Assistance Tribunal to consider its capacity to administer a specific scheme for victims of criminal child abuse that:</p> <ul style="list-style-type: none"> <li>• enables victims and families to obtain resolution of claims arising from criminal child abuse in non-government organisations</li> <li>• is established through consultation with relevant stakeholders, in particular victims</li> <li>• encourages non-government organisations to voluntarily contribute a fee to administer the scheme</li> <li>• ensures non-government organisations are responsible for the funding of compensation, needs and other supports at amounts agreed through the process.</li> </ul>	<p>Support in principle</p>	<p>As noted in recommendation 27.1, the Government is currently considering options for redress for victims in relation to this recommendation. The Royal Commission is investigating this matter and has released an issues paper on redress for victims of child sexual abuse in institutional settings. The Government will consider any findings and recommendations of the Royal Commission in its response to this recommendation.</p>