

## Statement of Timothy Bullard

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RFS-TAS-002 – Brad

Name Tim Bullard

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### Background

1. This statement is made by me in response to RFS-TAS-002, issued on 24 February 2022 by the President of the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (the Commission), the Honourable Marcia Neave AO.
2. My name is Timothy John Bullard, and I am the Secretary of the Department of Education ("**the Department**").
3. I graduated from the University of Tasmania in 1994 with a Bachelor of Arts/Bachelor of Laws (Honours). I commenced my career as a lawyer in the Office of the Solicitor-General, before moving to the United Kingdom in 2000, where I worked in Corporate Finance for international law firm Clifford Chance from 2000 until 2002.
4. From 2002 until 2004 I worked as a policy officer for the London Borough of Redbridge where, as part of my responsibilities, I provided policy support to Local Education Authority, with a particular focus on seeking the views of children and young people and providing young people with agency. My work was featured at a national conference and showcased by the BBC.
5. In 2004 I returned to Australia and commenced at the Department of Premier and Cabinet working in various policy positions in the Policy Division, becoming Deputy Secretary (Policy) in 2014.

During this time, I led work on a broad range of policy areas, including working with the Department of Education and the Australian Government on the National Education Agreement and various national partnerships, assisting in the development of Child and Family Centres, and leading the Tasmanian team negotiating Better Schools (Gonski 1) funding.

6. In 2016 I commenced as Deputy Secretary (Strategy and Performance) at the Department where I was responsible for broad range of strategic functions. I acted for short periods as Secretary, whilst the previous incumbent was on leave, commencing an extended period of Acting Secretary from 28 November 2017 before being appointed Secretary of the Department on 29 March 2018. My tenure as Secretary is from 29 March 2018 for a period of five years.
7. During my time with the Department, I have served on two of the three national boards that oversee the delivery of education in Australia, the Australian Curriculum, Assessment and Reporting Authority and the Australian Institute of Teaching and School Leadership.
8. The Department of Education is responsible for the delivery of early year services and public school education, adult and community education, and library and archive services throughout Tasmania. The Department reports to Minister Jaensch as the Minister for Education, Children and Youth.
9. Education services are delivered across the State through 194 government schools, 12 Child and Family Learning Centres and 47 libraries. The number of students from pre-kindergarten to senior secondary is around 59,500 FTE. The Department also has over 10,000 employees, with a majority of staff working in its government schools.
10. The 2022-2025 Department of Education Strategic Plan, *Learners First: Every Learner, Every Day* drives the Department's culture, evidence-based actions, approach to improvement and allocation of resources. The Strategic Plan articulates the Department's shared commitment that together we inspire and engage all learners to learn more every day.
11. The delivery of education from kindergarten to year 12 is governed by the *Education Act 2016* (TAS) and the *Australian Education Act 2013* (CTH).
12. The work of the Department is supported by four Divisions, namely Learning, Support and Development, Strategy and Performance, and Corporate and Business Services.

These Divisions support Child and Family Learning Centres, libraries, and schools through the provision of services such as finance, human resources, facilities management, strategic policy advice, curriculum development, school improvement and school review.

13. The recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and the recent Independent Inquiry into the Department of Education's Responses to Child Sexual Abuse (DoE Inquiry) have provided the Tasmanian Government and the Department with a nationally consistent and evidence-based approach to improving our practices.
14. In response to the DoE Inquiry, we have established the Office of Safeguarding Children and Young People to lead the development of a whole-of-department child safeguarding strategy and policy framework.

### **Commitment**

15. The Department of Education's vision is that Tasmanians are connected, resilient, and curious thinkers. This is underpinned by our obligations to ensure all children and young people have a right to an education, to be heard and to be kept safe from harm.
16. We know that as a Department, our duty of care requires that we act 'in loco parentis' in keeping children in our care safe from harm.
17. The safety and wellbeing of children and young people in our care, therefore, underpins all aspects of our work. Our Strategic Plan also acknowledges the rights of the child to be kept safe from harm and it is also reflected in our Strategic Plan goal of wellbeing, which requires us to ensure that all learners are 'safe, feel supported and are able to flourish so they can engage in learning'.
18. Just as the Tasmanian Government has endorsed the National Principles for Child Safe Organisations, which give effect to the Child Safe Standards defined by the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA), the Department is committed to developing and refining our practices to align with and support the National Principles.
19. I am personally committed to embedding practices that safeguard children and young people across our Department, by making our systems, policies, practices and training stronger.

## Areas for improvement

20. We will only be truly successful when every learner in our system has the agency and confidence to speak up when they don't feel safe, and every employee in the Department has the knowledge and capabilities to support those who report abuse, and appropriately manage and report suspected instances of child sex abuse once they become aware of them.
21. Whilst there has been improvement in our processes and policies over the last few years, we accept that there are areas in which we can, and must, do more work to ensure that we are all working in a way that keeps children and young people in our care safe, and places them at the centre of all our decisions. One of these areas is the investigation of allegations of child sexual abuse committed by current staff, and the processes that underpin those investigations.
22. As will be discussed in further detail in relation to the specific case studies, I acknowledge that some past investigations have not been undertaken in accordance with best practice processes or in a manner that is timely and acknowledge that they have, at times, fallen short of community standards and expectations.
23. It is also of personal concern to me that the best interests of children and young people have not always been properly served by the manner in which allegations have been managed.
24. Of particular note, is the follow up support provided to children and young people who have made allegations of child sexual abuse against an employee or a peer. It appears that historically effort has been directed at the management of the investigation and the employee/peer who is the subject of the allegations, rather than support for the child or young person making the allegations being prioritised.
25. The release of the DoE Inquiry corroborated evidence that we had begun to gather with regard to the lack of co-ordinated support for children making allegations and since that time we have put in place clear processes to ensure that this support occurs.
26. Information sharing within the Department, across agencies and with bodies such as the Teachers Registration Board (TRB) must also improve. There is more we must do, within the bounds of what is legally permissible, to enable information to be shared in a consistent and timely way to inform the decisions of all parties that have a role in keeping children and young people safe from harm.

27. In addition, I am of the opinion that in the past matters have not been dealt with as expediently as they should have been, including when this has involved other agencies. There are a number of reasons for the time it takes to bring a matter to a resolution, including criminal investigations, time taken by independent investigators, the resources required to co-ordinate the investigation and the process dictated by Employment Direction No. 5. We must do more to reduce the time we take to address allegations of child sexual abuse and bring closure to the incident for those who are involved.
28. Our record keeping systems have also been lacking. This has been due to a range of factors, including schools maintaining local records and not always using central systems, a lack of functionality and interface capability with existing systems such as the Student Support System (SSS), and the capacity to share relevant information between agencies, such as Registration to Work with Vulnerable People (RWVP)<sup>1</sup> and Tasmania Police (TASPOL).<sup>2</sup> This has hindered the sharing of relevant information across the Department or in providing easy access to historical information and data to help inform our understanding of past matters. This means we have not always been able to effectively deal with allegations and suspicions of child sexual abuse. Whilst the use of the Department's record management system is now widespread in corporate areas, it is not used by schools and the digitisation of historic records of abuse is still ongoing.
29. It is difficult to assess the degree to which children and young people have been believed in the past, as the records available tend to be as a result of an allegation being believed and therefore referred for action. The Department needs to continue to be clear and consistent in its expectations of staff in relation to the prevention, detection, and response to child sexual abuse and in their willingness and ability to listen to the voices of children and young people. The release of *Our Approach to Improvement – A guide to student voice and agency*, last year is a further step in supporting a consistent and culturally embedded approach to student voice and agency.
30. We must also do more to support our staff—to help them understand how to prevent, detect and respond to suspicions and allegations of child sexual abuse, to listen to the voices of children and young people, to respond appropriately and to speak up when something does not fit with the culture we are trying to build, where children and young people's safety is at the centre of our

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<sup>1</sup> I note an information sharing agreement was entered into by the Department and RWVP in July 2018; refer to NTP-TAS-004 item 4

<sup>2</sup> I note a Memorandum of Understanding was entered into by the Department and TASPOL on 19 February 2022; refer to NTP-TAS-004 item 4

deliberations, values and actions, and where safeguarding the children and young people in our care is everybody's responsibility.

31. We are already working on these areas for improvement and I am determined that, through this work, we will build a culture where every child and young person in our care can feel safe, supported and listened to.

### **Current effort**

32. I established the Office of Safeguarding Children and Young People to: lead culture change across the Department; to ensure the safety, and voices and views of children and young people are the centre of our behaviours and decisions; and to ensure our systems, practices, procedures and professional learning put the best interests of all children and young people first. This decision acknowledges not only the importance of this work, but the complexity of doing it well in an organisation that is as large and diverse as the Department.
33. As part of this, the Office is overseeing the implementation of the recommendations of the DoE Inquiry, and the implementation of seven outstanding recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA).
34. Since establishment of the Office of Safeguarding Children and Young People and release of the DoE Inquiry, we have:
- discussed the importance of being child safe with all senior leaders across the Department (including Principals), and provided guidance on our contemporary approaches to recognising and managing child sexual abuse;
  - communicated with all staff regarding safeguarding ;
  - revised and simplified our protocols for staff to support them in responding to concerns or complaints about abuse in a range of different scenarios, including adult-student abuse; student-student abuse and abuse involving the internet and related technologies;
  - negotiated and finalised a Memorandum of Understanding with Tasmania Police for preventing and responding to sexual abuse in government schools;
  - commenced a review and revision of approximately 70 policies and procedures to ensure they explicitly refer to safeguarding children and young people as a key consideration, as well as emphasising the goal of understanding, preventing and responding to child sexual abuse;

- conducted a system review of a significant, recent incident of child sexual abuse involving a staff member and student, and commenced implementation of the recommendations of this review;
- commenced the development of a comprehensive, integrated student safeguarding policy and Code of Conduct for all Department staff;
- continued the development of a comprehensive Case Management Platform as a means of effectively recording, storing and capturing all relevant child safety-related information and commenced a pilot of the first stage of this system;
- revised and updated the Department's current website and staff intranet pages to improve visibility of, and accessibility to, information about safeguarding children and young people;
- commenced the development of a stand-alone Safeguarding Children and Young People website that is more child and family focused, which will be easy to navigate and will provide practical guidance for all members of the community, and information on a range of child sexual abuse tools and supports;
- commenced discussions with the UTAS School of Education to explore ways the Bachelor of Education and Master of Teach programs can in future years include specific and substantive content and assessment on understanding, preventing and responding to child sexual abuse in schools; and
- updated the Department's mandatory reporting guidelines to ensure they are clear and easy to understand, and commenced the development of a fit-for-purpose mandatory training module for all staff that will place mandatory reporting obligations within the wider context of a safeguarding system.

35. This work will continue as a priority; however, we do not intend to stop there. We know there is much more to be done.

### **The future**

36. We have planning underway to:

- a. work with the TRB and other government agencies to develop a more efficient and effective system of information-sharing;
- b. embed the newly developed Case Management Platform within the Department and explore opportunities to extend this system for use across other relevant State Government departments;

- c. create a range of professional development modules for all staff as part of embedding a child safe culture across the Department;
- d. revise and update all safeguarding-related policies and procedures to ensure they are focused on preventing child sexual abuse from occurring, as well as facilitating prompt, sensitive and effective responses to known concerns or allegations;
- e. develop risk management and assessment templates, guidelines and resources for use by schools and, in particular, School Safeguarding Officers; and
- f. develop and roll out annual training for school staff.

37. Through the standard 2022-23 State Budget process, resourcing decisions will be made in respect of the additional actions below:

- a. appointing a Student Safeguarding Officer in every government school, with appropriate induction and training being overseen by the Office of Safeguarding Children and Young People;
- b. working with each Safeguarding Officer to help them establish an individual and specific risk management plan and safeguarding risk assessment for their school; and
- c. developing and rolling out targeted information on understanding, preventing, identifying and responding to sexual abuse in inductions and annual training for all principals, teachers and teacher aides.

38. I would welcome any insights the Commission might be able to provide in terms of our current and planned approach, as well as suggestions for future focus as we work to address recommendations from the Royal Commission, the DoE Inquiry, and our own system reviews. We acknowledge that the scope of work is large and diverse, and it will require consistent and ongoing effort to embed it culturally within the organisation. Particular insights into prioritisation of effort for biggest impact would be particularly welcome.

***Further context regarding the role of the Secretary in responding to allegations of abuse***

39. Without limiting the above, I wish to provide some further context in relation to how I, as Secretary, approach the making of determinations in relation to allegations of child sexual abuse made against an employee, after I have been briefed on the investigation of these allegations, including any findings of an investigator.

40. As Secretary of the Department, I have a duty of care to children and young people while they are in our care. For this reason it is Department practice that in every case where allegations of child sexual abuse is made against a current employee the employee is requested, as soon as possible, to leave the workplace, prior to service of formal documentation. If after initial examination of the circumstances it is concluded that an employee may have breached the State Service Code of Conduct, they are then formally suspended in accordance with Employment Direction No 4 at the same time as an investigation is commenced pursuant to Employment Direction No 5.
41. As Secretary of the Department I am also a “person conducting a business or undertaking” (PCBU) for the purposes of workplace health and safety legislation and as such I must ensure, so far as reasonably practicable, that the Department’s workplaces pose no risk to the health and safety of any person, and I must do what is reasonable in the circumstances to mitigate or remove the risk or hazard.
42. In managing allegations of child sexual abuse against current employees I must, therefore, ensure that the processes in place to respond to the allegations are fair, proportionate, abide by the principles of natural justice, and comply with the relevant legislation and employment directions.
43. I am also cognisant of the fact that it is for me to prove the allegations to the requisite standard required by law (not for the employee to disprove them), and that any determination made by me against the employee must be established on the evidence to the requisite standard required under law (on the balance of probabilities).
44. I am also aware that any sanction imposed must be proportionate, taking into account both the seriousness of the employee’s action that gave rise to the allegation and the impact that action had on the child or young person.
45. Additionally, I am acutely aware that allegations against Department employees and subsequent investigation invariably have a negative impact on an employee’s wellbeing. I have, on a number of occasions, been informed of serious concerns for the safety and wellbeing of employees as a result of being investigated. In the discharge of my responsibilities as employer, I have the authority to approve access to additional personal and psychological support for these employees during the investigation.

## Determination of allegations of child sexual abuse under Employment Direction No. 5

46. Determinations made by me for allegations of suspected child sexual abuse are made under *Employment Direction No. 5 ("ED5")*. This direction sets out the procedures for the investigation and the determination of a breach of the State Service Code of Conduct found in section 9 of the *State Service Act 2000 ("the Code")*.

47. The following provisions of the Code are the most applicable to matters alleging sexual abuse of a child:

- (1) An employee must behave honestly and with integrity in the course of State Service employment.
- (2) An employee must act with care and diligence in the course of State Service employment.
- (3) An employee, when acting in the course of State Service employment, must treat everyone with respect and without harassment, victimisation or discrimination.
- (4) An employee, when acting in the course of State Service employment, must comply with all applicable Australian law.
- (5) For the purpose of subsection (4) ,

***Australian law*** means –

- (a) any Act (including this Act) or any instrument made under an Act; or
- (b) any law of the Commonwealth or a State or Territory, including any instrument made under such a law...

(13) An employee, when acting in the course of State Service employment, must behave in a way that upholds the State Service Principles.

(14) An employee must at all times behave in a way that does not adversely affect the integrity and good reputation of the State Service.

48. Whilst an act of child abuse by an employee, if proven in a court of law, would constitute a breach of the Code by virtue of subsection 4, there are many instances where a prosecution does not proceed or is unsuccessful.

49. My experience is that, in these situations, the Code is not a framework well suited to the determination of allegations of child abuse. By way of example, if conduct cannot be established to have breached Australian law under subsection 4, then the determination of the matter will normally fall to subsection 1 – 3 as the basis for allegations made.
50. It is important to note that these subsections directly relate to conduct that is “in the course of State Service employment”. In other words, misconduct that occurs outside the work context (e.g. at a weekend social event or after a young person has left the school where the alleged perpetrator is teaching), would not naturally invoke the ED5 process as it would not amount to “in the course of State Service employment”. However, if such conduct was reported involving a current employee, details of the alleged misconduct would be reported to RWVP and the TRB, who have a broader remit to consider conduct that is outside the scope of the restrictions of the Code of Conduct.
51. As recommended in the DoE Inquiry, the Office of Safeguarding Children and Young People is currently working with other departmental business units to develop a Department-specific Code of Conduct that is more relevant and effective in terms of child sexual abuse. Consideration of its implementation within existing legislative frameworks is under active consideration.
52. There are additional statutory arrangements that provide broader powers beyond in the course of employment, though these provisions are not within my authority or control as Secretary of the Department. For example, the:
- *Teachers Registration Act 2000* enables the TRB to determine whether an applicant for registration is of good character or fit to be a teacher (ss.17J and K) and the TRB can also hold an inquiry in respect of any matter relating to a person who is or was a registered teacher (s.20);
  - *Registration to Work with Vulnerable People Act 2013* enabled the Registrar in the Department of Justice to consider applications for Registration to Work with Vulnerable People (RWVP) whereby the registration of a person can be subject to conditions, suspended or cancelled (ss.35 and 49).

**Request for Statement – 002 – Brad**

53. The background to this matter is set out by the Commission in RFS- 002. This matter relates to Brad  
Brad
54. For context, it is important to clarify that Brad was a relief teacher, employed on an as needed basis and, as such, was not an ‘employee’ as defined by the *State Service Act 2000*. The implications of this are that Brad could not be subject to an Employment Direction No.5 (Procedures for the Investigation and Determination of whether an employee has breached the Code of Conduct) (ED5) disciplinary investigation for an alleged breach of the *State Service Act 2000* Code of Conduct, as under ED5 there is no ability to impose one of the sanctions envisaged under that process on a non-employee.
55. The procedures for investigating a breach of the Code are set out in ED5. The Department’s Workplace Relations unit is guided in its investigation processes by ED5, the Code and policies and procedures around conduct and behaviour. Once a matter is referred to me as Secretary, and if I form a reasonable belief that the Code may have been breached, an ED5 is commenced, and I appoint an external investigator and a contact officer within Workplace Relations. The conduct of the investigation is guided by an internal document titled the *ED5 Investigation Checklist*.
56. As relief teachers are not specifically defined as employees for the purpose of the *State Service Act 2000*, an ED5 process is not commenced however, since July 2021 if the Department receives allegations of child sexual abuse regarding a relief employee they are immediately removed from the workplace and the Fixed term and Relief employment register. Workplace Relations also reports the matter to TASPOL, the Department of Justice RWVP and the TRB. The allegations are then put formally to the relief employee for a response, and it is a condition precedent for any future employment with the Department that an investigation is undertaken and a resolution attained before the employee is allowed to return to work.

**Clarification as to what the Department knew and when**

57. I note that the background to RFS-002 includes a timeline prepared by the Department of Communities Tasmania (“DCT”) in relation to Brad and the allegations beginning in 2003 in New South Wales, and the allegations in Tasmania from his period of teaching (‘the DCT Timeline’). It is not known by me when DCT commenced their investigation, which is a question for DCT.

58. The Department was not supplied with a copy of the DCT timeline until [REDACTED] 2021. I note this in terms of what the Department knew at the relevant times responding to this request.

59. The DCT timeline outlines:

- a. Allegations of sexual misconduct in NSW that were investigated by the NSW Department of Education in 2003, with no disciplinary action imposed and 2006 investigation into **Brad [REDACTED]** by the NSW department for allegations, including sexual misconduct allegations, in 2005 (“NSW Allegations”). I note that **Brad [REDACTED]** resigned in [REDACTED] from teaching in NSW and the 2006 investigation did not result in a decision or outcome.
- b. The remainder of the matters outlined in RFS-002 at paragraphs 9 -24 that relate to **Brad [REDACTED]** time teaching in Tasmania from [REDACTED] (“Tasmania Allegations”).

60. While the Department did have a record of misconduct in relation to **Brad [REDACTED]**, beginning in December 2019 relating to his time at [REDACTED], the DCT timeline provides a far more extensive context.

61. Following is the timeline of what the Department knew at a corporate level:

- a. **Brad [REDACTED]** was engaged as a relief teacher from [REDACTED]
- b. No allegations of misconduct were known at a corporate level until [REDACTED] 2019.
- c. On [REDACTED] 2019, [REDACTED], Principal of [REDACTED], wrote to [REDACTED] of Learning Services to advise that she had concerns regarding **Brad [REDACTED]**, who provided relief at her school, specifically regarding his comments and physical contact with students. [REDACTED] had contacted other Principals who had employed **Brad [REDACTED]** as a relief teacher. In her email to [REDACTED], [REDACTED] included the responses of previous Principals who shared similar concerns regarding **Brad [REDACTED]**. In her email to other Principals, [REDACTED] stated ‘I wasn’t sure about the correct mechanism to alert others to this so thought I would start by letting you know.’
- d. On [REDACTED] [REDACTED], the Department’s Senior Regional Human Resources Coordinator, wrote to **Brad [REDACTED]** regarding concerns about relief teaching he had

undertaken at [REDACTED] and inappropriate comments and physical touching of students. The letter referred to the *State Service Act 2000* Code of Conduct and Guidelines for Professional Behaviour for Staff and Conduct Standards. [REDACTED] asked Brad [REDACTED] to meet with her to discuss this, which occurred in [REDACTED] 2020.

- e. Learning Services was unaware at the time that there was an ability to remove an employee from the Fixed term and Relief employment register; however, it determined to meet with Brad [REDACTED], on the basis that the allegations reported by [REDACTED] [REDACTED] were at the lower level of seriousness and it was the first time that Brad [REDACTED] conduct was brought to the Department's attention. At the meeting Brad [REDACTED] was taken through, and his understanding checked of, his obligations in relation to the applicable DoE policies, including the Professional Standards for Staff Policy, the Conduct and Behaviour Standards and the Protective Practices for Staff in their interactions with students.
- f. Following this meeting, [REDACTED] had concerns about Brad [REDACTED] who, as a relief teacher, could continue to work in schools. Without a mechanism to warn Department schools, and with Learning Services unaware at the time of the ability to remove employees from the Fixed Term and Relief Register, [REDACTED] sought advice from Human Resources Payroll regarding details of which Department schools Brad [REDACTED] had worked at in a relief capacity.. Learning Services produced a timeline of its case management of Brad [REDACTED]: see Learning Services timeline of case management of Brad [REDACTED].
- g. Learning Services referred these matters to the TRB on [REDACTED] 2020 via email from [REDACTED] [REDACTED]. However, Workplace Relations and Legal Services were not aware of the TRB's involvement until the TRB contacted Legal Services on [REDACTED] 2020.
- h. On [REDACTED] 2020, [REDACTED] from the TRB wrote to [REDACTED] at Legal Services at the Department advising that she had conduct of a matter relating to Brad [REDACTED] Nothing about the nature of the conduct was disclosed in that email.
- i. On [REDACTED] 2020, [REDACTED] wrote to [REDACTED] at Legal Services advising that the TRB had received information that Brad [REDACTED] had inappropriately touched a number of young female students and that the TRB would investigate the allegations.

- j. On [REDACTED] 2020, Workplace Relations confirmed Brad [REDACTED] was on the Relief and Fixed Term Employment Register and that he had current RWVP registration.
- k. Notification to RWVP or TASPOL was not made at this stage by the Department, on the basis that the concerns raised had not been particularised in enough detail to be considered allegations of child sexual abuse. Internal processes have been strengthened and since [REDACTED] 2021; Workplace Relations is a central point of contact for reporting all allegations and has responsibility for notifying external bodies in relation to any allegations of child sexual abuse.
- l. The last days Brad [REDACTED] worked at the Department were:
- i. [REDACTED] 2020 – [REDACTED]
  - ii. [REDACTED] 2020 – [REDACTED]
  - iii. [REDACTED] 2020 – [REDACTED]
- m. On [REDACTED] 2020, [REDACTED], Principal of [REDACTED], called Legal Services. At the time, [REDACTED] was assisting the TRB with a statement about Brad [REDACTED]. [REDACTED] had been contacted by the parent of a grade [REDACTED] student at [REDACTED] [REDACTED] with details of inappropriate physical touching of the student. Legal Services alerted this matter to Workplace Relations.
- n. On [REDACTED] 2020, Workplace Relations:
- i. confirmed with the TRB that the matter had been reported to TASPOL and that the TRB was looking into emergency suspension of Brad [REDACTED] registration, and agreed the TRB would report the matter to RWVP;
  - ii. confirmed with [REDACTED] that the parent of the grade 6 student at [REDACTED] [REDACTED] had made a report to TASPOL;
  - iii. removed Brad [REDACTED] from the Relief and Fixed Term Employment Register; and
  - iv. informed Learning Services that Brad [REDACTED] had been removed from the Relief and Fixed Term Employment Register.
- o. On [REDACTED] 2020, the Department was notified that the TRB had suspended Brad [REDACTED] Teacher Registration with immediate effect.

- p. On [REDACTED] 2020 [REDACTED] made a referral to the Strong Families Safe Kids Advice and Referral Line.
- q. On [REDACTED] 2021, Mandy Clarke, then Deputy Secretary Communities Tasmania, provided Deputy Secretary Learning, Ms Trudy Pearce, with the DCT timeline. The DCT timeline, which was the result of the investigations by DCT of Brad [REDACTED] and his own children, provided DoE with far more extensive information regarding additional notifications of which the Department had not previously been aware. On 1 March 2021, DCT provided the Department with confirmation that it had notified Child Safety Services and provided the DCT timeline to RWVP.
- r. In [REDACTED] 2021, Workplace Relations prepared a Minute to me, as Secretary, regarding the new allegations found in the DCT timeline. Workplace Relations provided the view that there were no further steps that could be taken at that time, based upon:
- i. Brad [REDACTED] not being employed in the Department;
  - ii. Workplace Relations having removed Brad [REDACTED] from the Fixed Term and Relief Register and therefore addressing any immediate or ongoing risk of harm to students; and
  - iii. Brad [REDACTED] not holding a Teacher Registration.
- s. I signed the Minute in line with this advice and wrote to Brad [REDACTED] on [REDACTED] 2021 advising him of the allegations and seeking a response from him. In doing so, I noted that as he was not a current employee, I was unable to proceed with a formal investigation pursuant to ED5, and I advised him that a condition precedent was for an investigation to be undertaken and a resolution attained. Brad [REDACTED] was advised not to seek or accept any form of employment until an investigation was completed.

### **Comment on information sharing**

62. The factual scenario of Brad [REDACTED] raises issues in information sharing at the interstate, inter-agency, and Department levels. Before turning to the Commission's items, I wish to make some brief observations at each of these levels.

***Information sharing between states and territories***

63. The matter of Brad [REDACTED] demonstrates the limited information sharing between the NSW Department of Education and the relevant agencies in Tasmania, including the Department of Communities Tas (“DCT”) the TRB and my Department.
64. There are various impediments to information sharing between states and territories, as well as between teacher registration authorities, not least of which relates to the various personal information provisions applying in each jurisdiction. Legislation in each state and territory governing teacher registration authorities also specifies in some cases what information may be shared with other bodies and the purposes for which it may be shared.
65. I consider that a coordinated response at the Commonwealth level to information sharing between state and territory education agencies would be useful, as the case of Brad [REDACTED] highlights.
66. A scoping project on national information sharing as it relates to teacher registrations is currently underway. It is being led by NSW with the involvement of all state and territory education departments, as well as all teacher registration authorities. The scope includes provision of advice on risks associated with the introduction of Automatic Mutual Recognition (AMR) for teachers, having regard to:
- a) Concerns identified by the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) – noting that the Royal Commission had cautioned against AMR for teachers due to the increased risk to child safety as a result of increased mobility, potentially without adequate/consistent good character checks; and
  - b) Consideration of these concerns within the National Review of Teacher Registration; Strengthening Children’s Safety through Teacher Registration report; and the Best Practice Framework for Strengthening Child Safety and Wellbeing.
67. The final report, by consulting firm BDO Services Pty Ltd, is expected by the end of April 2022.
68. However, I note that agencies in Tasmania are also limited in what information can be shared under the *Personal Information Protection Act 2004*. Other states and territories will have equivalent and differing provisions.

69. In particular, the *Personal Information Protection Act 2004* (PIP Act) contains a general prohibition (Schedule 1 clause 2) on the use or disclosure of personal information for a purpose other than the purpose for which the information was collected. Therefore, disclosure of information collected for the purpose of an ED5 investigation to others (including the TRB and the Department of Justice) would not be for a purpose for which it was collected. This precludes sharing of information gained during an ED5 investigation, for example the letter to an employee outlining the alleged breaches of the Code, witness statements, the investigation report, or my determination, unless individuals provide their consent to the disclosure of their personal information.

70. There are exceptions to the general prohibition to use and disclosure, also detailed in Schedule 1 Part 2, including:

(f) the use or disclosure is required or authorised by or under law; or

(g) the personal information custodian reasonably believes that the use or disclosure is reasonably necessary for any of the following purposes by or on behalf of a law enforcement agency:

(i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction;

(iv) the prevention, detection, investigation or remedying of conduct that is in the opinion of the personal information custodian seriously improper conduct;

(v) the preparation for, or conduct of, proceedings before any court or tribunal or implementation of any order of a court or tribunal.

71. In the case of criminal conduct or seriously improper conduct, the above exceptions may apply and an employee's information may be used or disclosed in certain ways. However, if the conduct is not captured by these exceptions, that is if the conduct was investigated and unsubstantiated or less serious, then disclosure of the information would be prohibited.

72. The case of Brad also demonstrates the *nature* of the information shared between agencies from different states will be crucial.

Brad was investigated in NSW in 2003 and no disciplinary actions were imposed. He was investigated again in 2006, but upon his resignation, the NSW Education Department was unable

to continue its investigation. As set out above, my Department is also unable to conduct an ED5 investigation if the person is no longer an 'employee'. Thus, I note:

- a. If information sharing between the NSW Department of Education and relevant agencies in Tasmania was limited only to disciplinary actions taken against a teacher, none would have been shared regarding Brad [REDACTED]
- b. On the other hand, if the information sharing between these agencies was more granular, then this would have captured the allegations against Brad [REDACTED]

73. I note that that the sharing of granular details of employees by interstate agencies raises issues of procedural fairness owed to employees.

74. If information sharing was proposed to be used for stricter vetting requirements for prospective State Service employees in Tasmania, I note that this would be a matter for the Department of Premier and Cabinet ("DPAC") and not my Department.

#### ***Information sharing between Tasmanian agencies***

75. The case of Brad [REDACTED] also highlights the limited information sharing between agencies in Tasmania, namely Communities Tasmania, the TRB and the Department of Education.

76. The main impediment to the sharing of information between agencies in Tasmania is the relevant provisions of the *Personal Information Protection Act 2004*.

77. [REDACTED] 2020, [REDACTED] from the TRB wrote to [REDACTED] at Legal Services at the Department advising that she had conduct of a matter relating to Brad [REDACTED]. The TRB did not particularise what the allegations against Brad [REDACTED] were except that they related to inappropriate comments and touching. On [REDACTED] 2020, the TRB advised they had suspended Brad [REDACTED] registration. The findings of the TRB contained in the DCT timelines were not shared with the Department until [REDACTED] 2021. That DCT timeline contained the NSW Allegations.

78. A further broad issue of concern is that disciplinary actions taken against employees are not usually shared between agencies. This leaves open the possibility that even a person who is terminated as a result of an ED5 in one Tasmanian agency can be employed by another agency, unaware of the prior misconduct. However, during October 2021 work commenced through the

State Service Management Office in DPAC for a central register to be established in respect to code of conduct breaches that resulted in or would have resulted in termination of employment. A draft policy and register process is to be considered by Heads of Agencies during April 2022.

79. For its part, since October 2020 the Department has updated its pre-employment questions for potential applicants to the Fixed term and Relief employment register to include the need for applicants to declare whether they have been the subject of current or past disciplinary matters, are convicted or are facing criminal charges. If an applicant declares that they have previous/current matters, the disclosure is assessed by Workplace Relations and if there are ongoing concerns about potential risk of harm to students, the application is refused.

### ***Information sharing between schools in the Department***

80. RSF-002 states that leadership staff at Department schools where Brad worked were not informed of allegations from the previous schools. I note that this is a conclusion of the DCT investigation as stated in the DCT timeline and is not the result of investigations by my Department. In any event, given that Brad was a relief teacher, individual schools would not necessarily be aware of which other schools he was working at. Internal reporting of schools' concerns to Workplace Relations would have overcome this by allowing Workplace Relations to either discern a pattern of behaviour of possible concern or undertake a preliminary assessment of allegations; taking immediate action to remove Brad from the relief employment register; and reporting Brad to the TRB, TASPOL and RWVP.

81. However, the sharing of allegations of an employee's misconduct between schools raises several issues (noting that the *Personal Information Protection Act 2004* does not raise the same issues *within* an agency).

82. These issues include:

- a. Confidentiality requirements relating to employee information – a complex set of rules regarding what employee information can be shared by Workplace Relations and schools.
- b. Procedural fairness to the employee and issues of employee rights with respect to how their , particularly that which is related to allegations that remain untested, is shared.

83. Again, the nature of the information will be relevant. Sharing information with schools in relation to unsubstantiated allegations is more likely to offend confidentiality provisions and procedural fairness requirements than sharing any disciplinary actions imposed on an employee.
84. It is important for me to note that Workplace Relations follows its processes in responding to allegations, and any allegations against an employee will be assessed as follows:
- a. Allegations of alleged breach/es of the Code are reported to Workplace Relations, either directly by the person affected, a staff member suspecting the breach, Learning Services Regional HR or the Principal.
  - b. After being briefed by the person who reported, the Senior Workplace Relations Consultant will discuss the alleged conduct with [REDACTED], Manager Workplace Relations, and [REDACTED], Assistant Director Industrial Relation, and an initial assessment will be made as to the nature and seriousness of the allegations.
  - c. If the matter is assessed as more serious, Workplace Relations will brief the Secretary as to whether the matter should be investigated under ED5 (noting that all allegations of child sexual abuse are referred to the Secretary to consider) however best practice is that the employee is asked to immediately leave the workplace and await correspondence from the Secretary.
  - d. If the matter is more serious, Workplace Relations immediately informs Tas Pol, RWVP, and if the employee is a teacher notification is also made to the TRB.
  - e. Depending on the severity of the allegations Workplace Relations may refer the matter to Learning Services Regional HR to provide support to the school, or make referrals for support, and to obtain further information.
  - f. If Workplace Relations assesses the allegation/s as being at the lower level of seriousness (i.e. not an allegation of child sexual abuse or otherwise inappropriate physical contact or not within the ordinary meaning of serious misconduct) the matter may be handled locally in consultation between the Principal and Learning Services, without a referral to the Secretary.

***Information sharing between Department and non-Government schools***

85. While not directly relevant to the matter of Brad [REDACTED], I also wish to note that the operation of the *Personal Information Protection Act 2004* creates barriers for information sharing between the Department and non-Government schools, including information relating to employee misconduct.

**Item 28 - Identify the policies or procedures of the Department in place between 2012 and 2020 which outlined if, and if so, how, the Department ought to respond when it became aware of matters such as the investigations or findings concerning Mr Rees referred to at paragraphs 1 – 2 above.**

86. Paragraphs 1-2 of RFS-002 refer to Brad [REDACTED] time as a teacher in NSW and that in 2003 he was investigated by the NSW Department of Education and Training into inappropriate behaviour and sexual misconduct in relation to a grade [REDACTED] student and a [REDACTED] year-old. Paragraph 3 states that the investigation was closed on [REDACTED] 2003 with no disciplinary action being taken.

87. Paragraphs 4-8 relate to further allegations Brad [REDACTED] faced in 2005, which were investigated in 2006. However, in [REDACTED], Brad [REDACTED] resigned from teaching in NSW and no conclusion or decision was reached regarding the investigation.

88. While the Commission refers only to paragraphs 1-2 of RFS-002, I will identify how the Department would have responded in the period [REDACTED] to the entirety of the NSW Allegations and investigations in paragraphs 1 -8.

89. In the period between [REDACTED], all Department employees were mandatory reporters and, as such, were required to report all known or reasonably suspected cases of abuse of a child under section 14 of the *Children Young Persons and their Families Act 1997*.

90. While employees would not have been compelled to notify of abuse occurring in NSW under the *Children Young Persons and their Families Act 1997*, it would have been good practice to report such abuse across the relevant period.

91. At that time, the Department's procedures for responding to allegations of abuse of a child by a Department employee were as follows:

- a. *Maltreatment Guidelines – Guidelines regarding alleged abuse of students by employees of the Department of Education (2008);*
- b. *Mandatory Reporting Procedures 2015, 2016 and 2019-current;*
- c. *Protective Practices for Staff in their Interactions with Students 2006-current .*

92. In the period between [REDACTED] Brad [REDACTED] was employed as a relief teacher within the Department at various schools.

93. The allegations regarding Brad [REDACTED] conduct in 2020 were referred to the TRB on [REDACTED] 2020 and, in consultation with Workplace Relations, the TRB reported these concerns to the Department of Justice RWVP on [REDACTED] 2020.

94. Its important to know that from May 2021, if there is an allegation that a relief teacher may have perpetrated child sexual abuse, Workplace Relations is the central point of contact within the Department and will immediately remove the teacher from the school site. Workplace Relations notifies TASPOL, the Department of Justice RWVP and the TRB.

95. Between [REDACTED], employees were also required to report any possible behaviour that was contrary to known standards or expected conduct under:

- a. *the State Service Act 2000 - section 9: The State Service Code of Conduct (“the Code”);*
- b. *Protective Practices for Staff in their Interactions with Students - 2006;*
- c. *the Department’s Conduct and Behaviour Standards – 2009 and 2018 - current; and*
- d. *the Department’s Professional Standards for Staff: Policy & Guidelines - 2015.*

***Item 28(a) Identify the policies or procedures of the Department in place between 2018 and 2021 which outlined how the Department ought to respond to and investigate allegations of the kind made about Brad [REDACTED] referred to at paragraphs 12 – 22.***

96. The allegations referred to in paragraphs 12- 22 of RFS-002 relate to when Brad [REDACTED] worked as a relief teacher in Tasmania from [REDACTED] (“**Tasmanian Allegations**”).

97. The allegations are various and are set out at paragraphs 12-19.

98. The policies or procedures in place between 2018 and 2021 which outlined how the Department ought to respond to and investigate such allegations were:
- a. *State Service Act 2000* – section 9: the State Service Code of Conduct
  - b. *Employment Direction No.5* - current
  - c. *Employment Direction No.5* Fact Sheet – Principal/Manager Guide – current
  - d. Department of Education process where an allegation(s) of child sexual abuse is made against a current employee – May 2021-current
  - e. DoE process to manage information about historic and/or current child sexual abuse perpetrated by current DoE employees – 2021-2022
  - f. Mandatory Reporting Procedure - 2016 and 2019 – current
  - g. Conduct and Behaviour Standards – 2018 – current
  - h. Professional Standards for Staff Policy – 2015- current
  - i. Professional Standards for Staff Guidelines – 2015 – current
  - j. Protective Practices for Staff in their Interactions with Students – 2006- current
  - k. Duty of Care for Students on Departmental Sites Procedure – 2019 – current
  - l. Registration to Work with Vulnerable People Policy 2021 – current
99. In 2018 and 2021, all Department employees were mandatory reporters and, as such, were required to report all known or reasonably suspected cases of abuse of a child under section 14 of the *Children Young Persons and their Families Act 1997*. Additionally, since October 2019 it has been a crime to fail to report any abuse or suspected abuse of a child or a person who was a child at the time of the offence under s105A of the *Criminal Code 1924*.
100. As such, an employee would have been compelled to make a mandatory report if they believed on reasonable grounds that Brad ██████ had subjected a child to abuse.
101. Employees were also required to report any suspected breach of the Code, which would have been referred to Workplace Relations.
102. Workplace Relations will make an assessment as to whether the matter can be resolved at the school-level, or the Secretary needs to be briefed as to whether the matter should be investigated. Workplace Relations does not follow a specific policy (being guided by the ordinary meaning of serious misconduct) and assesses the allegation according to the nature and seriousness of the allegation, including the context and whether the conduct is isolated

or part of a pattern of behaviour. If the allegations raise matters of a sexual nature the Secretary is automatically briefed.

103. If the employee is employed on a fixed-term or permanent basis, the investigation is carried out in accordance with ED5. That is, if I form a reasonable belief that the Code may have been breached, an ED5 is commenced and I appoint an external investigator and a contact office within Workplace Relations. If the allegations involve child sexual abuse, the employee is also formally suspended pursuant to Employment Direction No.4.
104. Had Workplace Relations been notified of the [REDACTED] Allegations, the procedure would have been that:
- a. Workplace Relations would have made an assessment as to whether the matter should have been resolved at the school level or whether the matter should have been referred to and decided by me as Secretary.
  - b. If at the school level, Workplace Relations would have been informed of the outcome of the allegation and this would have been kept on file.
  - c. If there were concerns that the alleged conduct amounted to child sexual abuse [REDACTED] Brad would have been immediately asked to remain away from the workplace while the matter was further examined. If [REDACTED] Brad was working as a relief employee his name would be removed from the Fixed Term and Relief Employment register.
  - d. If I was briefed and decided that an investigation should proceed, holding a reasonable belief that there may have been a breach of Departmental policies/inappropriate conduct (for relief employees), then [REDACTED] Brad would have been advised of the allegations and asked to respond.
105. Workplace Relations would have initially assessed the matter in the context of the behaviour, and if the behaviour was isolated, what initial evidence there was and the nature of the allegations.
106. I understand Workplace Relations did not hold records of any prior complaints in relation to [REDACTED] Brad .

107. Accordingly, Workplace Relations would have made an assessment on the context, nature and seriousness of the allegations before determining whether there was a basis for referring the matter to me or for referring it back to the school for action.

**Item 29(b) Identify the policies or procedures of the Department in place between 2018 and 2021 which outlined the requirements to and procedures for the sharing of information, including information relating to allegations of the kind made about Brad referred to in paragraphs 12 – 22 with**

- i) other schools within the Department;
- ii) other relevant agencies (including Tasmania Police, the Teachers Registration Board, the Department of Communities Tasmania, and the Department of Justice) about allegations of the kind made about Brad referred to at paragraphs 12 – 22.

108. In relation to Item 29(b)(i), it is not usual procedure for Workplace Relations to inform other Department schools of allegations. This is due to concerns about providing confidentiality of employment investigations and fairness to employees, especially where a matter has been finalised or if the allegations remain untested. Workplace Relations follows the procedure outlined above in relation to allegations of this type. This procedure does not normally involve informing other schools of prior allegations, investigations and disciplinary actions imposed. If a permanent or fixed term employee is transferring schools within the Department after a disciplinary process, and there has been a determination involving the need for the employee to maintain awareness of their interactions with students (for example around use of appropriate language or physical proximity to students in the classroom), that the Principal at the accepting school is briefed on the nature of the matter generally for awareness and monitoring by Learning Services.

109. If an employee remains in the same workplace after a disciplinary investigation both the Principal and Learning Services are aware of the allegations and the outcome, including the sanction if applicable, for ongoing awareness and monitoring. The outcome is also reported to the TRB in accordance with the provisions of section 31 of the *Teachers Registration Act 2000*.

110. The Department is conscious of the need for a system that alerts schools more broadly where there have been previous conduct concerns raised and investigated whilst also ensuring fairness to employees and movement of employees through the teacher transfer process. A

new case management platform is being developed and trialled, with the aim of becoming operational during 2022, which will provide the basis for this.

111. As above, the sharing of allegations of an employee's misconduct between schools raises several issues (noting that the *Personal Information Protection Act 2004* does not raise the same issues *within* an agency).
112. These issues include issues of procedural fairness for the employee, and of maintaining confidentiality and employee rights with respect to how their information is shared.
113. Again, the nature of the information will be relevant. Sharing information with schools in relation to unsubstantiated allegations is more likely to offend procedural fairness requirements than sharing any disciplinary actions imposed on an employee.
114. If Workplace Relations or Legal Services were notified of the collective Tasmanian Allegations and therefore formed a belief that the allegations amounted to potential child sexual misconduct, they would immediately notify the following agencies:
  - a. TASPOL;
  - b. RWVP ;
  - c. the TRB; and
  - d. the Integrity Commission.

**Item 30 - Identify the policies of the Department in place at present which outline the matters set out at paragraph 28 – 29 above.**

115. The current relevant policies are:
  - a. *State Service Act 2000* – section 9: the State Service Code of Conduct
  - b. *Employment Direction No.5* - current
  - c. *Employment Direction No.5* Fact Sheet – Principal/Manager Guide – current
  - d. Department of Education process where an allegation(s) of child sexual abuse is made against a current employee – May 2021-current
  - e. DoE process to manage information about historic and/or current child sexual abuse perpetrated by current DoE employees – 2021-2022

- f. Mandatory Reporting Procedure - 2016 and 2019 – current
- g. Conduct and Behaviour Standards – 2018 – current
- h. Professional Standards for Staff Policy – 2015- current
- i. Professional Standards for Staff Guidelines – 2015 – current
- j. Protective Practices for Staff in their Interactions with Students – 2006- current
- k. Duty of Care for Students on Departmental Sites Procedure – 2019 – current
- l. Registration to Work with Vulnerable People Policy 2021 – current
- m. Advice for DoE staff on responding to incidents, disclosures and suspicions of child sexual abuse – 2022 – current
- n. Communication Guide for Principal/Managers – Employees Subject to Child Sexual Abuse Allegations – 2022 – current.

**Item 31 - Please explain what you understand to be the purpose of each of the policies and procedures referred to in answer to paragraphs 28 – 30 above**

116. Respectively, I understand the purposes of the policies to be as follows:

Between [REDACTED] and 2020:

- a. *Maltreatment Guidelines – Guidelines regarding alleged abuse of students by employees of the Department of Education (2008)* – Covers reporting obligations under the *Children, Young Persons and Their Families Act 1997*. It includes procedures employees should following after an incident of abuse or neglect.

*Mandatory Reporting Procedures 2015, 2016 and 2019* – These set out the process that staff and volunteers must comply with in their role as Mandatory Reporters under the *Children, Young Persons and Their Families Act 1997*. It sets out how staff and volunteers should comply with their obligation to report where they know, believe or suspect that a child is suffering, has suffered or is likely to suffer abuse or neglect.

- b. *Protective Practices for Staff in their Interactions with Students Guidelines 2006* – current- The purpose of these Guidelines is to provide clear advice to all adult members of schools and colleges in the establishment of positive, caring and respectful relationships with

children and young people. The main intent is to safeguard the emotional and physical wellbeing of children, young people and employees by promoting an enhanced understanding of appropriate relationship boundaries. It covers a number of topics including duty of care, maintaining professional boundaries with students, communication, personal disclosure, physical contact, managing boundaries for staff in specialist roles and support staff, among other things. The intent of these guidelines is to encourage staff to continue relating to students with warmth, honesty and respect. They are also intended to provide clarity about when, and in what ways, interactions with students can cause harm.

- c. *Department of Education process where an allegation(s) of child sexual abuse is made against a current employee (May 2021 - current)* – Provides advice to staff, Principals and Managers on the steps required in the event that an allegation of child sexual abuse is made against a current staff member.
- d. *The State Service Act 2000 - section 9: The State Service Code of Conduct* – Sets out the range of conduct standards an employee must abide by in the course of their employment, including behaving honestly and with integrity; acting with care and diligence; and treating everyone with respect and without harassment, victimisation or discrimination.
- e. *The Department's Conduct and Behaviour Standards 2009 and 2018-current* – These standards reflect the principles which underlie the State Service Act 2000 and reiterate, in a departmental context, the conduct and behaviour requirements for State Service employees. The Standards provide guidance to employees on their rights and responsibilities under legislation, awards, agreements, directives and departmental policies and practices, requiring them to behave in ways that promote the safety, welfare and wellbeing of students, other clients and employees, in accordance with relevant occupational, health and safety legislation.
- f. *The Department's Professional Standards for Staff: Policy 2015- current*. The Policy was developed to provide departmental employees with standards of conduct and clearly defined behavioural expectations whilst working in the educational and learning environments. The Policy covers physical contact with students, appropriate use of electronic communication and social media sites, and professional relationships between

employees and students. Principals/ managers are required to report any alleged breaches of this policy to the Manager Workplace Relations and employees are to report any known or suspected cases of child abuse (including sexual relationships) to Child Protection.

- g. The Professional Standards for Staff Guidelines – 2015- current. The Guidelines provide further support to understand the standards of conduct and behavioural expectations detailed in the Professional Standards for Staff Policy. These guidelines provide direction and guidance for employees when conducting themselves both inside and outside of their workplace to ensure they provide a safe and inclusive physical and emotional environment for students and colleagues.
- h. *Employment Direction No. 5* – Requires the Secretary of the Department to appoint an investigator to investigate an alleged breach of the Code in accordance with the procedures set out in ED5 if he/she has reasonable grounds to believe that a breach of the Code of Conduct has occurred.
- i. Duty of Care for Students on Departmental Sites Procedure – 2015, 2019-current. This procedure details DoE staff’s duty to take reasonable care to avoid reasonably foreseeable risks of harm. It details the roles and responsibilities for staff when caring for students with different needs in different circumstances.
- j. Registration to Work with Vulnerable People Policy - 2017, 2019. The purpose of this policy is to highlight DoE’s commitment to ensuring the safety and wellbeing of children and other vulnerable people on DoE premises; ensure compliance with the *Registration to Work with Vulnerable People Act 2013* and set out the requirements when enacting this policy for employees and any other person working or engaging in activities within DoE.

Between 2018 and 2021, in addition to the policies and procedures already described above:

- a) *Employment Direction No.5* Fact Sheet – Principal/Manager Guide. This fact sheet provides information for Principals/Managers regarding an Employment Direction No.5 (ED5) investigation and related matters, together with guidance should an employee they manage be the subject of such.

- b) Department of Education process where an allegation(s) of child sexual abuse is made against a current employee (May 2021 - current) – Provides advice to staff, Principals and Managers on the steps required in the event that an allegation of child sexual abuse is made against a current staff member.
- c) DoE process to manage information about historic and/or current child sexual abuse perpetrated by current DoE employees – 2021-2022 – Provides advice to staff about how to manage historic and current child sexual abuse claims
- d) Registration to Work with Vulnerable People Policy – 2021 – current. The purpose of this policy is to highlight DoE’s commitment to ensuring the safety and wellbeing of children and other vulnerable people on DoE premises; ensure compliance with the *Registration to Work with Vulnerable People Act 2013* and set out the requirements when enacting this policy for employees and any other person working or engaging in activities within DoE.

In addition to the policies described above and noted as current, the present policies are:

- a) *Department of Education process where an allegation(s) of child sexual abuse is made against a current employee (May 2021 - current)* – Provides advice to staff, Principals and Managers on the steps required in the event that an allegation of child sexual abuse is made against a current staff member.
- b) Advice for DoE staff on responding to incidents, disclosures and suspicions of child sexual abuse – 2022 – current. The purpose of this document is to provide DoE employees with clear guidance on what to do and who to notify if they suspect a child is suffering, has suffered or is likely to suffer sexual abuse.
- c) Communication Guide for Principals/ Managers – Employees subject to Child Sexual Abuse Allegations – 2022 – current. The purpose of this document is to assist DoE Principals in the event that a current employee at a school or college is subject to allegations of child sexual abuse. The advice provides a recommended approach to the initial discussion with the employee who is subject to the allegations and any broader discussion that may need to occur with staff.

117. Please refer to Attachment A for further information on the above policies and procedures.

**Item 32 - When did the Department become aware of the investigations or findings concerning Brad referred to at paragraphs 1 – 2 above?**

118. The first time the Department became aware of the NSW Allegations was on [REDACTED] 2021, when Ms Mandy Clarke from DCT wrote to Trudy Pearce and attached the DCT timeline.

**Item 33 – Outline the steps taken by the Department: (a) when it became aware of the investigations or findings concerning Brad referred to at paragraphs 1 – 2 above , and (b) when it became aware of each of the allegations about Brad described at paragraphs 12 – 22 above, to: (c) assess the risk posed by Brad to students at [REDACTED] and [REDACTED] (d) provide support to students allegedly involved in or affected by the allegations about Brad at [REDACTED] and [REDACTED] (e) communicate with students allegedly involved in or affected by the allegations about Brad at [REDACTED] and [REDACTED], their families, and other students or staff at those schools regarding actions taken in response to the allegations, and (f) make systemic improvements to reduce the risk of similar behaviour in the future (e.g. staff training, changes to policies and procedures or protocols)**

119. For context, please refer to the timeline I provided at the beginning of this statement in relation to what the Department knew over time regarding Brad conduct.

**Conduct**

120. On [REDACTED] 2019, Learning Services was advised of the behaviour of Brad at [REDACTED]. The email from the Principal of [REDACTED], [REDACTED], advised Learning Services that her school had concerns surrounding Brad comments and physical contact. [REDACTED] email included responses from other Principals of schools where Brad had worked.

121. Regarding item 33(c):

- a. the school response from the Principal, [REDACTED] was to communicate with other Principals where Brad [REDACTED] had worked and share information regarding Brad [REDACTED]; the intention being to warn other schools about Brad [REDACTED].
  - b. the Learning Services response was to:
    - i. meet with Brad [REDACTED] and talk him through the importance of the Code of Conduct and its relevance to relief teachers, which occurred in [REDACTED] 2020;
    - ii. speak with all schools where Brad [REDACTED] was subsequently placed and continue to monitor his behaviour; and
    - iii. ultimately refer Brad [REDACTED] to the TRB on [REDACTED] 2020 to provide the outcome of their ongoing investigations.
  - c. Workplace Relations does not have a record of this allegation or of being briefed on this allegation. As such, there was no file at Workplace Relations in relation to Brad [REDACTED] at this time.
  - d. Legal Services was not informed of the [REDACTED] matters.
122. Regarding item 33(d), it is not known at a corporate level what support was provided to students at [REDACTED] who were the subject of complaints of inappropriate comments and physical contact. The support required would have been assessed at the school level.
123. Regarding item 33(e), it is not known at a corporate level what was communicated to students at [REDACTED], their families and other students and staff regarding action taken. This communication would have been delivered at the school level.
124. Regarding item 33(f), any changes to school level process of engagement of relief teachers at this time is unknown. It does appear that from the actions of [REDACTED] and the responses of other Principals at this time, that they became more aware of information barriers in relation to relief teachers and their previous conduct.

**Conduct**

125. On [REDACTED] 2020, the Principal of [REDACTED], [REDACTED], wrote to Learning Services requesting that Regional Human Resources seek information from other schools about Brad [REDACTED].
126. A student reported that while she was working on a maths assessment, he snuck up behind her and, touching both her shoulders, whispered into her ear “ha – did I scare you”. The student reported this to teaching staff. Brad [REDACTED] was removed from class by [REDACTED], told that he would not work there again, and was coached to apologise to the student.
127. Regarding item 33(c):
- a. At the school level, [REDACTED], the Principal
    - i. removed Brad [REDACTED] from the classroom;
    - ii. instructed Brad [REDACTED] that he would not work at the school again; and
    - iii. requested Learning Services Human Resources conduct a further investigation into Brad [REDACTED] and the schools where he had worked.
  - b. Learning Services:
    - i. added the information from [REDACTED] to their ongoing investigation; and
    - ii. notified the TRB on [REDACTED] 2020 regarding all investigations conducted into Brad [REDACTED] by Learning Services.
  - c. While Workplace Relations was not notified of the [REDACTED] matters, the notification from Learning Services to the TRB resulted in Legal Services being notified of the TRB investigation of Brad [REDACTED] on [REDACTED] 2020. The allegations were not particularised to Legal Services.
128. Regarding item 33(d), the student the subject of the complaint at [REDACTED] [REDACTED] made a direct complaint to staff. The student was described by the Principal as a leader of the school. The Principal coached Brad [REDACTED] to apologise to the student and Brad [REDACTED] did so in the company of the Principal. The Principal described the student, in replying, as admonishing Brad [REDACTED], articulating why and how his conduct was unacceptable. It is not known at a corporate level if other support was supplied to the student.

129. Regarding item 33(e), the conduct of Brad and the outcome of the apology to the student was communicated to the student's parent by the Principal. It is unknown at a corporate level if other communications were required or made.

130. Regarding item 33(f), any changes to school level processes of engagement of relief teachers at this time is unknown.

131. On the week starting [REDACTED] 2020, Brad was working at [REDACTED]. A teacher's assistant had concerns about Brad inappropriate comments, such as compliments about appearance, and physical touching of students. On Friday afternoon, a grade [REDACTED] student who had been the subject of the "hands on" behaviour and some of the comments directed at her spoke to [REDACTED], an Advanced Skills Teacher. In particular it was reported that Brad had hit/tapped her on the backside with a piece of paper, held her by her hands and told her she was beautiful and put his arms on her shoulders.

132. Regarding item 33(c):

a. At the school level:

- i. The Principal, [REDACTED], gathered the evidence from the week and concluded that Brad would not be working at [REDACTED] again.
- ii. On 13 September [REDACTED] contacted Learning Services and spoke to [REDACTED] and reported the conduct. Learning Services advised [REDACTED] that there was a history of this behaviour from Brad [REDACTED].
- iii. [REDACTED] forwarded the concern to the TRB in a letter dated [REDACTED] 2020.
- iv. [REDACTED] contacted Legal Services on [REDACTED] 2020.

b. At the Learning Services Level,

- i. The information about Brad conduct was included in the ongoing investigation into Brad [REDACTED].

- ii. The information was shared with the TRB for their investigation into Brad , (which commenced 2020).
- c. At the Workplace Relations level:
- i. On 2020 Workplace Relations confirmed with the TRB that the matter had been reported to TASPOL and that the TRB was looking into emergency suspension of Brad registration, and agreed the TRB would report the matter to RWVP.
  - ii. Workplace Relations confirmed with that the parent of the grade student at had made a report to TASPOL;
  - iii. removed Brad from the Relief and Fixed Term Employment Register; and
  - iv. informed Learning Services that Brad had been removed from the Relief and Fixed Term Employment Register
- d. Regarding item 33(d) and (e), stated that the school social worker contacted the Year student who was the subject of Brad contact and inappropriate remarks. The child's parent was also informed of the conduct and was informed that the TRB had been notified.
- e. Regarding item (f), any changes to school level processes of engagement of relief teachers at this time is unknown. Again, there was engagement by Principals with Learning Services enquiring as to prior conduct and concerns regarding Brad .

**Item 34 - Identify whether the Department's response, including as described in answer to paragraph 33 above, complied with the Department's policies and procedures at the relevant time. If the Department's response did not comply with the policies and procedures in place at the relevant time, please explain the respects in which the Department's response did not comply**

133. I note that at the relevant time periods outlined in response to Item 34, there was no system of information sharing between schools.
134. From the first concern raised with Learning Services, Learning Services sought to overcome this by obtaining payroll information to ascertain where Brad had taught. Learning

Services also enquired with schools to establish whether there were any concerns regarding the behaviour of Brad .

135. An area where the response did not comply with Department's practice was that at the school level and at the Learning Services level, there was not a sharing of information with Workplace Relations. If Workplace Relations had been notified, then swifter action may have occurred with respect to investigating Brad at the Department level. However, as above, I note the difficulties in investigating a relief teacher.

**Item 35 - When did the Department carry out an investigation into each of the allegations set out at paragraphs 12 – 22, above? Please: (a) identify the scope of that investigation (b) identify the position, role and reporting line of any Official responsible and involved in undertaking that investigation (c) identify the standard of proof applied in that investigation (d) identify the steps taken in that investigation, and (e) provide an outline of the outcome of that investigation.**

136. As above.

**Item 36 - Do you consider that the Department carried out an investigation into each of the allegations set out at paragraphs 12 – 22, above in a timely way? Please provide reasons for your answer.**

***Investigation into ██████████ conduct***

137. Learning Services upon receiving the complaint of ██████████ of ██████████ ██████████ on ██████████ 2019 asked Brad for an interview, which occurred in ██████████ 2020, and continued to monitor Brad at the schools where he worked.
138. I consider that investigation by Learning Services into the ██████████ conduct was conducted in a timely manner.
139. I also note that Learning Services were proactive in obtaining information about where Brad Brad was working as a relief teacher and contacting those schools.
140. What is regrettable, is that Learning Services did not brief Workplace Relations on this matter. While it was not practice to refer all conduct matters to Workplace Relations, I consider that this should have been done in this case.

141. Had Workplace Relations, it is likely there would have been earlier referrals to TASPOL, TRB and RWVP.

142. Workplace Relations could have also advised Learning Services that Brad could be removed from Fixed Term and Relief Register, which was unknown to them.

**Investigation into [REDACTED] conduct**

143. Upon Learning Services being notified of the conduct of Brad at [REDACTED] [REDACTED] on [REDACTED] 2020, Learning Services referred Brad to the TRB on [REDACTED] 2020, who commenced their own investigation into Brad.

144. While the referral to the TRB was timely, I lament that Workplace Relations had still not been briefed. With Brad still on the Fixed Term and Relief Register, he continued to be employed as a relief teacher.

**Investigation into [REDACTED] conduct**

145. Brad taught as a relief teacher at [REDACTED] [REDACTED] 2020. On the [REDACTED], [REDACTED] of [REDACTED] contacted Learning Services. The matter was not referred to the TRB until [REDACTED] 2020.

146. While the referral to the TRB was relatively timely, it is noted that Brad worked as a relief teacher on [REDACTED] 2020.

147. [REDACTED] made a referral to Legal Services on [REDACTED] 2020. Upon learning this Legal Services and Workplace Relations:

- i. confirmed with the TRB that the matter had been reported to TASPOL and that the TRB was looking into emergency suspension of Brad registration, and agreed the TRB would report the matter to RWVP;
- ii. confirmed with [REDACTED] that the parent of the grade [REDACTED] student at [REDACTED] [REDACTED] had made a report to TASPOL;
- iii. removed Brad from the Relief and Fixed Term Employment Register; and

iv. informed Learning Services that Brad had been removed from the Relief and Fixed Term Employment Register.

148. On [REDACTED] 2020, the Department was notified that the TRB had suspended Brad Teacher Registration with immediate effect.

149. I note that [REDACTED] made a late referral to Legal Services, who notified Workplace Relations. Again I note that this should have been done by Learning Services on [REDACTED].

**Item 37 - Identify whether the Department's investigation, including as described in answer to paragraph 35 above, complied with the Department's policies and procedures between 2018 and 2021. If the Department's response did not comply with the policies and procedures in place between 2018 and 2021, please explain the respects in which the Department's response did not comply**

150. Learning Services should have immediately notified Workplace Relations the first known matter of Brad conduct. Had this occurred, Workplace Relations would have made an assessment as to whether to remove Brad from the Fixed Term and Relief register.

151. Workplace Relations would have also conducted earlier referrals to TASPOL, RWVP, TRB and the Integrity Commission.

**Item 38 - Did the Department notify the following entities about the allegations concerning Brad: (a) Tasmania Police (b) the Teachers Registration Board, and (c) the Department of Justice Registration to Work with Vulnerable People. If so, please outline when the Department made the notification and what caused the decision to notify. If not, please explain the reasons for not making such notifications.**

152. Addressed above.

**Item 39 - Do you consider that any notifications to the entities listed in paragraphs 38(a)–(c) above ought to have been made at an earlier time or, if no such notification was made, ought to be made at all? Please provide reasons for your answer**

153. Addressed above.

**Item 40 - Identify the mechanism, if any, for: (a) each school to inform subsequent potential employer schools of any concerns about the suitability of a relief teacher in the position of Brad [REDACTED]; or (b) for the Department to inform a subsequent potential employer school of any concerns about the suitability of a relief teacher in the position of Brad [REDACTED].**

154. Regarding item 40(a), as is demonstrated by this case, there is no formal mechanism for schools to inform other schools of concerns regarding relief teachers. In this case, Principals contacted the schools where he may have worked as a relief teacher and shared their concerns.
155. Regarding item 40(b), there is currently no mechanism in place for the Department to inform employer schools of the suitability of a relief teacher, other than remove them from the fixed term and relief employment register (which is current practice). In this case, Learning Services needed to track where Brad [REDACTED] was working to ascertain whether there were any concerns.
156. However, if the conduct of Brad [REDACTED] was observed today, the matter would be reported to Workplace Relations who would assess whether to remove the person from the Fixed Term and Relief Register.