



Commission of Inquiry into
the Tasmanian Government's
Responses to Child Sexual
Abuse in Institutional Settings

Who was looking after me? Prioritising the safety of Tasmanian children

Volume 3: Children in schools

August 2023

**Commission of Inquiry into the Tasmanian Government's
Responses to Child Sexual Abuse in Institutional Settings Report**

Volume 3
Children in schools

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Introduction to Volume 3

This volume focuses on children in Tasmanian government schools and how schools and the Department for Education, Children and Young People (formerly the Department of Education) prevent and respond to child sexual abuse.

A note on language

In October 2022, the Department of Education was renamed the Department for Education, Children and Young People, and given expanded functions. In addition to education, the new department is now responsible for the child protection and youth justice systems. In this volume, we use the term ‘Department’ to refer to either the Department of Education (as it then was) or the relevant functions that relate to education within the new Department for Education, Children and Young People. When we specifically mean the previous Department of Education or the new Department for Education, Children and Young People, we use the full name.

Every day, thousands of Tasmanian children are entrusted to the care of schools with the expectation they will be kept safe.

School is a place of learning, social connection and happiness for many students. Most school staff choose to work in the education system because they value children and want to educate and nurture them with care and compassion. We expect that these staff will welcome the improvements already underway to make children safer each day in the government school system.

However, for some children, schools have been a place of abuse and harm. Victim-survivors told us about their experiences of being abused by staff or fellow students. We heard about the trauma of their abuse and the betrayal many felt when their school or the Department failed to acknowledge the harm, to take prompt and effective action to support them, and to mitigate the risk to other children and young people.

Many of these children did not have a voice, and those who did speak out were often ignored, silenced and disbelieved. They lived with the burden of being abused, often alone and isolated. Their teachers, the Department and indeed the broader community failed to give them the care they needed and deserved.

The responsibility for this rests not with the child but with:

- the abusers who were allowed to work in the public education system
- the teachers and other staff who saw but did not intervene

- the principals and leaders who were told and did not believe
- State Service employees who treated the abuse of a child as an employment issue and focused on the rights and vocation of the adult instead of protecting children.

Many victim-survivors said that protecting others from harm was their main motivation for making a submission to our Commission of Inquiry, for attending a session with a Commissioner or for giving evidence as part of our hearings. We are indebted to everyone who shared their experience with us.

In August 2020, not long before the Government established our Commission of Inquiry, the Department announced the Independent Inquiry into the Tasmanian Department of Education’s Responses to Child Sexual Abuse (‘Independent Education Inquiry’). That inquiry was completed by Professors Stephen Smallbone and Tim McCormack in June 2021. It highlighted several problems, which we also heard about. These included:

- a narrow understanding of the types of conduct that can constitute or be a precursor to child sexual abuse, including failures to acknowledge the seriousness of professional boundary breaches or to recognise potential grooming behaviours
- unclear policies and procedures that were not fit-for-purpose and were applied inconsistently or were not understood by staff and the broader school community
- inadequate professional and skills development for staff and volunteers to understand their obligations and identify and effectively respond to child sexual abuse and harmful sexual behaviours
- poor responses to disclosures and complaints about child sexual abuse, leading to delayed action to reduce risk, poor-quality investigations and not enough support for those affected
- inadequate guidance and training on how to prevent and respond to harmful sexual behaviours
- a lack of coordination and focus on the safety of children in the Department—with responsibilities for safeguarding children dispersed across different roles and units, too spread out to be effective.

The Department accepted all the Independent Education Inquiry’s recommendations.

Through its Office of Safeguarding Children and Young People (‘Office of Safeguarding’), set up in August 2021, the Department has been implementing these recommendations at the same time as our Commission of Inquiry has been underway. We endorse the Independent Education Inquiry’s recommendations. Rather than duplicate them, we instead recommend that the Implementation Monitor evaluates their implementation (refer to Chapter 22, Recommendation 22.1).

However, some matters did not receive close attention in the Independent Education Inquiry. This was either because they fell outside its terms of reference or due to factors outside of the authors' control. We considered some of these issues in greater detail in our hearings, including:

- inconsistent and inadequate access to child sexual abuse prevention programs, which can—in an age-appropriate way—empower children and young people of all ages to understand their right to be safe from abuse and build their confidence to disclose their concerns to trusted adults
- the broader disciplinary framework to manage misconduct or complaints about employees in an educational context—including the level of arms-length advice and support required to ensure these are managed appropriately, prioritise children's safety, provide procedural fairness and uphold the integrity of disciplinary processes
- the powers and functions of the Teachers Registration Board—particularly its ability (or inability, as the case may be) to share and receive information, maintain visibility of teachers, impose professional development requirements and enforce the requirements of its legislation. We also considered whether the Board is appropriately resourced and empowered to acquit its functions.

To help illuminate the Department's policies, processes and systems, we selected several case studies, which we discuss in Chapter 5. For some of these, we include the voices of victim-survivors who provided firsthand accounts of their experiences.

The Department has long had strategies and safeguards designed to protect children and young people in its care. These include evolving policies and procedures, annual mandatory reporting training and requirements that staff and volunteers hold Registration to Work with Vulnerable People. The Teachers Registration Board also has measures to ensure that people registered to teach are safe and suitable to do so. Yet it was clear—best evidenced in the apologies delivered by the Secretary of the then Department of Education, Timothy Bullard, during hearings—that the Department has significantly failed to protect students. It must invest in change and improvement.

We heard from the Department about initiatives underway to ensure students are safe from sexual abuse. These include refreshed and improved policies, a more expansive training program for staff, introducing Safeguarding Leads in each school, building expertise in identifying and responding to harmful sexual behaviours, and a commitment to system reviews to drive reflection and continuous improvement. We commend and welcome these initiatives.

However, we identified some areas where more work is needed, and we make recommendations accordingly.

This volume has three chapters. In Chapter 4—Background and context—we outline Tasmania’s education system, noting that we focus on government schools. We discuss the Independent Education Inquiry and its findings and recommendations in detail given its recency. We then outline the Government’s response to the Independent Education Inquiry.

In Chapter 5—Case studies—we outline eight case studies, some of which we explored in detail in our hearings. In these case studies, we pinpoint systemic issues in the Department’s responses to allegations of child sexual abuse, as well as recent improvements. These case studies and the problems they highlight informed our recommendations in Chapter 6.

The recommendations we make in Chapter 6 include:

- putting in place mandatory professional development and training requirements for staff and volunteers (targeted at their role responsibilities and degree of interaction with students) to ensure all those engaging with students have baseline knowledge about child sexual abuse and harmful sexual behaviours that can be refreshed and built on over time
- providing greater guidance and mandated professional development on harmful sexual behaviours, recognising the complexity of these matters and the sensitivity, expertise and nuance required to respond to them appropriately
- increasing funding and powers for the Teachers Registration Board to enable it to respond quickly and effectively to identified risks posed by teachers, using a broader suite of regulatory tools and conditions to address concerning conduct by teachers
- establishing an Incident Management Directorate to oversee and manage complaints about child sexual abuse by staff. This Directorate should support schools to deal with distressing incidents according to best practice, while offering a degree of independence that builds the trust and confidence of affected students and their families and carers.

It is tempting to imagine that many of the problems described in this volume are problems of the past. While we can see improvement over time in how schools and the Department have responded to child sexual abuse—in line with growing community awareness and understanding of the dynamics and impacts of abuse—we continued to hear about many of the problems as recently as the time of writing, particularly in relation to harmful sexual behaviours.¹

There is no room for complacency, and we expect—particularly as the Department’s functions expand—a continued commitment to placing the needs and safety of children at the centre.

4 Background and context: Children in schools

1 Introduction

In this chapter, we give background and context to Tasmania’s public education system, listing some facts and figures. This discussion notes the significant size of the Department in terms of its number of employees and the number of children and young people who are in its care every day. We briefly set out the Department’s internal structure before and after it was expanded to include several functions of the former Department of Communities. We also give a basic overview of the Teachers Registration Board.

We then examine, in some detail, the Independent Education Inquiry’s report. After providing some background and context to the report, we describe the key problems it identifies, set out the recommendations it makes and outline the Department’s response to the report.

Throughout our Inquiry we have focused on schools, but all children in the Tasmanian education system (including those attending Child and Family Learning Centres) will benefit from efforts to prevent and better respond to child sexual abuse.

2 Tasmania's education system

2.1 The system in numbers

According to departmental data, in 2022 there were 61,252 students enrolled in Tasmanian government schools.² Just under half of those students were female (48.3 per cent) and just over half were male (51.6 per cent).³ There were approximately 7,400 Aboriginal and Torres Strait Islander students enrolled in government schools in 2022, representing 12.1 per cent of all students.⁴

The Department provides education services to these students through 195 government schools across the State.⁵ In 2021–22, Tasmania had:

- 125 primary schools
- 29 secondary schools
- 25 combined primary and secondary schools
- eight senior secondary schools (colleges)
- eight support schools.⁶

The Department is also responsible for the State's libraries, which are administered by Libraries Tasmania.

In March 2022, Tasmania had 7,205 fully registered teachers, 3,778 provisionally registered teachers and 233 holders of Limited Authorities to Teach.⁷ While the Teachers Registration Board does not have 'reliable information about where a teacher is employed', the Board's Watched Registrations list provides some indication of where teachers are working.⁸ The Watched Registrations list (discussed in Chapter 6) gives employers access to information about teachers' Registration to Work with Vulnerable People status and whether or not there are conditions placed on their registration as teachers.⁹

Based on information on the Watched Registrations list, the Registrar of the Teachers Registration Board told us that, as of April 2022, there were 5,830 government school teachers and 3,438 non-government school teachers (1,862 teachers in Catholic schools and 1,576 teachers in independent schools).¹⁰ Across all sectors, the Board had granted 310 Limited Authorities to Teach (noting that a person may hold more than one Limited Authority to Teach at a time).¹¹ A Limited Authority to Teach allows a person who wants to teach to do so if they have appropriate skills but no qualification or registration to teach. These are generally a temporary solution to fill role gaps.¹²

Overall, the Department employed 11,148 people in 2021–22.¹³ Just over half of those (5,700) were employed as teachers (this includes 534 principals and assistant principals).¹⁴ Of those people employed as teachers, 4,193 (73.6 per cent) were female

and 1,507 (26.4 per cent) were male.¹⁵ The average age of all female teachers was 49 years, and the average age of all male teachers was 44 years.¹⁶ While data was provided about the number of female and male teachers by employment status (full-time fixed-term or full-time permanent; part-time fixed-term or part-time permanent), the Department did not publish the number of teachers on the Fixed Term and Relief Employment Register in its 2021–22 annual report. However, the Government stated in early 2022 that there were nearly 1,700 relief teachers in Tasmania.¹⁷ Other support staff employed in government schools in 2022 include teacher assistants (2,116), school psychologists (101), social workers (119), speech pathologists (56), nurses (84) and education support specialists (35).¹⁸

Our terms of reference require that we examine the Government’s responses to child sexual abuse in government institutions. But some of the recommendations in this chapter may have broader application and may therefore also be relevant to non-government schools—particularly in relation to the Teachers Registration Board. This is because all teachers working in Tasmania, whether in government or non-government schools, must be registered with the Teachers Registration Board. According to the Australian Bureau of Statistics, in addition to the more than 60,000 students enrolled in Tasmanian government schools in 2022, there were 26,138 students enrolled in non-government schools.¹⁹ Non-government schools include Catholic schools (38 schools) and independent schools (35 schools).²⁰ In Tasmania, non-government school registration is the responsibility of the Registrar, Education, and is overseen by the Non-Government Schools Registration Board.²¹

2.2 Department for Education, Children and Young People structure

In February 2022, the Tasmanian Government announced that the functions that support children in the Department of Communities would be transferred to the Department of Education.²² The Government’s rationale for these changes included reducing the ‘siloes approach [to] ... departmental structures’ recommended by an Independent Review of the Tasmanian State Service, and improving services and outcomes for children and young people by strengthening departmental administrative structures.²³

Timothy Bullard, the Secretary overseeing the expanded Department, told us that the new Department provides the opportunity to:

- combine collective, knowledge, skills, information and resources
- work collaboratively in the best interests of children and young people.²⁴

The new Department for Education, Children and Young People began in October 2022. These changes occurred after our Commission of Inquiry was established and were made independently of it.

In our chapter on out of home care (Chapter 9), we note our reservations about the merger of the Child Safety Service into the new ‘mega’ department. Our main concern is that the attention that child protection requires may be difficult to achieve in a much larger departmental framework.

2.2.1 New departmental structure

Under the newly formed Department for Education, Children and Young People, the ‘Keeping Children Safe’ division—headed by a Deputy Secretary and encompassing Services for Children and Families and the Office of Safeguarding Children and Young People—reports directly to the Secretary, and the new ‘Services for Youth Justice’ section reports to the Associate Secretary.²⁵ Most of the education functions of the new Department report to the Associate Secretary.

The Department has four portfolio services in relation to education:

- Portfolio Services for Development and Support—this portfolio service provides ‘those directly working with children and young people with the technical guidance and support they need to build their capability to have the greatest positive impact’.²⁶ It includes Teaching and Learning, Wellbeing and Inclusion, Improvement Consultants, and People Capability and Development.
- Portfolio Services for Schools and Early Years—this portfolio service aims to ‘inspire, support and engage all children and young people to learn more, every day’.²⁷ It includes Schools, Child and Family Learning Centres, and Learning Services (which support students and staff).
- Portfolio Services for Continuous Improvement and Evaluation—this portfolio service reviews and evaluates individual and system-level impacts of the Department. It includes Strategic Policy and Projects, Strategic Systems Development, External School Review, and Evaluation.
- Portfolio Services for Business Operations and Support—this portfolio provides human, financial and IT support. It includes People Services and Support, Legal Services, Information and Technology Services, and Organisational Safety.²⁸

The Office of Safeguarding Children and Young People (‘Office of Safeguarding’) was established in response to an Independent Education Inquiry recommendation.²⁹ The Office of Safeguarding drives longer term cultural change and continuous improvement to help the Department be an ‘exemplary child safe organisation’.³⁰ The Executive Director, Office of Safeguarding, is responsible for a strategy and policy framework to embed the national Child Safe Standards across the Department.³¹ The work of the Office of Safeguarding also builds on the Department’s wellbeing strategy. The Office of Safeguarding and its role in keeping Tasmanian students safe is discussed in Chapter 6.

Other agencies associated with the new Department are Education Regulation (including the Teachers Registration Board), the Office of the State Archivist and the Commissioner for Children and Young People.³²

Most of the information and evidence provided to us, particularly in the case studies in Chapter 5, referred to the Department's previous structure. The former Department of Education had four divisions, and each had roles for protecting children and young people's safety: Support and Development division, Learning division, Strategy and Performance division, and Corporate and Business Services division.³³

2.3 Education-related independent bodies

The Teachers Registration Board is an independent statutory body that works with the Department to ensure teachers are appropriately qualified and to investigate complaints.³⁴ The Board's primary functions include registering teachers to work in government, Catholic and independent schools in Tasmania.³⁵

Tasmanian teachers must be registered with the Board to ensure they meet the required standards and have the necessary skills. According to the Board, 'registration promotes community confidence in the work of Tasmanian teachers and validates registered teachers as highly skilled professionals'.³⁶

The Board also investigates complaints against teachers, and it may take disciplinary action where appropriate. This can include determining that a person is not of good character or is unfit to be a teacher. The Board works to improve teaching standards and maintains a code of ethics for teachers.³⁷

In the financial year ending June 2020, the Teachers Registration Board had 12.8 full-time-equivalent positions. On average, the Board employed 14 part- and full-time employees.³⁸ The Board had a total revenue (and other income from transactions) of just over \$2 million in 2020, with just over one-third of this coming from the Government. Before 2017, almost all the Board's revenue came from teacher registration fees.³⁹ The Government committed to providing the Board \$375,000 in 2022–23 and \$383,000 in 2023–24 as part of its Safeguarding Children and Young People initiatives. It said this will allow the Board to engage more staff (up to three more full-time-equivalent positions) to 'support the investigation of complaints and disciplinary processes'.⁴⁰

Through submissions to our Inquiry and in our public hearings, we heard about several issues with the Board's current legislative underpinnings and processes—these are discussed in Chapter 6.

3 Independent Education Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse

The Independent Education Inquiry was announced in August 2020. Its purpose was to:

- examine what, if any, more actions and/or changes to the current systems applicable to, or used by, the Department should be made to minimise the risk of child sexual abuse in Tasmanian government schools
- complement, not substitute, the work of the National Royal Commission.⁴¹

Because our Commission of Inquiry was announced shortly after the start of the Independent Education Inquiry, the authors of the Independent Education Inquiry considered it appropriate to leave certain questions to be explored by us. Accordingly, the authors did not look at the roles of other government agencies (such as the Office of the Director of Public Prosecutions, the then Department of Communities and Tasmania Police) and the Tasmanian Government itself in responding to child sexual abuse allegations against Department of Education personnel or students. The authors did, however, make recommendations for better information sharing and coordination between the Department of Education and some of these agencies.

Professors Stephen Smallbone and Tim McCormack completed the Independent Education Inquiry in June 2021. The findings and recommendations section of their report was released to the public in November 2021. The Government has identified a range of legal issues, including the potential identification of people who contributed to the inquiry, as the reason for only releasing the section on findings and recommendations.⁴² Shortly after this limited release, a full, albeit significantly redacted, version of the report was provided to the Australian Broadcasting Corporation under right to information laws.⁴³ At the time of writing in 2023, the Tasmanian Government has not made the full report publicly available.⁴⁴

3.1 Systemic problems identified by the Independent Education Inquiry

The report makes observations about systemic problems that have undermined responses to child sexual abuse. These include problems with organisational culture, governance and staffing, policies and procedures, the physical environment of schools, recruitment and transfers, training and knowledge, record keeping and information sharing.

3.1.1 Organisational culture

Through consultations, the Independent Education Inquiry heard that the Department of Education had ‘entrenched cultural values’ that manifested in the ‘prioritisation of adults’ interests over those of students’.⁴⁵ Although it has improved over time, this culture still manifests in schools in several ways including:

- a belief that adults’ voices should be believed over those of children
- a belief that complying with guidelines in interactions with students is primarily to protect adults
- a readiness to disbelieve students who complain of sexual abuse ‘because it is easy [for students] to make false allegations’ or due to their backgrounds or circumstances.⁴⁶ The false belief that children frequently lie about sexual abuse is discussed in Chapter 16.

While the report notes positive recent changes in the culture and leadership of the Department, it states that ‘residual cultural problems’ nevertheless remain.⁴⁷

The research we commissioned conducted by Associate Professor Tim Moore and Emeritus Professor Morag McArthur about children’s perceptions of safety in institutional settings, similarly identified the power imbalance between adults and children in schools. Students talked about double standards creating power imbalances between teachers and students that made them feel unsafe:

... adults expect young people to be respectful and non-violent, but teachers still use their power over students, they can be disrespectful in the way that they speak to students, they work in ways that showed they were in charge and used that against students for example ‘I can swear at you but you can’t swear at me’.⁴⁸

These children thought that broader societal attitudes often reflected in the school context: ‘There’s an issue at a societal level—as a community we don’t really take sexual harassment seriously enough or take action. So sometimes that plays out at schools’.⁴⁹ They said it was therefore difficult to be sure they would be believed or taken seriously if they disclosed concerns.⁵⁰

3.1.2 Governance and staffing

The report expressed concern that, at the time of its writing, there was:

... no single point of oversight or responsibility in [the Department] for all aspects of student safeguarding, and therefore no effective restraint on the fragmentation of safeguarding efforts across the organisation.⁵¹

It recommended establishing a Director of Student Safeguarding position. The Department has since set up the Office of Safeguarding and appointed Elizabeth Jack as Executive Director.⁵² The Office of Safeguarding is discussed in Chapter 6.

The report also stated that in many of the schools visited, the demand for school support staff was far greater than the resources the Department allocated for these positions.⁵³ It noted that in trying to address this ‘chronic shortage’, the Department had deployed Student Wellbeing Teams to provide complex student case management support. However, the Independent Education Inquiry heard that the system seldom provided the ‘support it was established to deliver’, owing in large part to unclear policies and guidelines.⁵⁴

We note that since the Independent Education Inquiry report was released, the Tasmanian Government has committed extra funding for professional support staff in schools. At the time of the Independent Education Inquiry, there were 110 social workers and 93 psychologists employed across Tasmania.⁵⁵ The 2022–23 State Budget outlines that funding is allocated to help employ eight more psychologists and eight more social workers ‘to support student wellbeing and safety’, plus another four senior support staff.⁵⁶

3.1.3 Obligations, policies and procedures

The Independent Education Inquiry heard that the Department’s ‘policy environment’ was ‘confused and crowded’, with new policies layered on top of existing ones. One senior official referred to the situation as ‘dying by policy’.⁵⁷

The difficulties were compounded by the lack of an effective, central portal for staff to access the information they needed. The Independent Education Inquiry observed firsthand ‘how frustratingly difficult it is to find relevant policies and procedures, particularly through [the Department’s] publicly accessible online Policy Library’.⁵⁸ Also, departmental staff had trouble applying or interpreting some policies and reported that policies about certain issues, including responding to harmful sexual behaviours, were lacking.⁵⁹

The report expressed concern that, in some instances, there was a narrow interpretation of the requirement that employees must be acting ‘in the course of their employment’ for the State Service Code of Conduct to apply to their behaviour. This meant that inappropriate conduct occurring outside school hours or not on school grounds had not been subject to disciplinary proceedings.⁶⁰

The report noted ‘broad agreement’ among those consulted that the State Service Code of Conduct was not suited to the distinct context of schools.⁶¹ While there could be ‘no objection’ to the general principles of the State Service Code of Conduct, the lack of a Department-specific code of conduct meant that allegations of sexual abuse against teachers were investigated under the generic provisions of Employment Direction No. 5, and a breach of the State Service Code of Conduct had to be established before formal disciplinary proceedings could be instigated.⁶² The report noted that departmental staff ‘expressed strong support for a [Department]-specific code of conduct, both to formalise

rules and expectations about behaviour in schools and to enable [Department]-specific responses and investigations'.⁶³ The report recommended that the Department drafts its own code of conduct.⁶⁴

The Department's policies and procedures that relate to child safeguarding are discussed in Chapter 6.

3.1.4 Physical environment

The report observed that some school layouts created spaces that did not allow for third-party observation, increasing the opportunity for a person to sexually abuse children.⁶⁵

Certain physical areas in schools—such as gyms, changing rooms, dedicated drama/music areas, secluded outdoor spaces behind buildings and other isolated spaces—were noted as common places that posed a risk to student safety.⁶⁶ The report recommended that schools be required to undertake 'safeguarding risk assessments' and create risk management plans to help mitigate these safety concerns. The report also noted that, encouragingly, newer school renovations and building projects are incorporating design elements that help reduce these risks.

3.1.5 Staff recruitment and transfers

The report acknowledged that the requirement for staff and volunteers in the Department to obtain Registration to Work with Vulnerable People was well understood and observed. However, it expressed concern about an apparent lack of appreciation for the 'limited, albeit important' role these checks have in safeguarding students.⁶⁷ The authors identified several aspects of the Registration to Work with Vulnerable People Scheme that limit its usefulness in preventing child sexual abuse:

- Most convicted sex offenders had no prior record of sex offences and are therefore unlikely to have been discovered through the scheme.
- The impulse to sexually abuse children in an institution may not occur until the person is engaged by the institution, and this will not be picked up in pre-employment screening.
- The scheme does not apply to children, who may be more likely than adults to 'abuse other students'.⁶⁸

The Registration to Work with Vulnerable People Scheme is discussed in Chapter 18.

The report noted other problems involving teacher registration and transfers, in particular the national mutual registration scheme, which unscrupulous teachers can exploit to get registered in another jurisdiction.⁶⁹ The report recommended developing a student safeguarding policy that includes clear direction about how 'due diligence is to be exercised in staff recruitment and transfers'.⁷⁰

3.1.6 Staff training, knowledge and skills

The Independent Education Inquiry heard staff were confused about how to respond to allegations of abuse, were not aware of some policies, and thought that policies were difficult to implement.⁷¹ It also heard that trainee teachers were told to make a mandatory report whenever they had a slight suspicion, but many trainee teachers felt they would be perceived as causing trouble or potentially damaging ‘a colleague’s career or family’.⁷² The report noted a lack of adequate training about safeguarding for trainee teachers.⁷³

The Independent Education Inquiry heard that:

- there was a lack of training for staff about how to prevent and respond to child sexual abuse
- induction training for new teachers was ‘skewed’ towards responding to, rather than preventing, allegations of child sexual abuse
- there was a lack of training from the Department about how to receive disclosures and manage information.⁷⁴

The report noted that, at the time of its writing, discussions were occurring at the senior executive level in the Department about rolling out ‘preventative training for staff on grooming behaviours and to have ongoing training to recognise signs and patterns, as well as precursors to abusive behaviour’.⁷⁵ Training is discussed in Chapter 6.

3.1.7 Record keeping

The Independent Education Inquiry received unanimous feedback that the Department did ‘not have a system of record keeping to track the number of cases, trends or features of child sexual abuse in Tasmanian Government schools’.⁷⁶ The Department’s Legal Services unit provided the Independent Education Inquiry with a spreadsheet as evidence of the main departmental record of ‘suspected, alleged or proven sexual abuse incidents involving [departmental] personnel and/or students’.⁷⁷ The spreadsheet was created in 2017 in anticipation of questions about the National Redress Scheme, civil claims, police investigations and privacy information requests. The spreadsheet was not a complete record of allegations or incidents of child sexual abuse in schools, nor did its design allow basic statistics to be calculated.⁷⁸

The Independent Education Inquiry also considered the Department’s Student Support System in this context, explained as a:

... digital repository of school records (including confidential notes by social workers and psychologists) which ... may include information about students affected by sexual and other abuse.⁷⁹

Stakeholders described this system as antiquated, ineffective and time-consuming to use, and schools and individuals in schools used it inconsistently.⁸⁰

The report stated that a lack of record keeping impeded investigations into current and historical allegations of child sexual abuse made against employees. It recommended that the Department implements a robust system for recording complaints.⁸¹

3.1.8 Information sharing and interagency relationships

The Independent Education Inquiry heard of a lack of systematic information sharing between schools about employment concerns involving teachers and other staff.⁸² Also, in investigating teachers subject to child sexual abuse allegations, government agencies were unwilling to share information with one another and with non-government organisations.⁸³ We understand that some of that lack of information sharing is the result of Office of the Solicitor-General advice on information-sharing restrictions in the *Personal Information Protection Act 2004* ('Personal Information Protection Act').⁸⁴

The report noted that 'one of the most common barriers' to information sharing is the restriction on what information the Department can share with the Teachers Registration Board about allegations of child abuse and vice versa, owing to privacy legislation.⁸⁵ This is discussed in Chapter 6.

The Independent Education Inquiry also heard about inconsistencies in how the Department and other agencies, such as police, the Child Safety Service and the Sexual Assault Support Service, interact when dealing with suspected child sexual abuse in educational settings.⁸⁶ The authors recommended that the Department develops a memorandum of understanding with police to 'help clarify roles and responsibilities'.⁸⁷

The issue of information sharing, and the scope and effect of Tasmania's privacy legislation, is discussed in Chapter 19.

3.2 Recommendations of the Independent Education Inquiry

The report made 20 recommendations about changes to governance/leadership, policies/procedures, training and professional development. In particular, it made recommendations to:

- improve record keeping to better track patterns and trends of child sexual abuse (recommendation 1)⁸⁸
- ensure safeguarding decisions and actions are based on the principle of acting in the best interests of the child to address the 'residual cultural problem' of putting the interests of adults above those of children (recommendation 2)⁸⁹
- create a focus on prevention rather than just responding to allegations or concerns (recommendation 3)⁹⁰

- develop a comprehensive student safeguarding policy and improve existing policies for mandatory reporting, technology use and duty of care (recommendation 4)⁹¹
- establish a Director of Safeguarding in the Department (recommendation 5)⁹²
- undertake mandatory safeguarding risk assessments in every school (recommendation 6)⁹³
- place school safeguarding officers in every government school (recommendation 7)⁹⁴
- improve teacher training and professional development (recommendations 8 and 9)⁹⁵
- improve the ability of staff to identify and report concerning behaviour (recommendations 10 and 11)⁹⁶
- develop a formal code of conduct to allow disciplinary action against staff (recommendation 12)⁹⁷
- integrate student safeguarding policies so their position in the Department’s set of safeguarding policies is clear (recommendations 13, 14 and 15; recommendation 15 is the same as recommendation 11)⁹⁸
- develop protocols to respond to different types of sexual abuse (recommendation 16)⁹⁹
- improve interagency relationships between police and the then Department of Communities through memorandums of understanding (recommendations 17 and 18)¹⁰⁰
- improve public accessibility to policies (recommendations 19 and 20)¹⁰¹
- complete a systems review after all significant sexual abuse incidents to continually improve prevention and response (recommendation 21).¹⁰²

3.3 The Department’s response to the Independent Education Inquiry

The Department accepted all 20 of the Independent Education Inquiry’s recommendations.¹⁰³ A publicly available table outlining the Department’s planned implementation timeframe for the recommendations indicates that most were to be completed in either 2022 or 2023.¹⁰⁴ In a statement on 10 May 2022, Secretary Bullard provided us with a table outlining the work undertaken so far and the work that is planned in respect of each recommendation. This document indicates that recommendations 16 (response protocols), 17 (partnership with police) and 21 (system reviews to be conducted following an incident of child sexual abuse) have been completed.¹⁰⁵

The Department told us that it had ‘taken immediate action’ to implement recommendation 5 (to establish a Director of Safeguarding) and that it had appointed Elizabeth Jack to the position of Executive Director of Safeguarding.¹⁰⁶

The Department also stated that it has completed one other recommendation—recommendation 19 (improving public access to information about student safeguarding). The Department said this recommendation was satisfied by including on its website ‘pages and information relating specifically to Safeguarding Children and Young people’.¹⁰⁷ The Department told us it will continue to update its website.¹⁰⁸ In Chapter 6, we discuss how the Department has generally improved access to safeguarding information.

Secretary Bullard provided us with another update in September 2022 on the Department’s progress on implementing the Independent Education Inquiry’s recommendations. While not specifically linking the Department’s work on implementation to particular recommendations, the Secretary told us that the Department’s ‘activity in relation to the recommendations’ included:

- consulting on a draft policy framework for safeguarding children and young people
- revising current policies and procedures ‘to incorporate relevant information on safeguarding children and young people from the harm of abuse, including Mandatory Reporting, Grievance Resolution, Duty of Care, IT Conditions of Use, Work with Vulnerable People, Family Violence, and Billeting Students in Australia and Overseas’
- revising an online mandatory reporting training module
- working on embedding safeguarding officers in government schools
- engaging with the University of Tasmania on incorporating ‘material on understanding, preventing, and responding to child sexual abuse, and trauma-informed practice in teacher training courses’
- developing a ‘safeguarding professional learning module’
- improving the operation of the Department’s case management platform to incorporate integrated ‘safeguarding-focused recording, reporting, and monitoring capability’
- reviewing the Department’s complaints and grievances processes to improve access by ‘children and young people, parents/carers and the community’
- developing an external website with information for children and young people as well as parents and carers about abuse, including signs of abuse and where to go for help.¹⁰⁹

Secretary Bullard told us that the system review conducted in response to a child sexual abuse incident in 2022 recommended improvements across several areas of the Department’s procedures and responses.¹¹⁰ He said the Department is using existing resources to finish implementing the system review recommendations, but that there

is overlap between these recommendations and those of the Independent Education Inquiry, as well as other work underway in the Office of Safeguarding.¹¹¹ We discuss this system review in Chapter 6.

In addition to allocating departmental resources to implement the ‘system review’ recommendations, Secretary Bullard told us that ‘additional funding has ... been allocated through the State Budget process to support rollout of the recommendations’.¹¹² This includes:

- \$26.1 million over four years from 2022–23 and \$9.7 million ongoing to appoint Safeguarding Officers in every government school
- \$2.6 million over four years from 2022–23 and \$600,000 ongoing for mandatory professional development for all departmental staff towards understanding, preventing and responding to child sexual abuse in schools
- \$1.27 million over two years from 2022–23 to provide more support for children and young people affected by harmful sexual behaviours, including four full-time-equivalent senior support staff with specialist expertise
- \$3.8 million over four years from 2022–23 and \$1.68 million ongoing to employ additional psychologists and social workers to directly support schools
- \$2.6 million over three years from 2022–23 to fully staff the Office of Safeguarding to meet the demands of the work required to support all safeguarding-related activity across the Department.¹¹³

The 2022–23 State Budget states that resourcing for the following Independent Education Inquiry recommendations will come from the Department’s existing resources:¹¹⁴

- Recommendation 7—all schools should appoint a school staff person to the role of Safeguarding Officer. This includes allocating \$26 million for 72 full-time-equivalent positions across all schools.¹¹⁵
- Recommendation 9—training for principals, teachers and assistants should include information about understanding, preventing, identifying and responding to child sexual abuse.
- Recommendation 10—developing training materials, instructions and guidelines for teachers and support staff in relation to ‘reporting and recording concerns about staff and student behaviour that may be relevant to preventing sexual abuse, but that fall below the threshold required by the Department’s Mandatory Reporting Procedures’.¹¹⁶

In April 2023, the Department released *Safe. Secure. Supported. Our Safeguarding Framework*, which sets out an ‘overarching approach to safeguarding children and young people from abuse’.¹¹⁷ Through this framework, the Department may have begun addressing some of our recommendations in this volume, but we could not fully consider this, given that we had ended the inquiry stage of our Commission of Inquiry when the framework was released. We have retained our recommendations considering this.

4 Conclusion

In this chapter, we have described the Tasmanian education system, focusing particularly on children in government schools. We have also discussed the recent Independent Education Inquiry and the Government’s response to this. In the following chapter—Chapter 5—we present case studies that highlight the challenges the Department faces in preventing and responding effectively to child sexual abuse in schools.

Notes

- 1 Our Commission of Inquiry heard of these ongoing problems from victim-survivors, families and third parties who contacted us. For privacy and confidentiality reasons, we cannot publish details of these notifications.
- 2 Department of Education, *Key Data* (Report, 2022) 16. This figure includes students in Early Special, Kindergarten, Primary, Secondary, and Senior Secondary schools and is based on headcount.
- 3 Department of Education, *Key Data* (Report, 2022) 16. In respect of gender, 29 students preferred a term other than male or female and six preferred not to nominate a gender.
- 4 Department of Education, *Key Data* (Report, 2022) 17.
- 5 Department of Education, *Annual Report 2021–2022* (Report, 2022) 4.
- 6 Department of Education, *Annual Report 2021–2022* (Report, 2022) 4. The Department of Education also provides eSchool services for students who cannot attend a physical school and 12 Child and Family Learning Centres across the State.
- 7 Statement of Ann Moxham, 27 April 2022, 3, Table 3.1.
- 8 Statement of Ann Moxham, 27 April 2022, 3 [3.2–3.4].
- 9 Teachers Registration Board Tasmania, *Watched Registrations* (Web Page, 2021) <<https://www.trb.tas.gov.au/watched-registrations/>>.
- 10 Statement of Ann Moxham, 27 April 2022, 3 [3.6].
- 11 Statement of Ann Moxham, 27 April 2022, 4 [3.6].
- 12 Teachers Registration Board Tasmania, *Limited Authority to Teach* (Web Page, 2021) <<https://www.trb.tas.gov.au/limited-authorities-to-teach/>>.
- 13 Department of Education, *Annual Report 2021–2022* (Report, 2022) 33. The total full-time-equivalent count was 8,661.94.
- 14 Department of Education, *Annual Report 2021–2022* (Report, 2022) 33.
- 15 Department of Education, *Annual Report 2021–2022* (Report, 2022) 33.
- 16 The calculation of the average age of teachers is based on ages for all teaching positions (Base Grade Teachers, Advanced Skills Teachers, Principals and Assistant Principals, and Non-School Based Band 4).
- 17 ‘Tas Education Minister Urged to “Come Clean” on Teacher Numbers’, *Education HQ* (online, 4 March 2022) <<https://educationhq.com/news/tas-education-minister-urged-to-come-clean-on-teacher-numbers-115236/>>; Will Murray, ‘Tasmania’s COVID-19 Backfill Plan to Use Relief Teachers May Fall Short’, *ABC News* (online, 10 February 2022) <<https://www.abc.net.au/news/2022-02-10/relief-teachers-reject-covid-backfill-plan/100816986>>.
- 18 Department of Education, *Annual Report 2021–2022* (Report, 2022) 34.
- 19 Australian Bureau of Statistics, ‘Schools’, *Education 2022* (15 February 2023) Table 90a <<https://www.abs.gov.au/statistics/people/education/schools/2022/Table%2090a%20Key%20Information%2C%20by%20States%20and%20Territories%2C%202021%20to%202022.xlsx>>.
- 20 The number of Tasmanian Catholic schools is reported in Department of Education, *Annual Report 2020–2021* (Report, 2021) 87. The number of independent schools is reported in Australian Bureau of Statistics, ‘Schools’, *Education 2022* (15 February 2023) Table 90a <<https://www.abs.gov.au/statistics/people/education/schools/2022/Table%2090a%20Key%20Information%2C%20by%20States%20and%20Territories%2C%202021%20to%202022.xlsx>>.
- 21 Non-Government Schools Registration Board, *Registration of Non-government Schools* (Web Page, 2022) <<https://schoolregistration.tas.gov.au/registration-guidelines/>>.
- 22 Peter Gutwein, ‘Department Structures to Strengthen Tasmanian Outcomes’ (Media Release, 24 February 2022) <https://www.premier.tas.gov.au/site_resources_2015/additional_releases/departments_structures_to_strengthen_tasmanian_outcomes>. The media release explained: ‘The changes will be phased in from 1 July 2022, in a staged approach to be completed by 30 September 2022 and the Department of Communities will not exist after this date’.

- 23 Peter Gutwein, 'Department Structures to Strengthen Tasmanian Outcomes' (Media Release, 24 February 2022) <https://www.premier.tas.gov.au/site_resources_2015/additional_releases/department_structures_to_strengthen_tasmanian_outcomes>.
- 24 Statement of Timothy Bullard, 12 September 2022, 12 [46].
- 25 Department for Education, Children and Young People, *DECYP Organisational Chart* (Web Page, 30 April 2023) <<https://publicdocumentcentre.education.tas.gov.au/library/Shared%20Documents/DECYP-Organisation-Chart.pdf>>.
- 26 Department for Education, Children and Young People, *DECYP Organisational Chart* (Web Page, 30 April 2023) <<https://publicdocumentcentre.education.tas.gov.au/library/Shared%20Documents/DECYP-Organisation-Chart.pdf>>.
- 27 Department for Education, Children and Young People, *DECYP Organisational Chart* (Web Page, 30 April 2023) <<https://publicdocumentcentre.education.tas.gov.au/library/Shared%20Documents/DECYP-Organisation-Chart.pdf>>.
- 28 Department for Education, Children and Young People, *DECYP Organisational Chart* (Web Page, 30 April 2023) <<https://publicdocumentcentre.education.tas.gov.au/library/Shared%20Documents/DECYP-Organisation-Chart.pdf>>.
- 29 Department of Education, *Department of Education Response to Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (9 November 2021) 5, Recommendation 5.
- 30 Department of Education, 'Safeguarding Children and Young People', *Children, Youth and Families* (Web Page, 25 July 2023) <<https://www.education.tas.gov.au/about-us/safeguarding-children/>>.
- 31 Department of Justice, 'Tasmanian Government's Current Service System', 22 September 2021, 1, produced by the Tasmanian Government in response to a Commission notice to produce.
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- 33 Department of Education, *Annual Report 2021–2022* (Report, 2021) 7.
- 34 *Teachers Registration Act 2000* s 6A.
- 35 Department of Education, *Annual Report 2020–2021* (Report, 2021) 51.
- 36 Teachers Registration Board, *About Us* (Web Page, 30 April 2023) <<https://www.trb.tas.gov.au/about-us/>>.
- 37 Teachers Registration Board, *Annual Report 2020* (Report, 2021) 2; refer also to Teachers Registration Board, *Code of Professional Ethics for the Teaching Profession in Tasmania* (undated).
- 38 Statement of Ann Moxham, 27 April 2022, 7 [5.9].
- 39 Transcript of Ann Moxham, 12 May 2022, 1006 [42]–1007 [1].
- 40 Tasmanian Government, *Government Services: Budget Paper No 2* (2022) vol 1, 55–57.
- 41 Department of Education, *Department of Education Response to Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (9 November 2021) 1.
- 42 Sarah Courtney, 'Statement on the Release of the Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse' (Media Release, 9 November 2021) <https://www.premier.tas.gov.au/site_resources_2015/additional_releases/statement_on_the_release_of_the_independent_inquiry_into_the_tasmanian_department_of_educations_responses_to_child_sexual_abuse>.
- 43 Adam Langenberg, 'Tasmanian Education Department Sex Abuse Report Details "Some Record of Concern" About 41 Current Staff' *ABC News* (online, 10 Nov 2021) <<https://www.abc.net.au/news/2021-11-10/tas-education-department-review-child-sex-review-concerns-staff/100607564>>.
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- 45 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 8.
- 46 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 8.
- 47 Refer to Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 74–75, Recommendation 2.
- 48 Tim Moore and Morag McArthur, *Take notice, believe us and act! Exploring the safety of children and young people in government run organisations* (Research Report prepared for the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, February 2023) 46.

- 49 Tim Moore and Morag McArthur, *Take notice, believe us and act! Exploring the safety of children and young people in government run organisations* (Research Report prepared for the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, February 2023) 56.
- 50 Tim Moore and Morag McArthur, *Take notice, believe us and act! Exploring the safety of children and young people in government run organisations* (Research Report prepared for the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, February 2023) 57.
- 51 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 9.
- 52 Refer to Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 76, Recommendations 4 and 5; Department of Education, *Department of Education Response to Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (9 November 2021) 3.
- 53 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 63.
- 54 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 63.
- 55 Department of Education, *Annual Report 2020–21* (Report, 2021) 37.
- 56 Parliament of Tasmania, *Government Services: Budget Paper No. 2* (2022) vol 1, 57. The amount committed is '\$3.8 million over four years from 2022–23 and \$1.68 million ongoing to employ additional psychologists and social workers to directly support schools': Statement of Timothy Bullard, 6 June 2022, 13 [53].
- 57 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 9.
- 58 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 9.
- 59 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 10, 59, 70.
- 60 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 10.
- 61 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 10.
- 62 Refer to *Employment Direction No. 5 – Procedures for the Investigation and Determination of whether an employee has breached the Code of Conduct*; Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 10.
- 63 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 10.
- 64 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 79, Recommendation 12.
- 65 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 64–66.
- 66 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 66.
- 67 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 11.
- 68 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 11.
- 69 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 11.
- 70 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 11–12.

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- 72 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 12.
- 73 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 12.
- 74 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 13.
- 75 Refer to Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 78–79, Recommendations 8, 9 and 10; refer also to page 13.
- 76 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 13.
- 77 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 26.
- 78 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 26.
- 79 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 27.
- 80 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 13–14; 27.
- 81 Refer to Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 74, Recommendation 1.
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- 84 Department for Education, Children and Young People, *Procedural Fairness Response*, 28 March 2023, 28.
- 85 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 14.
- 86 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 15–16.
- 87 Refer to Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 80, Recommendation 17; refer also to page 15.
- 88 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 74.
- 89 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 75.
- 90 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 75.
- 91 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 76.
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- 93 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 77.
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- 102 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 82.
- 103 Department of Education, *Department of Education Response to Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (9 November 2021) 1.
- 104 Department of Education, *Department of Education Response to Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (9 November 2021) Annexure 1 ('Planned implementation timeframe of all Inquiry Report recommendations') 5–7. The timeframe for completion of Recommendation 21—Systems Reviews was listed as the end of 2021.
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- 110 Statement of Timothy Bullard, 6 June 2022, 13 [53].
- 111 Statement of Timothy Bullard, 6 June 2022, 13 [53]; Statement of Timothy Bullard, 10 May 2022, Annexure 36 (Excel spreadsheet: 'Planned and completed implementation of DoE Inquiry Recommendations', 10 May 2022) 7.
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- 117 Department for Education, Children and Young People, *Safe. Secure. Supported. Our Safeguarding Framework* (April 2023).

5 Case studies: Children in schools

Content warning

Please be aware that the content in this report includes descriptions of child sexual abuse and may be distressing or raise issues of concern for some readers.

We encourage readers to exercise discretion in their engagement with this content and to seek support and care if required.

1 Introduction

Many people who engaged with our Commission of Inquiry told us about their experiences of sexual abuse while they were students in a government school. Through written submissions, evidence provided in our hearings and sessions with Commissioners, we heard how children and young people in schools suffered abuse by teachers and, in some instances, by other departmental staff or by students.¹ Often, the trauma that these children and young people experienced was made worse by the inadequate responses of adults who were in a position to help but did not do so. However, in some instances, even when adults did try to help, challenges with the Department's policies and the State's disciplinary processes meant their efforts, while well intentioned, were largely ineffective.

Several victim-survivors told us in detail about the abuse they suffered, the lax responses they received and the devastating and lasting effects this has had on their lives. In each case, the effects of the abuse were worsened and prolonged by multiple systemic problems that meant they have felt the need to continue to advocate for change for many years after the abuse occurred. The experiences of these victim-survivors, when they were children in the aftermath of their abuse and later as adults in their engagement with the Department, reveal shortcomings in how the Department handled these matters. We heard, for example, that:

- In some cases, there was an unwillingness by departmental staff to believe children and young people when they reported child sexual abuse, and their disclosures were not handled in a sensitive, trauma-informed way. Victim-survivors told us about the devastating effects this had on them.²
- There was a lack of support provided to children and young people who disclosed abuse. In one case, a victim-survivor said that a member of school staff told her that it was her responsibility to make the abuse stop.³
- In seeking information or support from the Department and other entities such as the Teachers Registration Board, some victim-survivors were given inconsistent or inadequate responses. Also, the complexities of the processes involved were sometimes not properly explained, leading to expectations that were not met. Ultimately, this exacerbated the trauma experienced by some victim-survivors.⁴

We provide accounts of their experiences in this chapter (refer to Case study—Kerri, Case study—Katrina, Case study—Sam and Case study—‘Wayne’, which includes the experience of ‘Rachel’). These accounts draw on the submissions made by these victim-survivors, the evidence they gave in our hearings and documents provided to us by the State about these matters. They also include, where possible, responses and explanations from departmental and other government officials. We are deeply thankful to these victim-survivors for sharing their stories.

We also closely examine a further three case studies of allegations against teachers (refer to Case study—‘Mark’, Case study—‘Jeremy’, and Case study—‘Brad’), as well as one recent case study about harmful sexual behaviours (refer to Case study—‘Andy’). Four of our case studies—those of ‘Wayne’, ‘Mark’, ‘Jeremy’ and ‘Brad’—were drawn from information the Department provided about its recent responses to child sexual abuse matters, and they clarify the Department’s recent policies and disciplinary systems. We describe the Department’s recent responses in general terms in Section 2. The case studies we discuss give a sense of the common challenges across the system and offer a guide to potential solutions.

Even as adults, many of the victim-survivors who engaged with our Commission of Inquiry were still navigating the effects of the abuse they experienced as children.

Their personal accounts and the case studies in this chapter highlight the toll of child sexual abuse in an education setting. These accounts and case studies also illustrate many of the themes we explore in this volume.

While some accounts of child sexual abuse outlined in this chapter were outside our scope because they occurred before 2000, they have continuing relevance to understanding how we can better protect children from child sexual abuse in education settings. Also, several cases in which abuse occurred before 2000 fall within our terms of reference because the Tasmanian Government responses to these incidents continued through the 2000s, 2010s and 2020s.

2 The Department's recent response to child sexual abuse

This section outlines the information the Department provided to our Commission of Inquiry about recent suspensions in response to allegations of child sexual abuse. In Chapter 6, we discuss the Department's responses to child sexual abuse and our recommendations for improving them.

2.1 The Department's recent review of matters

The Tasmanian Government gave us information about the number of employees suspended over allegations of child sexual abuse or related behaviours up until the end of February 2023.⁵ In relation to the Department of Education, 43 employees were suspended between January 2000 and February 2023 for child sexual abuse.⁶ Almost half of these (20) occurred since November 2020 (the date of the announcement of our Commission of Inquiry).⁷

Timothy Bullard, Secretary, Department of Education, explained (in his statement and in our hearings) the process that led to identifying and suspending these current departmental employees and the steps the Department took in relation to those employees. We give an account of that process below. We note, however, that this information and its analysis is limited to the period covered by the relevant statement or evidence provided to us. Further, the conduct of employees of the Department who have been suspended since 2020 sometimes related to matters that occurred long ago and should have been addressed at the time.

Secretary Bullard explained the process that led to these recent suspensions. He told us that the Department analysed 'matters of concern' involving departmental employees. These matters were identified through a variety of sources, including 'civil claims, redress applications, Right to Information requests, internal records and verbal information'.⁸ Matters of concern were entered on a spreadsheet, initially to help the Department

estimate its liability for future redress and civil claims.⁹ In December 2020, Secretary Bullard requested that the spreadsheet be analysed to determine how many departmental employees had a matter of concern on their file ‘that could involve child sexual abuse’.¹⁰ Initially, 21 employees were identified, but this later increased to 32.¹¹ By May 2022, we understand there had been 57 preliminary assessments into allegations or incidents of child sexual abuse or grooming behaviours conducted by the Department since January 2020.¹² Preliminary assessments, or ‘preliminary investigations’ as they are often called, are used to determine if the Head of Agency could, on the available evidence, form a reasonable belief that there has been a breach of the State Service Code of Conduct. We discuss preliminary assessments in more detail in Chapter 6 and Chapter 20.

The Department’s Workplace Relations section examined the initial 21 matters in early 2021, with some matters noted as more serious than others.¹³ Workplace Relations staff assessed five of these matters as most serious and gave these priority.¹⁴ Secretary Bullard told us that all 21 matters were discussed with police.¹⁵ Secretary Bullard then reviewed these matters to determine if ‘further investigation or management action was legally possible and/or required’.¹⁶

Secretary Bullard consulted the Office of the Solicitor-General to determine whether new Employment Direction No. 5—Breach of Code of Conduct investigations could be initiated (that is, an investigation into whether an employee has breached the State Service Code of Conduct).¹⁷ Workplace Relations then referred each matter to Secretary Bullard separately:

... via a Minute for determination as to whether [he] had reasonable grounds to believe that a breach of the Code of Conduct may have occurred and an [Employment Direction No. 5—Breach of Code of Conduct] investigation was to be initiated.¹⁸

As indicated above, by May 2022, the Department conducted 57 preliminary assessments into allegations or incidents of child sexual abuse or grooming behaviours since January 2020, and 21 of these resulted in suspensions.¹⁹ It appears that 50 of those assessments involved current employees.²⁰ Of the 57 preliminary assessments:

- 32 concerned historical re-examinations (or historical review matters), five of which resulted in Employment Direction No. 5—Breach of Code of Conduct investigations²¹
- 16 individuals, who we believe were subject to contemporary allegations, were also subject to Employment Direction No. 5—Breach of Code of Conduct investigations²²
- another six matters involved relief employees (who we believe were ‘marked as unsuitable for employment on the fixed term and relief employment register’)²³
- three matters were not referred for investigation.²⁴

For the 32 employees subject to historical child sexual abuse allegations, the Department re-examined the matters to determine if previous ‘management action was appropriate’.²⁵ As noted above, as at April 2022, five of those matters progressed to Employment Direction No. 5—Breach of Code of Conduct investigations. Secretary Bullard told us that of those five investigations, none had resulted in termination, and:

- two employees had received a sanction (for example, counselling or a lawful and reasonable direction)
- one employee had resigned (but the investigation was ongoing at the time of Secretary Bullard’s statement)
- one employee was found not to have breached the State Service Code of Conduct
- one investigation was ongoing at the time of Secretary Bullard’s statement.²⁶

In relation to the 27 other employees subject to historical child sexual abuse allegations but not subject to an Employment Direction No. 5—Breach of Code of Conduct investigation:

- two were issued with a lawful and reasonable direction
- four relief employees were told they were not eligible for relief employment and would be subject to formal investigation should they seek employment with the Department in the future
- no other action was taken in respect of 20 employees because the Secretary determined the allegations ‘as not child sexual abuse or unable to form a reasonable belief the code may have been breached or matter subject to previous formal investigation’²⁷
- one matter was still under review at the time of writing.²⁸

In September 2022, Secretary Bullard notified us that the Department had suspended another 13 employees between April and September 2022.²⁹ According to Secretary Bullard, these suspensions were primarily in response to ‘allegations of inappropriate touching or inappropriate language ... between a teacher and a pupil’.³⁰ Secretary Bullard said that while the number of new allegations in this period may be ‘shocking’, it indicates that people are ‘getting the message’ that:

... if you are a member of staff that has concerns about the actions of a colleague, report it in; but also too that children and young people are feeling that they have agency to raise these matters with trusted members of staff.³¹

We agree with Secretary Bullard that the wave of new reports is likely to indicate cultural change, but we consider the data should continue to be monitored because effective change would see this number decrease over time.

Secretary Bullard highlighted that the Department has recently improved the supports offered to employees subject to allegations of child sexual abuse. Counselling and psychological support is now available to employees, where requested, and a ‘liaison officer’ is appointed to communicate with employees about the matter.³²

We analysed many of the recent suspensions (from an earlier September 2021 list), including the Department’s response at the time of the original complaints and Workplace Relations’ more recent briefings to the Secretary. Through this process, we selected four case studies to explore in detail. We also discuss three case studies that provide victim-survivor accounts of child sexual abuse that occurred before the year 2000, and the Tasmanian Government’s response (including responses by the Department and justice systems post-2000), as well as one recent case study about harmful sexual behaviours.

Case study 1: Kerri

Kerri Collins contacted our Commission of Inquiry to share her experience of reporting sexual abuse as a young child while attending a government primary school in Tasmania. Giving evidence at our hearings, she told us about the difficulties she encountered after disclosing the alleged abuse as a child and the barriers she faced in seeking resolution as an adult. Her story spans several decades and reveals multiple problems in the response of the government departments, agencies and regulators involved.

1 The alleged incident

John (a pseudonym) was a teacher at the primary school Ms Collins attended. He was young, charismatic and well liked.³³ In 1991, Ms Collins and three other girls at the school disclosed to the school counsellor allegations that John had sexually abused each of them on numerous occasions over a two-year period when they were in years 1 to 3.³⁴ The abuse allegedly occurred during school, usually in an isolated area on school grounds. The girls were 11 years old at the time they made these disclosures.³⁵

2 The initial response

Ms Collins told us that while the school counsellor believed her disclosures, responded appropriately and took meticulous notes, the school principal's response was 'highly inappropriate'.³⁶ When he learned of the disclosures, and before contacting the students' parents, Ms Collins told us that the principal called her and the other students into his office, individually, to question them.³⁷ Ms Collins recalled that the principal then asked her to sit on the (female) assistant principal's knee to 'demonstrate ... the physical position [she] was in when [she] was sexually assaulted [by John]'.³⁸ Ms Collins told us that it was 'retraumatising for a child to be put in that position', and that:

It's even distressing thinking about it; at the time I remember feeling extremely uncomfortable about having to be put in that position ... not only what I was saying wasn't being believed, I had to actually show them ... it was just the two of them ... I didn't know if I was in trouble, I didn't know if my parents had been told, I had no idea.³⁹

Ms Collins said it was clear to her that the principal did not believe her disclosure, nor the disclosures made by the other girls.⁴⁰ This was confirmed much later, in 2018, when a police officer informed Ms Collins that at the time these events had occurred, the principal allegedly told police 'a good Christian man like [John] would not do something like this'.⁴¹

The school notified Ms Collins' parents of her disclosure, and they contacted police. Ms Collins then made a statement to police; however, as far as she is aware, they did not follow up or investigate these matters at the time.⁴² John left the school after several of the girls' parents tried to confront him. Ms Collins told us that the school reported that John had been moved to another school.⁴³ Ms Collins did not hear anything more about John for many years. Throughout this time, Ms Collins said that:

I was not offered support or counselling by the school, and it was always my understanding that the principal did not believe us and that John remained employed by the Department of Education. I didn't know what restrictions (if any) were placed on his ability to work as a teacher.⁴⁴

In our education hearings, we asked Ms Collins if she knew what had happened in response to the complaints she and others had made against John in 1991. She replied that she did not because no one had told her, not even when she went to police for the second time in 2001.⁴⁵

Police did not refer the matter to the Director of Public Prosecutions.⁴⁶ In a letter to the complainants in 2004, the then Director of Public Prosecutions wrote that he thought the decision not to charge John in 1991 was an error, based on a misunderstanding of evidentiary standards relevant to child sexual abuse at the time.⁴⁷ During our hearings, Ms Collins stated that she was not surprised by these comments, describing police failure to proceed with the case against John as just another example of how the system had failed her throughout the process, and continues to do so.⁴⁸

3 What happened next

These events affected Ms Collins into adulthood. While at university, the reality of the fact that John was still teaching—and had most likely been doing so since the time of the original complaints 10 years earlier—came 'crashing down' on Ms Collins.⁴⁹ In 2001, Ms Collins contacted the Sexual Assault Support Service and the service arranged an interview with police. The investigation into John was 'reopened'.⁵⁰ The three other students who had made complaints about John in the early 1990s also gave statements to police. John was arrested and charged in 2002.⁵¹ The Department of Education varied John's duties so he did not have contact with students.⁵²

Ms Collins told us that her experience of providing information to police as an adult in 2001 was vastly different from her experience of being questioned as a child 10 years earlier. As a child, she recalled having been questioned by a male police officer in an interview room with no windows and without her parents present.⁵³ In contrast, when giving her statement in 2001, Ms Collins told us that the officer she spoke with was a woman, whom Ms Collins felt was clearly trauma-informed, and was open and

transparent about the process. Also, the interview took place at the Sexual Assault Support Service in a comfortable setting and in the presence of a trauma-informed worker from the service.⁵⁴

John was committed to stand trial.⁵⁵ However, Ms Collins gave evidence that two weeks before John's trial was to begin, she got a phone call from the Director of Public Prosecutions saying he had decided not to prosecute John.⁵⁶ Ms Collins told us that she was 'furious' about the trial not proceeding and about the lack of information provided to her.⁵⁷

We note that the *DPP Prosecution Policy and Guidelines* ('DPP Guidelines') now set out a process for informing complainants when a case is to be discharged. The DPP Guidelines state that such information should be imparted in person or, if this is not possible, by phone. The DPP Guidelines also outline the information that a complainant should be given.⁵⁸

In the mid-2000s, concerned that John still had access to children in his role as a teacher, Ms Collins met with the shadow minister for education and contacted the then Commissioner for Children about her concerns.⁵⁹ She also contacted the Teachers Registration Board. Ms Collins told our Commission of Inquiry that her conversation with the Teachers Registration Board at that time left her feeling 'dismissed' and that the person she spoke to was 'extremely unhelpful'.⁶⁰

Ms Collins recalled that the person she had spoken to at the Board told her she would need a lawyer to make a complaint about John and that it was unlikely she would succeed. She was also told that as part of the complaints process, she may have to appear in person with John in the same room. Ms Collins was unwilling to do this. Ms Collins' mother also wrote a letter to the Board about John but did not receive a reply.

In 2004, the Board received a registration application from John.⁶¹ After considering a range of material in relation to John's application, the Board granted John registration.⁶² The material the Board considered included a letter sent by the Department of Education advocating on John's behalf. Secretary Bullard and Ann Moxham, Registrar, Teachers Registration Board both condemned this letter.⁶³ Secretary Bullard agreed that the letter was 'entirely inappropriate' and was not focused on protecting children, and that Ms Collins was entitled to feel betrayed by such a letter.⁶⁴ Ms Moxham told us that the letter had two connotations: one was to pressure the Board and the other was to support the individual, both of which were inappropriate.⁶⁵

Ms Moxham told us that, in re-examining the evidence that was before the Board when it made its decision to grant registration to John, it is not apparent that the Board sought any information about John from police (despite John having been charged with several offences). Ms Moxham also told us that the Board appears to have made its decision based on the matter having been dismissed in court.⁶⁶

According to the Board, after contact with Ms Collins, the then Commissioner for Children wrote to the then Minister for Education outlining his concerns about the processes that had led the Board to grant registration to John. Ms Moxham wrote in a statement to us that this led the then Minister to request that the Board:

- develop written procedures for handling complaints
- establish a committee to review the process leading to the finding that John was of ‘good character’ (and his subsequent registration)
- review the decision to grant John registration if the committee determined that the process leading to John’s registration was flawed.⁶⁷

While the review called for by the Minister eventually led to changes to the Board’s processes and procedures in respect of several matters, including how it deals with complaints and conducts inquiries, it did not prompt any change to John’s registration.⁶⁸ John remained a registered teacher.

When we questioned why John’s registration status remained unchanged after the review, Ms Moxham said this was ‘difficult to understand’, and in her view it was ‘unforgivable’.⁶⁹ Ms Moxham conceded that the Board has still (at the time of our hearings) not examined how this failure occurred.⁷⁰ In relation to how the Board had handled Ms Collins’ matter, Ms Moxham said: ‘[i]t is a really nasty black mark on our record, and I think our ... current board is quite upset and concerned that this took place’.⁷¹ She apologised to Ms Collins.

Around 2006, having exhausted other avenues, Ms Collins hired a lawyer to see if there was any other way to prevent John from teaching. Her lawyer advised that nothing more could be done.⁷² At this point, Ms Collins was 26 years old and said her life had been ‘on hold’ for the past five years as she tried to navigate a complex and unsupportive system. She told our Inquiry: ‘It had taken an enormous personal and emotional toll on me. I felt strangled by all of the doors that were closed as I tried to get someone to listen to me’.⁷³

Ms Collins tried to put the alleged abuse, and the school and Department’s responses to it, behind her and dedicated herself to her career and family. However, 14 years later, in 2018, she received a phone call from police. Much to her surprise, they wanted to speak to her about John. Another victim, now the fifth complainant to come forward with allegations against John, had told the National Royal Commission that she had been abused by John while she was a student at the same primary school as Ms Collins. Ms Collins agreed to speak with police.⁷⁴

Police sought advice from Daryl Coates SC, Director of Public Prosecutions, in relation to the 2018 allegation against John, and about whether charges should be laid in respect of the historical allegations involving the original complaints.⁷⁵ In his response to police, and in his evidence to us, Mr Coates said that changes to the law since 2004 meant

that if the complaints against John had been made in 2022, the prosecution would proceed because the charges would be cross-admissible, and the complaints would be heard together.⁷⁶

In my view, if each complaint had been made now for the first time, there would be sufficient evidence to charge the accused with indecent assault with respect of the complaints made by [redacted]; aggravated assault with respect of the complaint made by [redacted]; and maintaining a sexual relationship with respect to the complaint made by Kerri Munro [now Collins]. Each complaint would be cross-admissible as tendency evidence in respect of the other complainants' complaint. The evidence shows that he has a sexual interest, which he acts upon, on young girls [around primary school age], who are in his care, where he takes them to [redacted] room and places his hands down their pants. Undoubtedly, if there was a trial the complainants' credibility would be strongly contested, given they had spoken to each other and made some inconsistent statements. However, that now would be a question of fact for the jury to consider and not a question of admissibility.⁷⁷

However, this does not answer the question about whether, given those changes to the law, the original charges against John could now be revived. In short, the answer given to us was 'no'.

Mr Coates told us that because the charges had been 'dismissed' in the Magistrates Court, John could no longer be re-charged nor could the charges be used as tendency evidence in respect of the fifth complainant.⁷⁸ We note, however, that in respect of the complaint involving Ms Collins (in relation to which John was charged with 'maintaining a sexual relationship with a young person', now referred to as 'persistent sexual abuse of a child'), there were questions about whether the charges had in fact been dismissed. Mr Coates told us that a prosecution 'cannot now be instituted because the charges of indecent assault (at the time being that which underpinned any indictable charges of persistent sexual abuse of a child) ... [were] dismissed in the Magistrates Court'.⁷⁹ Refer to Chapter 16 for discussion of this issue.

As to whether Ms Collins' earlier complaint had in fact been dismissed, Mr Coates said in his letter to police:

There is some doubt whether the complaint was dismissed or just remained adjourned [indefinitely]. The original complaint has been destroyed. It has not been recorded on the accused prior convictions as being dismissed. The Court record appears to state that the complaint was never dismissed. I have spoken to [redacted], who is now a Crown Counsel in my office. He is of the view that if he was asked to dismiss both complaints he would have done so. However, in my view it does not matter because if we proceeded the matter would be discharged by a Court as an abuse of process.⁸⁰

Mr Coates gave several reasons as to why, in his view, proceeding with a prosecution against John would amount to an abuse of process. He stated that while the prosecution may not have formally dismissed the complaint, this was an administrative oversight.⁸¹ He continued:

Some 14 years have passed since the assurances [that the complaint would be dismissed] were given, the importance of finality, where an accused has been led to believe that the matters have been finalised for so long means that any prosecution now would be so fundamentally unfair as to be an abuse of process.⁸²

It is apparent to us that procedural issues and mistakes in this case led to a considerable injustice:

- Police failed to charge John in 1991 because there was ‘no corroborating evidence to support the complaints in these allegations, therefore there [was] not sufficient evidence to support any charges under the Criminal Code’, based on a mistaken belief that corroboration was required.⁸³
- Complaints were laid against John without ‘comprehensive advice outlining the law and the evidence’, which led to the prosecution being discharged based on difficulties posed by the law and evidence at the time (2004).
- The original complaint was destroyed and was not officially recorded by the Court as being dismissed. This meant there were doubts for some time about whether Ms Collins’ complaint against John was legally ‘dismissed’ or remained adjourned indefinitely. If the former, John could not be tried in the future, nor could Ms Collins’ evidence be used as evidence to support that John had a tendency to abuse children in any other charge of child sexual abuse against John. This was viewed as an administrative oversight.
- Mr Coates eventually determined that the case was dismissed. Mr Coates told us that he had spoken to the relevant staff and was satisfied that the complaints were in fact dismissed. This had serious implications for using Ms Collins’ evidence in future legal proceedings. Accepting that there was an administrative error, and the charges were dismissed, it appears to us that because of that error, Tasmanian law did not permit the Director of Public Prosecutions to correct that error and required him instead to dismiss the charges, despite the outcome not favouring the complainants.⁸⁴

When asked by Counsel Assisting about the sense of injustice that Ms Collins (and the other victim-survivors) must be feeling in respect of this matter, Mr Coates said:

Look, I can see, as I said in my letter, I can see from their point of view that it’s an injustice: I mean, I think it’s an injustice, but there’s nothing I can do about it. And, having said that I think it’s an injustice, I’m not saying it’s an injustice because the 2004 decision was wrong, because I don’t think it was wrong in accordance with the law as it stood at that time.⁸⁵

Ms Collins told us that those working on the case informed her that the 2018 complaint did not proceed because, had it done so, John would have been denied natural justice.⁸⁶ Mr Coates told us that his advice outlines, in great detail, the legal reasons why the complaint could not proceed and denies that it said that the 2018 complaint did not proceed because John would have been denied natural justice. It is possible that Mr Coates' advice was not accurately communicated to Ms Collins by those working on the case. The investigating officer asked Ms Collins whether she wanted to read the report prepared by the Director of Public Prosecutions in respect of the case. Ms Collins, being upset at the time, declined to read the report. Some months later, however, she changed her mind and asked if she could see the report. She recalled that her request was refused, with police explaining that there had been a direction from 'above' in Tasmania Police not to share information about the case.⁸⁷ Despite this, Ms Collins recalled that Tasmania Police told her that the Director of Public Prosecutions' report had stated that if the initial complaints against John had been made in 2018, John 'would be charged, he would be tried, he would be convicted and he would be imprisoned'.⁸⁸

The Teachers Registration Board suspended John's registration to teach in 2020.⁸⁹ He retired from teaching in 2021. He has not faced trial in respect of any charges.

Case study 2: ‘Mark’

This case study about a high school teacher, Mark (a pseudonym), is based on information the Department provided about its recent responses to child sexual abuse matters.⁹⁰

1 The alleged incident

In 2016, a high school teacher, Jeff (a pseudonym), overheard two year 9 students, Jasmine (a pseudonym) and Heather (a pseudonym), discussing messages allegedly received by Jasmine from another teacher, Mark.⁹¹ Jasmine and Heather told Jeff that Mark had been going through Jasmine’s Facebook profile and ‘liking’ her photos.⁹²

Screenshots of Mark’s phone showed Mark contacting Jasmine with questions such as ‘How’s your holidays going?’ and ‘What you been doing?’ Jasmine asked, ‘who is this?’ and ‘why r u messaging me’, later saying ‘I reckon you should probably leave :)’.⁹³ Mark signs off ‘Sorry my bad, drunk’.⁹⁴ Mark also commented ‘nice sunset’ on a photo Jasmine posted on Instagram.⁹⁵

Jasmine told Jeff she felt quite intimidated by the fact that Mark had started talking to her and kept replying after she asked him to stop.⁹⁶ She later told a staff member that she felt uncomfortable about the exchange and avoided talking to Mark when she would see him at school.⁹⁷

2 The initial response

Jeff reported the alleged incident to his principal, Justin (a pseudonym), and prepared a statement, which Justin provided to the Department of Education’s Human Resources team.⁹⁸ After assessing the matter, the team referred the incident to a regional human resources manager, who conferred with Justin about how to manage the complaint.⁹⁹

Justin sent a letter to Mark, which reflected his view that the alleged incidents did occur.¹⁰⁰ However, he accepted Mark’s explanation that the contacts with Jasmine were made without Mark’s knowledge, by a friend using his phone on one occasion, and a student using it on another occasion.¹⁰¹ This explanation appears to have been accepted by Learning Services and Justin.¹⁰² Mark was given a formal direction to ensure all his interactions with students in the future complied with the *Guidelines on Professional Standards for Staff* and that his mobile devices were kept secure to avoid opportunities for misuse.¹⁰³ He was warned that further instances of such conduct may constitute a breach of the State Service Code of Conduct, but no formal sanctions were imposed.¹⁰⁴

There is no record of Workplace Relations being notified of the outcome of the matter.¹⁰⁵ No notifications were made to police, the Child Safety Service, the Teachers Registration Board or the Registrar of the Registration to Work with Vulnerable People Scheme at that time.¹⁰⁶

3 Departmental review

The Department identified Mark's case as a 'historical' incident warranting re-examination. In 2021, Workplace Relations briefed the Secretary on Mark's case and advised that it 'did not amount to sexual misconduct' and was 'adequately investigated at the time'.¹⁰⁷ The Secretary relied on this advice and no action was taken.¹⁰⁸ The Teachers Registration Board was notified about the allegation later in 2021.¹⁰⁹

4 What we heard

We asked for information about the handling of Mark's case, including a statement from Secretary Bullard.

Without making definitive findings in relation to the matter, Secretary Bullard conceded there were some shortcomings in the investigation of Jasmine's complaint, noting that some aspects of the investigation did not comply with policies and procedures at the time.¹¹⁰

In relation to the initial response by the school, Secretary Bullard told us:

- There are no records to suggest that Jasmine received any support or contact from a school social worker after making her complaint.¹¹¹ The principal, Justin, advised the Department that he was confident he had met with Jasmine on a number of occasions and offered psychological support, recalling that she was 'ok' and stating that the school social worker was likely to have made contact with Jasmine, but this could not be verified.¹¹²
- Justin did not follow up the allegation that a student had used Mark's phone to contact Jasmine, nor did he try to verify Mark's claim of someone else using his phone, by seeking information or statements that may confirm or contradict such a claim.¹¹³
- Learning Services did not provide Workplace Relations with copies of the text messages sent to Jasmine, nor Mark's response to the complaint at the time of the investigation.¹¹⁴
- Neither Justin nor Learning Services drew Mark's attention to the Social Media Policy (2014) in place at that time, which made it clear that communications of a 'personal nature' with students is inappropriate.¹¹⁵
- Neither Justin nor Learning Services reported the outcome of the complaint (being Justin's letter to Mark) to Workplace Relations. This meant that the Teachers Registration Board was not notified about the matter at that time.¹¹⁶

In relation to reopening Mark's case, Secretary Bullard accepted he was not bound by the advice of Workplace Relations and was solely responsible for the decision on whether to proceed with an Employment Direction No. 5—Breach of Code of Conduct investigation.¹¹⁷

However, he described some problems with the advice he received in relation to Mark. These included:

- Workplace Relations may not have adequately established that Mark was not in control of his device, given that this explanation was not verified in any meaningful way, and that Mark himself claimed that he wrote the message ‘sorry my bad, drunk’ to Jasmine when he got his phone back.¹¹⁸
- Because Workplace Relations had not received screenshots of the messages to Jasmine, nor Mark’s responses, these were not provided in the briefing to Secretary Bullard.¹¹⁹ He only reviewed these later, in response to our questioning about the case.¹²⁰

When making the initial decision, Secretary Bullard conceded he had formed the view that the allegations against Mark did not amount to sexual misconduct and that, at that time, he believed the matter had been dealt with because Mark had been counselled and received a formal direction.¹²¹ However, in reviewing all the materials in light of our questions, Secretary Bullard told us that he has reflected on ‘whether this was the right conclusion’.¹²²

Secretary Bullard stated at hearings: ‘I think there’s a question on this one around whether it does constitute child sexual abuse ... or simply a breach of a social media policy’.¹²³ However, he accepted that if the evidence against Mark had been reviewed in an investigation, that investigation might have revealed other ‘pieces of data’ relevant to Mark’s conduct.¹²⁴

Secretary Bullard advised us that he has referred Mark’s case to Workplace Relations for fresh advice on a potential Employment Direction No. 5—Breach of Code of Conduct investigation.¹²⁵

4.1 Justin

When we reviewed Mark’s case, we learned that the principal of Mark’s school, Justin, had been the subject of a disciplinary investigation earlier in his teaching career in response to an allegation that he had sex with a girl in her mid-teens after spotting her walking home intoxicated.¹²⁶ Justin denied he had sex with the girl, stating that he had only invited her into his house to ensure her safety.¹²⁷ Justin also reported that she had told him that she was 18 years old. During the investigation, the girl admitted that she had lied to Justin about her age but stated that she had told Justin she was under 18 years old.¹²⁸ At the time, the then Secretary reprimanded Justin ‘for [his] action in leaving [himself] vulnerable to criticism as demonstrated by [the victim’s] allegations of sexual intercourse’.¹²⁹

Some years after this incident, Justin supported a teacher who challenged their termination for sexual misconduct towards students. As documented in a legal proceeding, Justin told this teacher that he had been promoted to principal despite being in a similar situation before. The teacher stated that Justin reassured him along the lines that the allegations would ‘wash over’.¹³⁰

In 2021, the Department also reinvestigated the allegations against Justin and concluded that he was not acting in the ‘course of employment’ at the time of the incident, which meant his conduct was not linked to his obligations under the State Service Code of Conduct.¹³¹

5 What has changed

Secretary Bullard told us that several improvements have been made to policies and practice since 2016. Those most relevant to Mark’s case include the following:

- An incident of this nature would now be referred to the Secretary for consideration as a matter of course, rather than managed at the school level.¹³²
- The *Social Media Procedure* (2020) is explicit in stating that staff members must not ‘friend’ or ‘follow’ a student (or allow students to friend or follow them) unless they are family members, and the contact is reasonable.¹³³ Mark’s conduct would reflect a ‘direct contravention’ of these guidelines and would be central to any employment investigation.¹³⁴
- Training has been offered in relation to this new policy, particularly aimed at departmental social media administrators (for example, those who manage the Facebook pages of schools).¹³⁵
- Current thresholds of what constitutes ‘child sexual abuse’ in departmental guidelines have been broadened in line with that used by the National Royal Commission to include grooming behaviours, noting that Mark’s conduct was not considered to constitute grooming at that time.¹³⁶
- The Office of Safeguarding has been established and is working to raise awareness among schools about inappropriate conduct and grooming behaviours to ensure principals are equipped to identify such conduct, make appropriate notifications and advise Workplace Relations.¹³⁷

6 Systemic issues

We agree with the reflections of Secretary Bullard about shortcomings in the handling of Mark’s case. We would add that the Department’s response to this relatively recent incident also demonstrates:

- lack of understanding of the broad range of conduct that can fall within the definition of sexual misconduct—while the messages Mark allegedly sent may not have been overtly sexual in content, the Department should have been open to the question of whether they could be construed as flirtatious and whether they could have been perceived to be grooming behaviours
- a readiness to minimise and downplay the seriousness of incidents without adequate investigation, recognising that in some instances the scale of the risk to children may only be uncovered by taking proactive steps to uncover more information
- poor understanding of the respective roles and responsibilities of Learning Services and Workplace Relations, which appear to have operated independently without adequate information sharing and collaboration
- an inclination to accept the accounts of adults over the reported concerns of children and young people—the Department could have been more sceptical about whether it was plausible that two separate people on two occasions accessed Mark’s social media accounts to send messages to students at Mark’s school, and his explanation should have been met with greater scrutiny
- too much deference to the view of the principal—while Justin did seek some advice on how to manage the matter from a regional human resources manager, this was largely limited to process and there was no ‘check’ on his inclination to accept the explanation without further inquiry (this is particularly concerning given Justin’s own complaints history)
- the 2021 departmental review was (again) quick to downplay the potential seriousness of this matter and lacked overall rigour.

We note that on a strict interpretation of the State Service Code of Conduct, which requires a direct link between employment and the conduct in question, the earlier incident involving allegations that Justin had sexually penetrated a girl under the age of consent, who had allegedly been drinking at the time, could not be met with the seriousness it deserved. We also have concerns about the Department’s framing of that situation as being a risk to Justin’s career, rather than a potential risk to students—as well as not acknowledging the harm to the young woman involved.

Case study 3: ‘Wayne’

This case study about Wayne (a pseudonym), a high school teacher, is mostly based on information the Department provided in relation to its recent responses to child sexual abuse matters.¹³⁸ Rachel (a pseudonym) gave evidence at our hearings.¹³⁹

1 The alleged incident

In the early 2000s, Rachel was a smiley, bubbly and shy student who liked school.¹⁴⁰ Wayne, a teacher at her school, was well known in the small community in which they lived, and had a public image that made Rachel trust him.¹⁴¹ Rachel told us that Wayne presented himself as ‘more of a friend’ to Rachel and, at the time, she thought he was a ‘cool teacher’.¹⁴² Rachel’s mother, Anne (a pseudonym), was a single mother working two jobs who, after some convincing, accepted Wayne’s offer to take Rachel to an activity outside school each week in which they were both involved and which Rachel was keen to pursue.¹⁴³

When Rachel was 16 she went on an out-of-town trip connected to this activity with Wayne. Anne attended as her guardian and witnessed Wayne behave in an ‘overly familiar’ way with Rachel, given their teacher–student relationship.¹⁴⁴ Rachel told us that Anne had allegedly witnessed Wayne piggybacking Rachel, telling her she had a ‘nice arse’, drawing a penis on her ankle and tucking her into bed.¹⁴⁵ Wayne also gave Rachel a tank top imprinted with the words ‘MILF in training’.¹⁴⁶ Anne described being ‘in disbelief’ when she allegedly saw Wayne kiss Rachel after he tucked her into bed.¹⁴⁷

Shortly after the trip, in 2005, Anne reported her concerns about Wayne to the Department.¹⁴⁸ From the outset, Anne said the Department was ‘very intimidating with my claim’.¹⁴⁹

2 The initial response

Following a preliminary investigation, the Department advised Wayne of potential breaches of the State Service Code of Conduct in him buying the tank top.¹⁵⁰ An investigator was appointed to conduct a formal investigation.¹⁵¹ Wayne was suspended from teaching pending the outcome.¹⁵²

Rachel and Anne were allegedly told not to speak to anyone about the investigation and that if they did, they could be sued for defamation.¹⁵³ Rachel told us that she and Anne did not receive any counselling, support or check-ins during the process, which was particularly challenging for them because they lived in a small community where ‘everyone seems to know everyone’s business without actually knowing their business’.¹⁵⁴

Rachel said that while she and her mother felt ‘muzzled’ during this time, Wayne allegedly put up petitions around the community asking people to support his reinstatement to his teaching role.¹⁵⁵ Rachel described the process as ‘extremely slow and drawn out’.¹⁵⁶ Anne said: ‘There was no one to help or advise me, I was not advised to contact the police or a lawyer. I felt isolated’.¹⁵⁷

Rachel told us that she was scared and nervous speaking with the two male investigators the Department appointed to investigate her allegations.¹⁵⁸ She also told us that the interviews with investigators were ‘gruelling’—that the questioning sometimes went for two hours, involved confronting questions and, on occasion, occurred without a support person of her choosing present.¹⁵⁹ Rachel said: ‘I just felt like this little person with these men in suits hovering over the top of me’.¹⁶⁰

Rachel also told us that she withheld some of her experiences with Wayne from the investigators. As an adult reflecting on this decision, Rachel stated: ‘They did not make me feel that they would believe me’.¹⁶¹ She explained that, at the time, she thought some aspects of her abuse were her fault and that she needed to protect Wayne from getting in trouble.¹⁶² She spoke of crying in bed at night, asking herself ‘Why me, why me, why can’t I just tell them the truth?’¹⁶³

During a later meeting with the Department, Rachel made more disclosures, including allegations that Wayne had kissed her and texted her that he loved her on a number of occasions, had shown her ‘dirty jokes or videos’ on his work computer and on at least one occasion had rubbed his hand up and down her leg and touched her crotch area over her clothing.¹⁶⁴ While telling investigators and her mother the extent of the alleged abuse, she said she ‘had to sit on [her] hands because they would not stop shaking’.¹⁶⁵ Rachel told us that her mother was ‘bawling her eyes out’ as Rachel spoke.¹⁶⁶ She also told us that she was asked to demonstrate, to the adults in the room, how Wayne had touched her.¹⁶⁷ Other disclosures that Rachel made include allegations that Wayne:

- gave her alcohol
- would sometimes put a finger in her mouth and make her suck or would put her finger in his mouth and suck it
- gave her a letter at school saying he loved her and asking her to reply
- told her that once she left school and was 18 they could start dating
- told her to put her phone down her pants so that if she received text messages it would vibrate near her genitals.¹⁶⁸

Rachel also made a statement to the Teachers Registration Board a few months after her later disclosures to the Department.¹⁶⁹

Shortly after Rachel made these additional disclosures, the Department contacted the Child Protection Advice and Referral Service (as it was called then). The service informed the Department that once it formally received the allegations, it would notify police under the mandatory reporting protocol.¹⁷⁰ In mid-2007 the then Secretary of the Department was briefed on the additional disclosures and advised that:

- the allegations about the inappropriate computer material should not be pursued because it was difficult to establish, on the available evidence, whether the material was inappropriate (or the extent of its inappropriateness)¹⁷¹
- no other action should be taken in relation to the other allegations because the events took place outside school hours and outside school grounds, and that there were no witnesses and no more sources of evidence that could be pursued.¹⁷²

In relation to the allegation that Wayne had given Rachel a tank top with an inappropriate message on it, the Department found that:

[Wayne's] behaviour in this matter had the potential to adversely affect the integrity and good reputation of the State Service. However, given that the tank top has not been worn [by Rachel], it is not possible to establish a community view, regarding [Wayne's] actions bringing the State Service into disrepute, about a garment that has not been seen in public.

Accordingly ... [the Secretary was] unable to substantiate that a breach of part 14 of the *State Services Act 2000* Code of Conduct has occurred.¹⁷³

Rachel maintains that she did in fact wear the tank top with an inappropriate message on it and that the Department made a mistake in concluding that she did not.¹⁷⁴

Most of Rachel's complaints were then formally referred to the Child Protection Advice and Referral Service, with a note from the Department that read in part: 'the department is not in a position to investigate the majority of these alleged incidents as they took place outside the school environment'.¹⁷⁵ Police notified the Department that they would not pursue the allegations.¹⁷⁶

The then Secretary of the Department of Education sent Wayne a letter stating that 'all current [Department of Education] investigations are now concluded and I consider that these matters to be at an end and no formal sanction has been applied'.¹⁷⁷ The letter warned Wayne not to place himself in a position in the future where his 'conduct and behaviour towards students could be deemed to be inappropriate'.¹⁷⁸

In 2007, a joint statement between Wayne and the Department was published in a local paper, which read: 'After an extensive investigation the Department of Education has determined that [Wayne] has not breached the *State Service Act 2000* Code of Conduct'.¹⁷⁹

Rachel described feeling ‘hurt, confused, betrayed and neglected’ by the Department, which had not communicated any outcome to her or given her any reasons for its decision.¹⁸⁰

Around this time, Rachel reported the allegations of abuse to police.¹⁸¹ After writing her statement by hand, as instructed by Tasmania Police officers, she was told that a possible charge against Wayne of ‘assault with indecent intent’ under the *Police Offences Act 1935* (‘Police Offences Act’) had to have been reported within 12 months of the incident, which meant Wayne could not be charged or convicted of this offence.¹⁸² The brief to the Secretary at the time stated that police had incorrectly advised the Department that the offence had a statute of limitation of two years.¹⁸³ Rachel said she felt extremely let down by the justice system and felt she was ‘hit with a dead-end; no support and no closure’.¹⁸⁴

In the same year, Wayne applied for renewal of his teaching registration with the Teachers Registration Board. In his application, Wayne declared that he had been the subject of an investigation.¹⁸⁵ The Board requested more information from Wayne, and from Anne and Rachel.¹⁸⁶ The Board also sought information from the Department about its investigations into Wayne’s conduct. The Board was advised that all investigations had been concluded and that no breach of the State Service Code of Conduct had been found.¹⁸⁷ Despite this, the Board determined in 2008 that Wayne was not ‘of good character’ and refused to renew his registration.¹⁸⁸ Wayne sought to appeal the decision in the Magistrates Court, but his appeal was denied because it was not lodged within the relevant statutory time limit.¹⁸⁹

In 2009, Wayne tried again to renew his registration. He provided a range of written references in support of his application.¹⁹⁰ Following advice from the Office of the Solicitor-General, the Board granted him registration for one year.¹⁹¹ This came as a shock to Rachel, who reported receiving assurances from the Board that Wayne would never teach again.¹⁹² She said she did not understand the various registration and renewal processes and what information Wayne had provided as part of those processes.¹⁹³ Rachel told us: ‘I very much feel that, until this day, that we have been portrayed as liars’.¹⁹⁴

3 Departmental review

Rachel’s allegations were reinvestigated in 2021 as part of a broader review of historical complaints about current employees. As a result of this review, Wayne is the subject of a formal disciplinary investigation.¹⁹⁵

Wayne’s registration as a teacher was suspended in 2021, after his Registration to Work with Vulnerable People was cancelled.¹⁹⁶ Wayne then resigned from his position.¹⁹⁷ Department and Board investigations are ongoing.¹⁹⁸

4 What we heard

When giving evidence at hearings, Rachel described her motivation for coming forward:

I just don't want anyone to ever go through what I've gone through ...¹⁹⁹

I want to advocate for those children that usually, that can't speak; I want to advocate for parents or caregivers that—I've seen what it's done to my mother. I've physically seen how it's just ripped her apart, how it's ripped me apart.²⁰⁰

Rachel went on to describe the impact of the abuse allegedly perpetrated on her, which includes nightmares, flashbacks and a diagnosis of post-traumatic stress disorder requiring medication to manage.²⁰¹ She refuses to place her children in a government school and described being overprotective and hypervigilant about her daughters' safety.²⁰² She has since left the community where she grew up (and where Anne still lives), saying 'I didn't want to stay there, and even today I'm so fearful of being in that community'.²⁰³

Anne told us that the impacts of Wayne's conduct and the response of the Department have also been ongoing for her:

I am currently struggling with the stress and flood of emotions from [that time]. I struggle with trust issues and still feel ostracised by the staff that were at the school at the time of my complaint. The process is flawed and favours the perpetrator and protecting the Education Department's reputation.²⁰⁴

In response to requests for information about the handling of Wayne's matter, Secretary Bullard reviewed the Department's records, which caused him 'both personal and professional distress'.²⁰⁵ He conceded a range of shortcomings in the Department's response, including the following:

- Certain allegations did not form part of a further investigation due to a limitation in the State Service Code of Conduct itself, rather than a shortcoming or failure of the Department, on the basis that they were 'not in the course of employment'.²⁰⁶ However, the Department should have investigated Rachel's additional disclosures.²⁰⁷ Secretary Bullard stated that the behaviour Rachel reported is 'entirely inappropriate of a teacher towards a student' regardless of whether it occurred in or outside the school environment.²⁰⁸ He also stated that the Department's *Conduct and Behaviour Standards* were not referenced in any correspondence between the Department and Wayne. These standards provide that teachers should conduct themselves in a manner that does not bring the Department into disrepute, including outside school hours.²⁰⁹
- In relation to Rachel's initial disclosures, the question of whether she wore the offensive tank top was irrelevant to a determination of whether Wayne damaged the integrity and good reputation of the State Service. The gift of the item to Rachel (which he admitted) was grounds to consider that misconduct had occurred.²¹⁰

- Wayne does not appear to have been advised about the additional disclosures Rachel reported.²¹¹
- Not all of Rachel’s additional disclosures were investigated, but one that was—her allegation that Wayne had shown her inappropriate jokes or videos—was not investigated consistent with the relevant employment direction.²¹² The allegation that Wayne gave a personal letter to Rachel at school appears to have been overlooked.²¹³ Secretary Bullard conceded that the failure to investigate all the matters disclosed by Rachel put other children and young people at risk.²¹⁴
- The Department received more information about Wayne’s conduct towards other young people, but there were no records to suggest that these allegations were investigated or provided to police.²¹⁵ One student made allegations about Wayne’s conduct in relation to a former student and was ultimately forced to apologise to Wayne, at Wayne’s insistence. Secretary Bullard described this as ‘appalling’ and as sending a signal to other young people that concerns were not worth raising.²¹⁶

Secretary Bullard also acknowledged:

- Placing an advertisement in the local paper stating that all investigations into Wayne had been concluded was ‘a significant failing’ of the Department and ‘horrifying’ for Rachel.²¹⁷ It was also misleading, given Rachel’s additional disclosures.²¹⁸
- There was no evidence of support offered to Rachel and others involved in the matter.²¹⁹
- The investigation took too long to be completed (more than two years).²²⁰
- The Department did not proactively notify the Teachers Registration Board of Rachel’s complaints (the initial or later disclosures), which meant that the Board did not have knowledge of these matters until Wayne disclosed them when trying to renew his registration. Secretary Bullard conceded that Wayne’s summary of the matter to the Board omitted details.²²¹
- Correspondence from the Department in response to the Board’s request for information when Wayne sought re-registration did not provide a ‘proper, complete and accurate outline’ of Rachel’s disclosures—the Department only provided information about the limited matters that were investigated.²²² Secretary Bullard conceded that the Department, by omission, misled the Teachers Registration Board in this letter.²²³

Secretary Bullard said that if Rachel’s complaint were made in 2022, it would be managed differently.²²⁴ He told us that Wayne would be asked to leave the workplace pending a disciplinary investigation, appropriate notifications would be made to all relevant agencies, and the Secretary would make a determination about his conduct.²²⁵

Also, Rachel and Anne would have access to the school social worker and psychologist, and appropriate referrals would be made to support services, including sexual assault services.²²⁶ There would also be a less restrictive interpretation of what constitutes ‘in the course of employment’ under the State Service Code of Conduct, to enable the Department to hold teachers to account for inappropriate conduct that occurs outside school hours, as evidenced by the investigation into Wayne.²²⁷

Reflecting on Rachel’s discomfort with the male investigators who interviewed her, Secretary Bullard noted that there have been discussions in the Department about strategies to ensure an appropriate balance in the gender composition of investigators.²²⁸

Secretary Bullard went on to note that Workplace Relations now provides the Teachers Registration Board with a copy of the Employment Direction No. 5—Breach of Code of Conduct letter sent to the employee and ‘all relevant documentary evidence’.²²⁹ The Board also receives the outcome of the Employment Direction No. 5 investigation as well as statements obtained during the investigation, where witnesses have given permission for these to be shared.²³⁰

Secretary Bullard recommended that, in the future, more wide-ranging language be used in the State Service Code of Conduct to directly capture conduct that ‘arises from employment’ or is ‘connected to employment’, such as teachers’ conduct outside of school hours.²³¹ He told us the Department is adopting an expansive interpretation of these terms, which has not (yet) been tested by legal challenge.²³² We make recommendations for changes to the State Service Code of Conduct in Chapter 20.

5 Systemic issues

We agree with Secretary Bullard’s reflections on the shortcomings of the Department’s handling of Wayne’s case. However, we express further shortcomings:

- The investigation process was not trauma-informed, child-centred or designed to elicit the best possible information and evidence to support the investigation. It failed to understand specific considerations that must be given to interviewing children and young people—including the need for shorter sessions, a safe and comfortable environment, the presence of trusted support people, and sensitive and appropriate questioning by an investigator that feels safe for the young person. It also failed to recognise that children and young people often disclose information in stages (as Rachel did) rather than all at once.
- Relevant policies and procedures were not followed, or referenced, in engagement with Wayne. Even at that time, policies required that teachers not bring the Department into disrepute outside the school environment.

Notifications to the Child Protection Advice and Referral Service were only made in response to Rachel's further disclosures, when arguably the Advice and Referral Service should have been notified immediately, ahead of the initial Employment Direction No.5—Breach of Code of Conduct investigation.

- Rachel and Anne did not receive adequate support, care and communication throughout the investigation process. Assurances given to them (for example, that Wayne would not return to the school, or be able to be registered) were not implemented, which was highly upsetting and stressful for both.
- The approach to the investigation was overly technical and legalistic, which led to an unacceptable narrowing of the investigation and a failure to consider a pattern of behaviour that may amount to grooming. These failures meant that Rachel's disclosures were not investigated properly and potential risks to other children and young people were not identified and addressed. The Department appears to have been intimidated by Wayne's litigious and aggressive attitude towards the investigation and adopted an overly conservative approach to its own powers in response.
- The investigation took too long (notwithstanding the subsequent disclosures), which added to Rachel and Anne's distress, particularly given the upsetting dynamics the matter created in the small community in which they lived.
- The publication of the joint statement in the local paper in 2007 suggesting a comprehensive investigation into Wayne's conduct that effectively cleared him of any wrongdoing was appalling and cruel, particularly given the community context and that this was how Rachel and Anne discovered the outcome of the initial investigation.
- The letter from the Department to the Teachers Registration Board about Rachel's disclosures was misleading and inhibited the Board from properly executing its functions and responding to risks that Wayne may have posed to students. Overall, there was poor information sharing between the Department and the Board.
- That Wayne was re-registered (notwithstanding the substantial concerns held by the Board about his fitness to teach) following the Office of Solicitor-General's advice suggests that this advice failed to show adequate regard for child safety.
- Delays and failures by the Department and the school to report Rachel's allegations to child protection contributed to her allegations not being raised with police until after the statute of limitations had expired.
- There should not be a limitation period in the Police Offences Act in relation to offences connected to child sexual abuse. We note that this limitation period was removed in April 2023 through the *Justice Miscellaneous (Royal Commission Amendments) Act 2023*.²³³

Case study 4: Katrina

Katrina Munting gave evidence at our hearings and shared her experience of being sexually abused while attending a state-run high school in Tasmania. Ms Munting enjoyed school; she was studious and wanted to be the first person from her family to go to university. However, Ms Munting told us that her life was drastically changed after being sexually abused by a teacher named Peter (a pseudonym) at her school.²³⁴

1 The incidents

Ms Munting was in year 9 in 1998 when she attended a school camp with Peter.²³⁵ She recalls that Peter was very accommodating and that he engaged with the students in a friendly and familiar way. However, looking back (and with the benefit of her now considerable experience as a teacher herself), Ms Munting said that she now sees Peter's behaviour on this camp as being too familiar.²³⁶ Peter had brought his dog to the camp, which allowed him to more readily initiate conversation with students and to be in close contact with them, particularly the female students:

In break times, he would consistently be with groups of predominantly female students and engage in the students' personal conversations, rather than being with other staff ... He would give ... female students the job of 'watching' his dog. He was overly interested in the private lives of my peers and he was not concerned about how it would look for him to be having one-on-one conversations with students over the duration of the camp, which I observed him doing openly. In retrospect, I am concerned he was attempting to work out who would be an 'available' victim.²³⁷

A few months after camp, Ms Munting needed help with a school project. Although Peter was not her teacher at the time, he nevertheless volunteered to help. It was during this time that Peter's inappropriate behaviour towards Ms Munting escalated. As they worked together, he would 'accidentally' touch her. This progressed over time to his touching becoming 'more sexualised'.²³⁸ Peter's change in behaviour was subtle and happened over time. It was not until Peter began to touch Ms Munting's breasts and buttocks that she realised it was 'definitely sexualised and not right'.²³⁹ Despite this realisation, Ms Munting told us:

I froze and allowed him to do as he will. As time progressed and the abuse became more intense, I increasingly realised how wrong it was; however, by then it was all too late to 'get out'.²⁴⁰

Later that same year, Peter singled Ms Munting out to go on another camp—one that was generally only attended by year 10 students. Peter's request was highly unusual and, had the invitation been made under different circumstances, Ms Munting told us that she would have been flattered.²⁴¹ However, given the ongoing abuse that was happening, she said she suspected Peter had ulterior motives for asking her to attend.²⁴² These misgivings proved correct, and Peter sexually abused Ms Munting during the camp.²⁴³

Peter continued to abuse Ms Munting during the school holidays between years 9 and 10. Ms Munting told us that he had her lie on the floor of his ute and drove her to his house where he sexually abused her.²⁴⁴ Peter also became more intense verbally, telling Ms Munting that he loved her. He also often insisted she phone him (because if he called her, it would raise suspicion with Ms Munting's parents) and during these calls would insist she meet up with him.²⁴⁵

Ms Munting began year 10 in 1999 and the abuse continued. The frequency of the abuse was 'similar if not more frequent' during that period, and the amount of time that Ms Munting was spending with Peter had not gone unnoticed.²⁴⁶ Halfway through term 2, one of Ms Munting's teachers (a senior teacher at the school) allegedly took her aside while she was in the library with her classmates and told her that it was not normal for her to be spending so much time with Peter. Ms Munting was mortified.²⁴⁷ She told us that she:

... ran from the room in tears and cried my eyes out in the toilets. I thought that the floodgates of hell were about to open. I thought that I would be in trouble from Peter, my parents and the school.²⁴⁸

Ms Munting also told us that she feared that 'her world was about to end', that all her goals and hopes for her future—her perception of what her life was going to be—had 'been shattered' because someone knew about what had been happening.²⁴⁹ However, some time went by and despite her fears she did not get in trouble—in fact, nothing happened at all. Ms Munting said that her parents were not told and there was no follow-up by the school.²⁵⁰

When asked to reflect on how this senior teacher had allegedly communicated with her about Peter, Ms Munting replied that the conversation should not have taken place during class time and in the presence of her peers. Also, the teacher should have known that the nature of the conversation required that support be on hand during and after the conversation. Instead, no teachers came to find her or checked to see if she was okay. Ms Munting pointed out that the teacher who had confronted her clearly had suspicions about Peter and yet did nothing about them, other than to direct a veiled accusation at her:

In hindsight those words, they haunt me: 'It has been noticed that you and Peter are spending time together or too much time together and that is not normal'. To say those words to a student and then do nothing to make it stop.

Why wasn't Peter the one having that conversation? Why was he not getting in trouble? I was getting in trouble for what I was trapped in, and then for that to not have any follow-up was devastating ... they had mortified me by what they had said, but what's even worse is, they hadn't acknowledged what they thought was going on and they did not make it stop. The abuse continued, he did not desist. I was the one that was expected to make it stop, I was the one that made it stop.²⁵¹

Ms Munting said that sometime later she was told Peter had also been approached and told to ‘watch himself’:

... that was it. Not that his actions were inappropriate, [or] what he was doing was criminal: ‘Watch yourself’. In other words, ‘Keep doing it, just do it better so no-one notices, will you?’ Like, that’s how I read that, ‘Watch yourself’. How pathetic.²⁵²

The conversation with the senior teacher deeply frightened Ms Munting. She began to make excuses whenever Peter summoned her and tried to avoid being in places where he could abuse her. The abuse became less frequent and eventually, despite still being afraid of Peter, she stopped responding to him at all.²⁵³ Ms Munting told us that a part of her thought that once suspicions had been raised, the abuse would stop. However, this was not the case. Ms Munting told us that she was ‘devastated’ that nothing was done: ‘I had to make it stop and that was excruciating trying to work out how do you do that, how do you make something stop? It’s essentially an ingrained pattern of power’.²⁵⁴

In response to her avoiding him, Ms Munting said that Peter began to leave notes for her in her locker insisting that she continue to meet with him, that he had to see her, and that he loved her. Ms Munting destroyed these letters.²⁵⁵ Ms Munting told us that eventually Peter’s behaviour towards her turned to disdain. She recalls that he would pass her in the hallway and, if no one was close by, he would mutter things like ‘bitch’ at her.²⁵⁶

Later in year 10, the school placed Ms Munting in Peter’s class.²⁵⁷ Three times a week that term, Ms Munting had to sit in class with her abuser for an hour. Ms Munting said she was ‘deeply scared about what had happened, and ashamed’.²⁵⁸ She tried to put it all behind her and focus on her studies.²⁵⁹

2 The disclosure

Ms Munting found she could not bury what had happened to her, so in 2000, she disclosed some of the abuse to her boyfriend. Ms Munting’s boyfriend and his father then confronted the school.²⁶⁰ The school principal took the complaint seriously, and Peter resigned from his position soon after.²⁶¹ Ms Munting was allegedly told that Peter would never teach again.²⁶² However, Ms Munting recalls that the school did not contact Ms Munting’s parents about the abuse at any time. Nor did the school inform her about any investigation into Peter’s behaviour. Ms Munting did not receive any support or counselling from the school. As far as Ms Munting is aware, police were never contacted.²⁶³

Ms Munting’s mental health suffered over the years, and she eventually decided that, to progress in her healing process, she needed to report her abuse to police. With the encouragement and support of a friend who was a police officer, Ms Munting made a formal statement to police. This was a difficult process, and Ms Munting recalled that the detective ‘demonstrated belief in all I had to say in my interview. The second detective in the room was a female; this helped’.²⁶⁴ She told us that it was empowering to be ‘heard and believed’.²⁶⁵

Peter was charged and eventually pleaded guilty to some of the charges, but he disputed various facts.²⁶⁶ This meant that Ms Munting was subjected to ‘cross examination as part of a “disputed facts hearing” process that was ‘harrowing and mortifying’. She told us that Peter sat close by and made ‘dismissive noises and gestures while [she] was ... being questioned by the Crown and the defence’.²⁶⁷ The case was emotionally draining and psychologically painful for Ms Munting, and while she told us that she was well looked after by the Crown Prosecutor and witness support staff, overall, her experience of the criminal justice system was ‘devastating’.²⁶⁸

Peter was sentenced to three years’ imprisonment.²⁶⁹

While criminal proceedings were important to Ms Munting, she told us that she also wanted the Department of Education to admit its wrongdoing and to be held accountable.²⁷⁰ A year after giving her statement to police, Ms Munting began writing to the Minister for Education requesting to speak with him so she could share her story. Each week for 16 weeks, Ms Munting wrote a unique letter to the Minister requesting an audience. She recalled receiving two or three replies—all declining her requests.²⁷¹ After the 16th week, she told us she received a reply that was different in nature and a meeting was arranged with the Deputy Secretary of the Department. Ms Munting told us that this was a good discussion and that the Deputy Secretary listened and apologised to her, though she thought that the Secretary should have attended the meeting. She believed she had been palmed off to the Deputy Secretary to shut her up.²⁷²

Ms Munting said that an apology from the Minister for Education would be ‘exceptionally important’.²⁷³ She told us that any such apology needs to be:

... more than just that they’re sorry that I was abused in their institution, you know, they need to be sorry that I was abused in their institution and they chose to ignore it, and they chose not to follow it up, and they chose to ignore me, and ... they need to name up exactly what it is that they’re sorry for, because I don’t want a hollow ‘I’m sorry’. What are you sorry for? Because, not only have I been devastated by the abuse, the fallout that I’ve had to deal with since has made it so much worse.²⁷⁴

3 The response

When asked about Ms Munting’s and other witnesses’ evidence to our Commission of Inquiry, Secretary Bullard apologised for the past failings of the Department and acknowledged the ‘lasting, ongoing and negative impact that that has had on victims and survivors’.²⁷⁵ He also acknowledged the Department’s failure to help victim-survivors to recover and heal.

When asked specifically about Ms Munting’s evidence in relation to what an apology should mean, Secretary Bullard said that the significance of the apology to Ms Munting was:

... the Department's recognition of the harm that it's caused ... the significance is to each and every person that receives that; they will make a determination about how important or not, how much validity or not they provide to that; all I can do is lead with my heart and provide that apology.²⁷⁶

In his statement to our Commission of Inquiry, Secretary Bullard also acknowledged the difficulties that could result from the Department's lack of communication with complainants.²⁷⁷ Secretary Bullard apologised for the Department's past failings.²⁷⁸

Case study 5: ‘Jeremy’

This case study about Jeremy (a pseudonym), a teacher, is based on information the Department provided in relation to its recent responses to child sexual abuse matters.²⁷⁹

1 The alleged incidents and response

Jeremy was employed by the Department of Education as a teacher until 2022.²⁸⁰

In 2012, several students at the same school made allegations about Jeremy’s conduct.²⁸¹ These included allegations that he failed to maintain appropriate boundaries and that he was making inappropriate comments to them that were of a sexual nature.²⁸²

Departmental records show that, on becoming aware of the allegations, the assistant principal of the school met with each of the students separately to obtain information relevant to their complaints and had conversations with the students’ parents.²⁸³

Departmental records also show that the principal and assistant principal met with Jeremy to discuss the allegations, and that Jeremy admitted his behaviour ‘was a bit loose’ but ‘not inappropriate’ in the context of conversations with the students.²⁸⁴

The principal’s notes state that, in response, they told Jeremy that any ‘conversation [with students] must be totally non-personal and not involve [a] sexual view of any nature. Not even [the] use [of the] word sex’.²⁸⁵

The assistant principal then sent an email to Jeremy outlining the actions that the school had taken in response to the allegations, including that the students involved had been moved out of Jeremy’s class.²⁸⁶

With the assistance of the human resources team, the principal drafted a letter to the students’ parents informing them that Jeremy had been spoken to about his unprofessional and inappropriate behaviour and had been made aware of his obligations under the State Service Code of Conduct.²⁸⁷ Learning Services also sent a letter to Jeremy, confirming that his behaviour was inappropriate, and that Jeremy recognised that his behaviour was unacceptable. The letter served as ‘a formal warning’.²⁸⁸

Four years later, in 2016, another student made allegations against Jeremy. This student said that Jeremy had allegedly taken her into a small storeroom that had an automatic lock and sexually abused her.²⁸⁹ The student alleged that Jeremy had told her that she must not tell anyone what had happened, or he would go to jail and would have to kill himself. Later, Jeremy asked the student if she had enjoyed ‘the lesson’.²⁹⁰ These allegations were reported to police by someone external to the school.²⁹¹

The school principal informed Learning Services of the allegations, advising that the ‘student had had a few other instances with this teacher where his actions had been suspicious, [and] noting there was “enough to warrant extreme concern”’.²⁹²

Human Resources, and then the Department's Conduct and Investigations Unit, were informed of the allegations on the same day.²⁹³

The following morning Jeremy was sent home from work and, shortly after, the Department suspended him with pay.²⁹⁴ The Department then initiated an investigation, in line with Employment Direction No. 5—Breach of Code of Conduct, into whether Jeremy had breached the State Service Code of Conduct.²⁹⁵ School staff were told that Jeremy was on leave.²⁹⁶

Departmental records show that the principal also notified the Child Protection Advice and Referral Service (as it was then known) and that two days after the school was made aware of the allegations the student made a statement to police.²⁹⁷ Learning Services spoke with the student's mother to confirm that the allegations would be investigated, and a human resources team member met with the student and her family shortly after.²⁹⁸

The Department also notified the Teachers Registration Board of the allegations, and the Board suspended Jeremy's registration.²⁹⁹ Jeremy appealed the decision to suspend his registration to the Magistrates Court, which ultimately ordered that the suspension be set aside pending the outcome of the Teachers Registration Board investigation.³⁰⁰ The Court also directed that a condition be imposed on Jeremy's registration that he 'not seek or accept employment as a teacher within any Tasmanian School or TasTAFE pending the outcome of an enquiry'.³⁰¹ Ann Moxham, Registrar, Teachers Registration Board, described the Court's order as 'contrary to the function of the [Board]'.³⁰²

Soon after, the same student disclosed that there had been other incidents where Jeremy had behaved inappropriately towards her. One such incident occurred in 2015 when Jeremy allegedly hit her on the bottom with a badminton racquet.³⁰³ The Department reported this allegation to police in August 2016.³⁰⁴ Another incident, also alleged to have occurred in 2015, involved a teacher who had witnessed inappropriate behaviour by Jeremy towards the student, namely that Jeremy had placed his hand on the student's thigh.³⁰⁵ The teacher had reported this alleged incident to the principal on the same day, but no other action was taken at the time.³⁰⁶

In late 2016, police charged Jeremy with two counts of indecent assault.³⁰⁷

Jeremy's teacher registration expired in mid-2016 (he had reached the end of his five-year registration cycle) and so he had to apply for a renewal.³⁰⁸ In 2017, Jeremy's application for a renewal was refused on the basis that he was not registered to work with vulnerable people.³⁰⁹

The *Teachers Registration Act 2000* had been amended in 2017 to require that a person seeking to register as a teacher must first be registered under the *Registration to Work with Vulnerable People Act 2013* ('Registration to Work with Vulnerable People Act').³¹⁰ When Jeremy applied to be registered to work with vulnerable people in late 2016,

a decision on his application was deferred, on the grounds that the outcome of the charges against him was likely to be relevant to deciding whether to grant him registration.³¹¹ However, the Registrar decided not to grant Jeremy Registration to Work with Vulnerable People ahead of any legal outcome.³¹² Jeremy appealed against this decision. His appeal was unsuccessful and so the Department stopped paying him in mid-2017.³¹³ However, the Magistrates Court stayed this decision (although it is not clear what effect this had on Jeremy's pay).³¹⁴

In 2019, the Supreme Court acquitted Jeremy of indecent assault. He was then granted registration under the Registration to Work with Vulnerable People Act.³¹⁵

In 2020, Jeremy applied to the Teachers Registration Board to have his registration as a teacher reinstated. The Board determined, however, that based on advice from the Office of the Solicitor-General, Jeremy would need to apply to become registered. Jeremy applied for registration in late 2020.³¹⁶ The Board has not registered Jeremy and is, at the time of writing, awaiting the outcome of an investigation to determine if he is of good character and fit to teach.³¹⁷ The Department lifted his suspension in the same year, on the basis that he could not teach because he did not hold current registration.³¹⁸

2 Departmental review

The Department identified Jeremy's case as part of its review into the management of 'historical' child sexual misconduct allegations involving current employees.

There are few departmental records in relation to the 2012 allegations against Jeremy because the school handled these allegations internally and so they were not referred to the Secretary. Secretary Bullard told us that the 2012 allegations were 'reinvestigated' in 2021, in line with contemporary departmental procedures.³¹⁹

In respect of the 2016 allegations, Secretary Bullard told us the Department had informed Jeremy that he would be subject to an Employment Direction No. 5—Breach of Code of Conduct investigation, but this was 'put on hold' pending the charges against Jeremy and another police investigation into the matter.³²⁰ Jeremy's trial concluded in 2019. The Department initiated its investigation in 2020.³²¹

In mid-2021, the Department began another Employment Direction No. 5 investigation into the allegations made against Jeremy in 2012 and 2015.³²² After providing Jeremy the opportunity to show cause as to why his employment should not be terminated, Secretary Bullard terminated Jeremy's employment in early 2022.³²³ Jeremy appealed this decision to the Tasmanian Industrial Commission.³²⁴ At the time of writing, the appeal was ongoing.

Secretary Bullard stated that between the time Jeremy was asked to leave the school in 2016 and his termination in 2022, he did not return to 'his employment'.³²⁵

3 What we heard

Secretary Bullard conceded that there were shortcomings in the school's and the Department's responses to complaints about Jeremy. He told us that in relation to the allegations made by several students in 2012:

- Learning Services found no evidence that the Department supported the students after complaining about Jeremy's behaviour.³²⁶
- The principal of the school in question and/or Learning Services did not inform the Conduct and Investigations Unit about the allegations, nor was the Unit informed of the outcome of any investigation. This meant that a notification was not made to the Teachers Registration Board in respect of those allegations.³²⁷
- Notifications were not made to the Child Protection Advice and Referral Service, Tasmania Police or the Integrity Commission at the time.³²⁸
- A copy of the State Service Code of Conduct was sent to Jeremy, but the Department's *Conduct and Behaviour Standards* policy was not brought to his attention.³²⁹
- There are no records of the school communicating with the students involved other than the initial meeting between the principal and each of the students, and a letter sent from the principal to the students' parents.³³⁰

In respect of the allegations about Jeremy's conduct in 2015, Secretary Bullard advised that there were no departmental records of these allegations.³³¹ The principal was not asked to document the event in which a teacher allegedly witnessed Jeremy put his hand on the student's thigh, nor did the principal report it to the Department.³³² These allegations only came to light during Jeremy's trial in 2019.³³³ Further:

- There were no records to show whether the student who made the complaint was given any support: '[t]o date, no records have been identified by Learning Services that indicate that a school teacher, social worker/psychologist offered and/or provided support to [the student] following her disclosure'.³³⁴
- As with the 2012 complaints, the school did not notify the Conduct and Investigations Unit, police or the Child Protection Advice and Referral Service, nor are there any records of communications between the school and the student or her family.³³⁵

Secretary Bullard stated that the school's responses to the 2012 and 2015 allegations did not comply with departmental policies and procedures that were in place at the time.³³⁶

While the school and the Department's responses to the allegations made against Jeremy in 2016 were an improvement on the handling of earlier allegations, there were still aspects that did not comply with departmental policies. As Secretary Bullard noted:

- There was no immediate report made to the Child Protection Advice and Referral Service in line with the *Mandatory Reporting Procedure*.³³⁷
- According to departmental policy, the student should have been referred to a staff member with specialised skills, and a plan developed to support the student.³³⁸ There is no evidence that this occurred or that the student had access to the school social worker.³³⁹
- There are limited records of communication with the student (and her family) about the allegations, and there are no records of communications with other students or staff at the school.³⁴⁰
- The Integrity Commission was not notified about the allegations at the time.³⁴¹
- There are no records of communication with the student or staff at the school regarding the 2016 allegations.³⁴²

4 What happened since and what needs to change

The information provided to us about Jeremy’s case reveals several systemic and case-specific issues:

- Students’ complaints were not adequately scrutinised.
- Not enough consideration was given to the risks posed to any child by a teacher who breached professional boundaries in a sexual manner with a child.
- Children were interviewed by personnel not trained in child interviewing techniques and child sexual abuse.
- The principal had too much discretion in deciding when to escalate concerns to the Department.
- Incidents were not appropriately reported to the Department of Education.
- Record keeping in relation to the complaints was poor.
- Communication between different units in the Department, and between the Department and other regulatory bodies such as the Teachers Registration Board, was poor.
- There was no communication (or communication was inadequate) with students, staff and the school community.
- Policies and procedures were not complied with.

- There was no support offered to students after their disclosures (or it was inadequate).
- There were unacceptable delays in disciplinary processes.

Secretary Bullard told us that the Department’s responses to allegations such as those made against Jeremy in 2012 (and to an extent in 2015 and 2016) could be characterised as a ‘mosaic of approaches’.³⁴³ Secretary Bullard described this to us as:

... let’s make some decisions around how we might deal with this, is a conversation from a principal or a senior leader enough, do we need to go to Learning Services, Human Resources, or do I need to escalate it? So ... there’s a judgment made on the ground about the seriousness or otherwise, and as [was] quite rightly pointed out, until such matters are investigated, how are you going to know?³⁴⁴

Secretary Bullard also noted that in 2012 there was no protocol in place requiring that such matters be brought to the attention of Workplace Relations.

We heard that the current process for handling such allegations is very different:

... every allegation that is raised must be referred to Workplace Relations and Workplace Relations must refer it to me [the Secretary]. Every allegation that is raised must be referred to the Teachers Registration Board, the Working with Vulnerable People Check and the Integrity Commission, and Teachers Registration Board where it relates to a teacher, and that is the process that sits in place now.³⁴⁵

Secretary Bullard elaborated that a ‘best practice response’ now involves a Senior Workplace Relations Consultant being briefed about the alleged conduct and discussing the matter with the Manager of Workplace Relations and the Assistant Director of Industrial Relations.³⁴⁶ An assessment is then made ‘as to the nature and seriousness of the allegations’.³⁴⁷ There is no specific policy guiding this assessment, but the nature and seriousness of the conduct as well as whether the conduct is isolated or part of a pattern of behaviour will form part of the assessment.³⁴⁸

If the matter does not involve an allegation of child sexual abuse or inappropriate physical contact, the matter ‘may be handled locally in consultation between the Principal and Learning Services, without a referral to the Secretary’.³⁴⁹ If the matter is assessed as being ‘more serious’, the Secretary will be briefed by Workplace Relations on whether an Employment Direction No. 5—Breach of Code of Conduct investigation should be initiated. If the matter involves an allegation of a sexual nature, the Secretary will be briefed regardless of the outcome of the assessment.³⁵⁰ Where child sexual abuse is suspected, ‘the employee is asked to immediately leave the workplace and await correspondence from the Secretary, pending any determination’.³⁵¹ Notifications are then made to police, the Registrar of the Registration to Work with Vulnerable People Scheme and the Teachers Registration Board if appropriate.³⁵²

We are pleased that the Department has made improvements in responding to allegations of child sexual abuse, however there are aspects of the Department's current response that continue to raise concerns. For example, the seriousness of allegations that do not involve child sexual abuse is assessed by Workplace Relations and Industrial Relations, apparently in the absence of any specific policy or criteria or subject matter expertise. In such cases, it may be that allegations against departmental staff, such as those made against Jeremy in 2012, are still resolved locally by the school principal and Learning Services. This means that it is possible that allegations that relate to behaviours associated with grooming or precursor conduct may not be brought to the attention of the Department or the Secretary. We have observed a theme across Tasmanian Government services of failure to identify professional boundary breaches as potential grooming behaviours. We note that, despite Secretary Bullard's assurance that he would be notified of all concerns about child sexual abuse including grooming and precursor conduct, it may be that some behaviours are not recognised and reported as such by school staff, or are not assessed as such by Workplace Relations.³⁵³ Secretary Bullard conceded that some behaviours are 'nuanced' and that the Department needed to 'absolutely invest in training [the Department's] workforce to understand something that may or may not constitute a matter of concern'.³⁵⁴

In terms of the delay in starting the Employment Direction No. 5—Breach of Code of Conduct investigation into the 2016 allegations about Jeremy's conduct, Secretary Bullard stated that he was:

... acutely aware of the tension that currently exists between undertaking an [Employment Direction No. 5—Breach of Code of Conduct] investigation in a timely manner, in order to minimise distress to the child or young person who has made the allegation and also the employee being investigated, and the requirement not to jeopardise a police investigation and/or criminal proceedings.³⁵⁵

However, this does not adequately explain the time taken between the conclusion of Jeremy's trial in 2019 and resuming the Employment Direction No. 5 investigation in 2020. Secretary Bullard conceded that the delay in reactivating the investigation was 'not acceptable', but said that:³⁵⁶

Workplace Relations ... advised that the investigation did not recommence immediately upon the acquittal of [Jeremy] due to a general review of the matter, and meetings to determine the process and a pathway forward, including ongoing discussions about whether an [Employment Direction No.5—Breach of Code of Conduct] should be commenced or ceased.³⁵⁷

Secretary Bullard also told us that a complainant is not informed of the outcome of an Employment Direction No. 5 investigation because this is prohibited under legislation.³⁵⁸ He agreed that not communicating the outcome of an investigation to a complainant was of 'significant concern'.³⁵⁹ He told us that he had 'asked the Office of Safeguarding Children and Young People to consider [the Department's] approach to these and other similar matters, where victims/survivors seek an outcome'.³⁶⁰

Secretary Bullard welcomed ‘any thoughts the Commission might be able to share in relation to the Department’s future approach to similar complaints and Employment Direction No. 5 investigations from the perspective of the complainant’.³⁶¹ We discuss approaches to Employment Direction No. 5—Breach of Code of Conduct investigations, including communication with complainants, in Chapter 20.

Case study 6: ‘Brad’

This case study about Brad (a pseudonym), a relief teacher, is based on information the Department provided in relation to its recent responses to child sexual abuse matters.³⁶²

1 The alleged incidents

Brad was a teacher who worked in New South Wales for several years in the early 2000s. During this time, a number of allegations of sexualised and inappropriate conduct towards students were made against him.³⁶³ Brad always denied wrongdoing, but the New South Wales Department of Education ultimately determined that he posed a ‘medium risk of sexual and physical abuse towards students’.³⁶⁴ As a result of this determination, Brad was formally monitored but allowed to keep teaching.³⁶⁵ After ongoing concerns about Brad’s behaviour, he was directed to undertake an improvement program, which he did not complete because he resigned from his position.³⁶⁶

In 2015, Brad moved to Tasmania and applied for registration with the Teachers Registration Board, intending to work as a casual teacher.³⁶⁷ In his application for registration, Brad did not disclose that complaints had been made about him in New South Wales around a decade before.³⁶⁸ Brad should have declared these complaints when he applied for registration (and a renewal of his registration) from the Tasmanian Board.³⁶⁹

Brad was registered as a teacher in Tasmania and multiple schools employed him for relief work.³⁷⁰

2 The initial response

In late December 2019, Principal A (a pseudonym) held concerns about Brad’s alleged inappropriate comments to and physical contact with students.³⁷¹ Principal A informally contacted principals at other schools where Brad had been employed. Two other principals told Principal A that they also had concerns about Brad’s behaviour when he had worked at their schools.³⁷² Principal A then advised Learning Services at the Department of Education of their concerns, as well as the concerns relayed to them by other principals. This was the first time Brad came to the Department’s attention.³⁷³

The next day, a Senior Human Resources Coordinator from Learning Services contacted Brad. Because Learning Services had assessed the alleged behaviour reported by Principal A as ‘at the lower level of seriousness’, it deemed that a meeting with Brad was an appropriate response.³⁷⁴ At the meeting with Learning Services, Brad was taken through his obligations under the relevant guidance material on professional conduct and standards.³⁷⁵ Learning Services did not notify Workplace Relations or Legal Services about the information received from Principal A, and was apparently

unaware of its ability to have Brad removed from the Fixed Term and Relief Employment Register. Removal from the Register would have barred Brad's employment as a relief teacher by other government schools.³⁷⁶

The meeting with Brad to discuss his conduct and professional obligations occurred in early 2020.³⁷⁷ Following this meeting, Learning Services maintained some concerns about Brad and sought more information from payroll about which schools Brad had previously worked at as a relief teacher.³⁷⁸ Learning Services also spoke to all schools where Brad was subsequently placed, and monitored his behaviour.³⁷⁹ Learning Services remained unaware of its ability to remove Brad from the Fixed Term and Relief Employment Register.³⁸⁰

Brad continued to be the subject of allegations of inappropriate conduct.³⁸¹ A few months after Brad's meeting with Learning Services, Principal B (a pseudonym) contacted Learning Services after a student reported that Brad had allegedly sneaked up on her and touched her shoulders.³⁸² Principal B requested that Learning Services seek more information about Brad from other schools.³⁸³ Immediately after the student's report, Principal B removed Brad from the classroom and instructed him that he would not work at the school again. Principal B also directed Brad to apologise to the student for his conduct.³⁸⁴

Learning Services added the information received from Principal B to the information already on record from Principal A and passed this information to the Teachers Registration Board in mid-2020.³⁸⁵ Workplace Relations and Legal Services remained unaware of any concerns about Brad.³⁸⁶

Having been advised of concerns about Brad, the Teachers Registration Board made enquiries with the Department, including Legal Services, about Brad's conduct.³⁸⁷ The Teachers Registration Board told Legal Services it had received information that Brad had inappropriately touched female students and that it would investigate the allegations.³⁸⁸ The Department did not make notifications to the Registrar of the Registration to Work with Vulnerable People Scheme or police on the basis that 'the concerns raised had not been particularised in enough detail to be considered allegations of child sexual abuse'.³⁸⁹

Later in 2020, a student at another school reported to a teacher that Brad had allegedly tapped her on the backside, held her hands, touched her shoulders and told her she was beautiful.³⁹⁰ Principal C (a pseudonym) reported the alleged conduct to Learning Services and was told that Learning Services was aware of a history of similar behaviour.³⁹¹ Principal C forwarded their concern to the Teachers Registration Board and contacted Legal Services in the Department.³⁹²

The report from Principal C triggered a range of notifications.³⁹³ The Board confirmed it would consider an emergency suspension of Brad's registration and would report Principal C's information to the Registrar of the Registration to Work with Vulnerable People Scheme. Legal Services advised the Teachers Registration Board that the matter had been reported to police.³⁹⁴ At this time, Workplace Relations removed Brad from the Fixed Term and Relief Employment Register.³⁹⁵

Shortly after, in October, the Board notified the Department that it had suspended Brad's registration with immediate effect.³⁹⁶ It also recommended that an inquiry into Brad's behaviour be undertaken to determine whether he was of good character and fit to teach, and that Brad be required to undergo a psychiatric or psychological examination.³⁹⁷ During this period, Principal C also reported their concerns about Brad to the Strong Families, Safe Kids Advice and Referral Line.³⁹⁸

Not long after this, the Advice and Referral Line got several reports from community members about Brad's complaints history in New South Wales and current complaints from Tasmanian schools.³⁹⁹ As a result, staff at the then Department of Communities sought records and information from New South Wales and information from the Teachers Registration Board to inform their risk assessment.⁴⁰⁰

At the end of 2020, Brad's (suspended) registration lapsed when he failed to make a payment.⁴⁰¹

In early 2021, the Department of Communities provided the Department of Education with a timeline of Brad's conduct.⁴⁰² In addition to the concerns of Principals A, B and C, this timeline included more details about complaints and concerns involving Brad.⁴⁰³

The Department of Communities timeline revealed that in 2018, when Brad was teaching at a primary school, he had also allegedly engaged in inappropriate conduct while teaching (which was not overtly sexual in nature). It was also reported that Brad had allegedly made other staff uncomfortable by standing too close to them.⁴⁰⁴

Throughout 2020, another primary school raised concerns about Brad, including that he was allegedly overly friendly with female students and had touched their shoulders and hands. Brad was repeatedly warned to keep his distance from students but continued to teach at the primary school for several months.⁴⁰⁵

Later that year, a different primary school received a complaint from a parent that Brad was allegedly physically touching students (holding their hands and putting his arms around them) and staring at female students. When the school followed up this complaint with Brad's class, students reported more concerns, including that Brad had allegedly been 'checking out' female students, threatening male students with violence (saying 'your head is going into my fist') and using his mobile phone in a way that made students worry that they were being filmed.⁴⁰⁶

Around this time, a senior manager at the Department asked a colleague at the Department of Communities whether their more extensive information about Brad had been provided to the Registrar of the Registration to Work with Vulnerable People Scheme. The colleague responded:

[The Child Safety Service] practice is we inform [Tasmania] Police when we are investigating matters where a person of concern relating to sexual abuse has direct contact with children. [Tasmania] Police would inform Registrar. This makes the lines of communication clear. [The Child Safety Service] responds to children, [Tasmania Police] responds to offenders. It would get very murky otherwise ... We shall use this as a case study though to test the current systems in place and consider if there are any weaknesses in the current system.⁴⁰⁷

Secretary Bullard noted that while some of the other matters in the Department of Communities timeline were known to the Department, this timeline ‘provides a far more extensive context’.⁴⁰⁸

The Department of Communities told the Department of Education it had notified the Child Safety Service and that it had provided its timeline to the Registrar of the Registration to Work with Vulnerable People Scheme.⁴⁰⁹ It also advised that the matter was the subject of a police investigation.⁴¹⁰

The Teachers Registration Board began its formal inquiry into Brad’s conduct in early 2021.⁴¹¹ The Board ultimately determined that Brad was not of good character and was not fit to teach.⁴¹² This outcome was communicated to all relevant authorities, including interstate and New Zealand teacher registration authorities.⁴¹³

Secretary Bullard noted that the Department is unaware of what support or communication may have been delivered to any affected students and their families or staff in relation to Brad’s behaviour at one of the schools because the need for such supports would have been assessed at the school level.⁴¹⁴

3 Departmental review

Brad’s case was one of the ‘historical’ matters the Department reviewed in 2021. Secretary Bullard was then briefed on the extra information discovered in the Department of Communities timeline. Workplace Relations advised Secretary Bullard that there were no other steps to be taken because Brad was not an employee, had already been removed from the Fixed Term and Relief Employment Register and was not registered with the Teachers Registration Board.⁴¹⁵

In mid-2021, Secretary Bullard advised Brad of the allegations against him and sought a response from him. Secretary Bullard noted that because Brad was not a current employee, the Department could not pursue a formal investigation; however, Brad’s future employment with the Department would depend on the outcome of an investigation.⁴¹⁶ Around this time the Teachers Registration Board notified Secretary Bullard of its findings in relation to Brad.⁴¹⁷

4 What we heard

Secretary Bullard conceded that Brad’s case highlighted the problem of limited information sharing—between Tasmania and other states and territories, between government departments in Tasmania, and within the Department itself.⁴¹⁸

4.1 Information sharing

This case study highlights the way a lack of coordinated information sharing can allow complaints about a teacher’s conduct to go unaddressed:

- The Teachers Registration Board was unaware of a history of allegations of concerning behaviour when it granted Brad’s registration. Relying on Brad to disclose this history is a system weakness, given people in his position may well have a strong incentive to not disclose matters (particularly if they were managed relatively informally).
- The Department’s screening process failed to pick up the concerning history of allegations against Brad in New South Wales. It is unclear what screening processes were used and whether any referee checks were undertaken. The fact that Brad had not been teaching for some time could have invited more scrutiny and checks into Brad’s work history.
- Some principals who held concerns about Brad’s alleged behaviour did not proactively report their concerns to the Department, perhaps opting to simply not re-engage Brad as a relief teacher. This meant that conduct suggesting a pattern of behaviour was not identified.
- Learning Services did not communicate the concerns about Brad to other areas of the Department—most critically, Workplace Relations—which meant that Brad was not removed from the Fixed Term and Relief Employment Register at the earliest opportunity. The failure to communicate also meant that appropriate notifications were delayed and that Workplace Relations and Legal Services were ill-equipped to respond to later queries from the Teachers Registration Board.
- The Teachers Registration Board and the Department were not responding to the same information during the investigation into Brad—each communicated with the other in vague terms about ‘concerns’. Secretary Bullard only received the Board’s findings (and related information) about Brad after finalising the Department’s investigation. Although Brad was no longer working for the Department (and therefore not an active risk to students) there may be circumstances where the Department will need information from the Board throughout its investigation to manage any risks to students. Also, the Department is only obliged to notify the Board about disciplinary matters it is pursuing in relation to ‘employees’, which means that the conduct of relief or casual teachers may remain unknown to the Board.

- Relevant parties were unclear whether information had been shared with other authorities, in particular police and the Registrar of the Registration to Work with Vulnerable People Scheme, and if information had been shared, what information and when. This required manually checking and double-checking sources and records, which increased the risk of important information being missed or not passed on.

When giving evidence at hearings, Secretary Bullard acknowledged that information sharing is critical for regulators and decision makers to identify patterns of behaviour:

So, absolutely accept here that the fact that you have a person working in multiple schools displaying behaviour which I would argue on some of that behaviour should have been escalated, but on other behaviour you'd think, well, that's a one-off and a bit odd but, you know, not going to report; it's only when you see that accumulated as a set of evidence that you are alerted, very alerted, to the fact that there is an issue that needs to be dealt with.⁴¹⁹

He added that the information-sharing provisions are confusing and complex, which might inhibit the ability of regulators to respond more quickly to risks.⁴²⁰

Secretary Bullard noted that New South Wales is leading a scoping project on national information sharing for teacher registration, alongside all state and territory education departments and teacher registration authorities. This includes providing advice on the scope of information sharing that will be necessary to support automatic mutual recognition of registration for teachers moving between states and territories.⁴²¹

Secretary Bullard used Brad's situation to reflect on some of the key considerations for this work. For example, if information sharing is limited to formal disciplinary sanctions, then concerns about Brad could not be shared—in this case, the sanctions were not imposed because Brad resigned.⁴²² However, he noted that the sharing of 'granular details' between interstate agencies raises procedural fairness issues for employees.⁴²³ He also shared his concerns that national mutual recognition reforms allow teachers registered in other jurisdictions to work in Tasmania without the knowledge or approval of the Teachers Registration Board.⁴²⁴ Ann Moxham, Registrar, Teachers Registration Board, echoed Secretary Bullard's concerns about automatic mutual recognition, noting that it limits the ability of the Teachers Registration Board to carry out its good character and fitness to teach assessments, which are 'much broader' than the Registration to Work with Vulnerable People requirements.⁴²⁵

In relation to information sharing between the Department and the Teachers Registration Board, Secretary Bullard pointed to general prohibitions contained in the *Personal Information Protection Act 2004* ('Personal Information Protection Act') that restrict the Department's ability to share information gleaned through an Employment Direction No. 5—Breach of Code of Conduct process with other agencies, including the Board.⁴²⁶ He noted that this restriction applies to information such as letters to employees

describing alleged breaches of the State Service Code of Conduct, witness statements, investigation reports and the Secretary's determination, unless individuals provide consent for their information to be disclosed.⁴²⁷ Secretary Bullard also noted that the limited exceptions to this general prohibition likely only apply to criminal conduct or 'seriously improper conduct' and may not be enough to permit information sharing about conduct that does not meet the threshold of these categorisations.⁴²⁸ He highlighted that the Personal Information Protection Act also creates barriers for information sharing between the Department and non-government schools.⁴²⁹

Ms Moxham told us that, on the advice of the Office of the Solicitor-General, the Department is precluded from providing its investigation materials to the Board. This means that the Board has to undertake its own investigation, which can lead to reinterviewing (and retraumatising) affected children.⁴³⁰ Ms Moxham shared her belief as Registrar of the Teachers Registration Board that, contrary to this advice, the legislation does in fact permit such information sharing between the Department and the Board.⁴³¹ We discuss the issue of information sharing between the Department and the Teachers Registration Board in Chapter 6.

Ms Moxham noted that the Board has a range of powers to share information with other regulatory bodies in Australia and with employers, complying with different sections of the governing legislation.⁴³² She also noted that assessing the suitability of teachers arriving from New South Wales was particularly challenging because the accrediting body there does not conduct enquiries or disciplinary processes. When assessing an application for registration from a teacher who has come from New South Wales, the Teachers Registration Board must therefore ask that teacher's permission to seek information about them from the New South Wales Department of Education.⁴³³

Ms Moxham told us that the information flow between the Board and Tasmanian agencies such as the Registration to Work with Vulnerable People Scheme and Children, Youth and Family Services is often one-way—when the Board provides information it does not 'get anything back'.⁴³⁴ She stated, for example, that when the Registrar removes a Registration to Work with Vulnerable People, it will advise the Board of the removal but not the reasons why.⁴³⁵ She also stated that Children, Youth and Family Services do not provide the Board with information, such as if a report is made to them about a teacher's parenting capacity, unless the teacher had declared the information when either registering or renewing their registration (which occurs every five years).⁴³⁶ Ms Moxham also described the relatively informal ways in which the Board may become aware of important information about relief teachers—for example, via phone calls from Learning Services.⁴³⁷

Following an exchange in public hearings with Counsel Assisting, Ms Moxham was asked 'are there additional barriers to knowing where relief teachers are and how long they are teaching in a particular place?' She replied, '[i]t's 'almost impossible. It's pretty scary, isn't it?''⁴³⁸

Ms Moxham noted that, as far as she is aware, there are no reforms in progress to remedy the lack of visibility over where relief teachers are working, except in limited circumstances.⁴³⁹ She described a current ‘workaround’ to improve visibility, namely a ‘Watched Registration’ list, maintained by individual schools (this list is discussed in Chapter 6). She noted, however, that relief teachers are not generally included on this list.⁴⁴⁰

Secretary Bullard said that Learning Services should have notified Workplace Relations about the information it was receiving regarding Brad and, had Workplace Relations been notified, ‘swifter action may have occurred’ at the departmental level, notwithstanding the challenges of investigating a relief teacher.⁴⁴¹ Secretary Bullard specified such action as earlier referrals to police, the Teachers Registration Board, the Registrar of the Registration to Work with Vulnerable People Scheme and the Integrity Commission.⁴⁴² Secretary Bullard attributed the failures to share information to a ‘misunderstanding’ about the actions that could be taken against relief teachers, which included removing them or flagging them on the Fixed Term and Relief Employment Register.⁴⁴³ In turn, the failure to remove Brad from the Register meant that he could continue relief teaching at other schools.⁴⁴⁴ Secretary Bullard conceded that the mismanagement of Brad’s case illustrated a systemic failing in terms of people not knowing the controls needed for relief teachers.⁴⁴⁵

Secretary Bullard highlighted to us that because Brad was a relief teacher rather than an ‘employee’ for the purposes of the *State Service Act 2000* (‘State Service Act’), he could not be subject to an Employment Direction No. 5—Breach of Code of Conduct investigation. The State Service Act does not impose a sanction under the Employment Direction No. 5 process for someone who is not an employee.⁴⁴⁶

We consider that the provisions of the Personal Information Protection Act should be amended to ensure information sharing for protecting the safety of children (even where the conduct may not meet a criminal or serious misconduct threshold) is lawful. While privacy and procedural fairness protections are legitimate and should be respected, the safety of children must always be paramount (refer to Chapter 19 for discussion on this issue).

We also find that the Department should be empowered to undertake an investigation (like that conducted under Employment Direction No. 5—Breach of Code of Conduct) into casual and contracted staff. Where warranted, investigations of this type should continue even where a person is no longer contracted and unwilling to participate.

Following allegations of incidents of the type involving Brad, appropriate support should be offered to students and affected staff. The Department should record the nature and extent of such supports for record-keeping purposes.

4.2 Other systemic problems

In addition to issues around information sharing, Brad’s case revealed a range of other problems including:

- inadequate exploration of the initial concerns raised about Brad, partly due to what appeared to be a limited understanding of the range of behaviours that can fall within the definition of child sexual abuse
- no central repository of information relating to complaints or concerns, which made it difficult to get a complete picture of issues of concern relating to employees (particularly relief teachers moving from school to school)
- a lack of clarity between the respective roles and responsibilities of Learning Services, Workplace Relations and Legal Services in responding to such concerns—including confusion about the operation of the Fixed Term and Relief Employment Register
- delays in notifications—including reports to the Teachers Registration Board, the Registrar of the Registration to Work with Vulnerable People Scheme, police and the Child Safety Service—meant information about Brad was not acted upon promptly
- the Department ceasing its investigations into Brad’s alleged conduct because he was not an employee, demonstrating an overreliance on industrial and disciplinary mechanisms in its response. Continuing investigations would have provided the Department with valuable information about Brad should he reapply for employment, as well as illuminating systemic issues relevant to other situations.

5 What has changed

Secretary Bullard advised us that since reviewing Brad’s case, the Department has made the following changes:

- Since July 2021, if the Department receives complaints or disclosures about child sexual abuse, it notifies Workplace Relations and the relief teacher is immediately removed from any workplace and the Fixed Term and Relief Employment Register.⁴⁴⁷ The teacher is also subject to appropriate notifications to police, the Registrar of the Registration to Work with Vulnerable People Scheme and the Teachers Registration Board.⁴⁴⁸ The Department invites the relief teacher to respond to the complaint and they must submit to an investigation before being able to return to work.⁴⁴⁹

- In October 2020, the Department updated its pre-employment questions for potential applicants to the Fixed Term and Relief Employment Register. Applicants must now declare whether they have been the subject of current or past disciplinary matters or if they have been charged (or were convicted of) criminal charges, with disclosures assessed by Workplace Relations (although this requirement does not guarantee that they will do so).⁴⁵⁰
- The Department is developing and will trial a new case management platform. This platform will provide a mechanism for more information to be shared with schools (while ‘ensuring fairness to employees’) where previous concerns about conduct have been raised and investigated.⁴⁵¹ Secretary Bullard said the case management platform ‘will provide a very easy way that schools can enter information of concern, with the matter then going through a chain of decision-making without schools having to take further action’.⁴⁵²
- As a matter of practice, people who give statements as part of Employment Direction No. 5—Breach of Code of Conduct investigations are advised that those statements may be used for other purposes (for example, statements may be forwarded to the Teachers Registration Board so it can assess an individual’s fitness to teach). Those informing an Employment Direction No. 5 investigation can withdraw their consent to their statement being used in this way.⁴⁵³

Case study 7: Sam

Sam Leishman gave evidence at our hearings and shared his experience of being sexually abused as a young child while attending a government school in Tasmania. Mr Leishman grew up the youngest of five, in a happy and nurturing family environment.⁴⁵⁴ In 1978, he began high school and met a science teacher known as Darrel Harington, despite not being in any of Mr Harington's classes.⁴⁵⁵

1 The incidents

Mr Harington took an interest in Mr Leishman. Mr Leishman told us: 'I guess I felt a little bit singled out, like, he was particularly interested in my activities ... to the point of taking piano lessons off my piano teacher and that sort of thing'.⁴⁵⁶ Mr Harington also came to know Mr Leishman's parents at various school events.⁴⁵⁷

In 1978, when Mr Leishman was 12 years old, Mr Harington began to sexually abuse him.⁴⁵⁸ Mr Leishman shared with us an experience of spending time with Mr Harington outside school. He said his parents had allowed him to go to Mr Harington's house because 'they knew [Mr Harington] and obviously trusted him'.⁴⁵⁹ On that day, Mr Harington bought fried chicken and Mr Leishman was impressed by Mr Harington's ability to name the various bones of the chicken.⁴⁶⁰ Mr Leishman reiterated: 'This was a teacher I really admired, I really liked a lot'.⁴⁶¹

Mr Harington began to ask Mr Leishman about girls, including whether he had a girlfriend. When Mr Leishman replied that he didn't, 'the mood sort of quickly changed'.⁴⁶² Mr Harington drove Mr Leishman to the shops and purchased an adult magazine, which he then began flicking through with Mr Leishman, asking him if it turned him on.⁴⁶³ Mr Leishman described how he felt at this time: 'There was this nervous, terrifying excitement about me, within me'.⁴⁶⁴

Mr Harington then began a 'play fight sort of thing' with Mr Leishman, which ultimately led to Mr Harington sexually abusing him in a bedroom.⁴⁶⁵ As part of this 'game', Mr Harington invited Mr Leishman to 'retaliate'. As Mr Leishman did not know what the word meant at the time, he needed Mr Harington to explain what this word meant.⁴⁶⁶ Mr Leishman told us:

So, as well as submitting to this [abuse], I also complied; I did what he wanted, or tried to do what he wanted me to do to him. And that was the first incident and he drove me home.⁴⁶⁷

When Mr Harington dropped Mr Leishman home that day, Mr Leishman was grappling with confusion and shame. He described Mr Harington looping back to ring the doorbell to check on him. When greeted by Mr Leishman's parents, Mr Harington invited himself into their home.⁴⁶⁸ Mr Leishman explained how he felt:

I was terrified initially, first of all, that he was going to tell my parents of this disgusting act that I'd just done with him, but he didn't, it just turned into a big drinking session with my parents and, they didn't know, they thought he was a friend.⁴⁶⁹

The abuse continued. Mr Leishman spent more time with Mr Harington, including going away with him for days at a time.⁴⁷⁰ Mr Leishman described how after the 'initial terror' of the abuse, he began to feel 'more comfortable with what we were doing together'.⁴⁷¹ He explained, 'I thought at the time that I was equally responsible for my teacher's behaviour towards me, and that I had encouraged it'.⁴⁷²

However, over time, Mr Harington's interest in him waned: 'things shifted, there was no longer that connection'.⁴⁷³ Mr Leishman described the complex feelings that resulted from this perceived rejection:

So, what I thought was some sort of a relationship, I sensed it wasn't all of a sudden and it was just a physical thing, and that left me feeling, it's tough to say, but I felt pretty isolated and let down because I really admired this person.⁴⁷⁴

One day, some boys from Mr Leishman's school witnessed him going into a home with Mr Harington. Mr Leishman recalled:

When we arrived at the unit there were two boys from my year in the carpark kicking a ball around, just messing around playing, and I thought—I just felt 'Oh my God I've been spotted in a car, these boys are going to know what's going on'. And because [Mr Harington] was so confident and sort of blasé, he just hopped out of the car, [and said] 'How are you going kids?' I just remember standing there thinking, 'Oh, this is so uncomfortable'. And after that he starts walking away towards the door of the unit and beckons me over, and I—it was terrible.

The next day at school everything changed.⁴⁷⁵

Mr Leishman recalled the boys taunted him, saying 'how did you like sucking Harington's cock last night?'.⁴⁷⁶ Mr Leishman described being the victim of bullying after this time:

I'd managed to fly under the radar quite well until that point, but when—I mean, you can imagine in Tasmania in 1978 that quickly sort of bubbled and festered and turned into a huge problem for me.⁴⁷⁷

As the teasing and bullying became more widely known across the school, Mr Leishman told us that a teacher spoke to him, using words to the effect: 'I don't know what's going on between you and Mr Harington, but obviously something is and you need to make it stop'.⁴⁷⁸

The abuse continued for 12 months until Mr Harington transferred to another school.⁴⁷⁹

2 The disclosure

In 2014, when Mr Leishman was in his late 40s, he heard about the National Royal Commission and began to look at the materials on the website.⁴⁸⁰ He realised his experiences were ‘not uncommon’ and began to recognise what Mr Harington did to him as child sexual abuse.⁴⁸¹ He decided to share his experience with the National Royal Commission. Mr Leishman described engaging with the National Royal Commission as ‘a light bulb moment’.⁴⁸²

I rang the Royal Commission and that was—that was a great moment for me because it was like a little bit of a weight off my shoulder, and they were fantastic; they arranged a hearing for me—a private session for me and that initiated a lot of things that eventually led to me—the charges and everything against him.⁴⁸³

He told us that ‘by speaking openly and honestly, I was able to view Harington’s behaviours objectively and I began to put things into perspective’.⁴⁸⁴ The process also revealed to him that Mr Harington had abused other students. This knowledge encouraged Mr Leishman to engage with the criminal justice process.⁴⁸⁵

In 2015, Mr Harington pleaded guilty to multiple charges of sexual abuse related to several victim-survivors, including Mr Leishman.⁴⁸⁶

Mr Leishman described his experiences of the National Royal Commission, police and the Tasmanian justice system more broadly as ‘an overwhelmingly positive one’.⁴⁸⁷ Of police, he said: ‘The police get a lot of bad press, but they were very good with me’.⁴⁸⁸ He described how valuable it was to feel like his matter was important and relevant, even though it happened a long time ago.⁴⁸⁹ In giving his victim impact statement in court, he said: ‘I was able to defend a child [myself] that had been confused, ashamed and bullied to the point of despair—forced to manage the most complex of emotions in isolation’.⁴⁹⁰

3 The response

After Mr Harington was sentenced, Mr Leishman expected to hear from the Department of Education. He said:

I guess that was naïve to think that, but I thought that the Education Department must be curious about how this has happened and they must—they must at least want to investigate and find out how this could have possibly happened so, to me, it seemed sort of reasonable to expect that perhaps they might have got in touch with me.⁴⁹¹

Secretary Bullard acknowledged that Mr Leishman’s assumption was not unreasonable but explained that the Department does not receive information from the Director of Public Prosecutions about proceedings involving employees, ex-employees or students to enable such proactive contact.⁴⁹²

After allegedly receiving no contact from the Department, Mr Leishman wrote to the then Deputy Premier and Minister for Education and Training.⁴⁹³ In that letter, dated November 2015, he wrote that he wanted to be heard and understood and to better understand the extent to which other teachers may have been aware of Mr Harington's abuse.⁴⁹⁴

Around a month later (in December 2015), the then Minister for Education, the Honourable Jeremy Rockliff MP, acknowledged the letter, indicating he was seeking advice from the Department about whether he could provide the information that Mr Leishman was requesting.⁴⁹⁵ Mr Leishman assumed this meant he would hear something more in the new year.⁴⁹⁶ However, months later, he told us that he still had not heard, and he wrote again in early 2016 expressing his disappointment at not having received a response.⁴⁹⁷ Secretary Bullard noted that it was difficult to ascertain from Mr Leishman's file what contributed to the delay in responding to his letter but agreed that there did not seem to be 'an agile response'.⁴⁹⁸

We were told that it was not until 2017 that the Department contacted Mr Leishman. A meeting was arranged with the Deputy Secretary, Learning, which Mr Leishman attended. He described the meeting as 'a nice sort of two-way conversation' where he felt listened to 'to some degree'.⁴⁹⁹ Secretary Bullard stated that in this meeting, the Deputy Secretary offered Mr Leishman an apology, listened to his experience and discussed the counselling support Mr Leishman was receiving.⁵⁰⁰

Mr Leishman told us that:

... by that point I had questions as well: I wanted to know why he was teaching at my school, what other complaints they had about him, who knew what, was there any record of any sort of meetings and so forth that had taken place, what were the circumstances around his transfer to another school: I thought they were reasonable things to want to know.⁵⁰¹

The Deputy Secretary committed to following up his queries, and ultimately advised that a Right to Information request was required. She offered Mr Leishman a fee waiver in respect of this request, direct access to a Right to Information Officer and offered to support him through the process.⁵⁰²

Mr Leishman told us that a few weeks after the meeting, Mr Leishman received a letter from Legal Services confirming that he would need to file a Right to Information request and that Mr Harington's consent would be required before any records could be released.⁵⁰³ Mr Leishman reflected that:

I felt completely stymied by the process. I felt like I was up against a wall, and I just didn't understand the implications of it. How does it sit with, I've given—I've been responsible for this man going to gaol, and then I'm going to ask him permission to give me information about the circumstances pertaining to that: it just didn't sit well at all. I thought, I just—this is a rabbit hole I'm not gonna go down, I just can't do it.⁵⁰⁴

Secretary Bullard acknowledged the ‘real conflict’ in situations where a victim-survivor seeks a record, such as a disciplinary file, that contains information about another person.⁵⁰⁵ He confirmed that in such cases the Department requires the abuser’s permission to release the information or must at least consult them on their views about the release of information about them. Secretary Bullard stated: ‘my understanding is that Mr Leishman felt uncomfortable with that, and who wouldn’t?’⁵⁰⁶

At hearings, Mr Leishman was asked whether he had since received the answers he was seeking. He replied: ‘No, not fully. I still don’t feel like everything’s been laid out on the table’.⁵⁰⁷ He ultimately withdrew his Right to Information request and his legal representative submitted a new request.⁵⁰⁸ Secretary Bullard explained that when Mr Leishman sought information through his lawyer, Mr Harington refused the information release, but the decision-maker relied on public interest grounds to release some of the record.⁵⁰⁹

Mr Leishman told us that he received some information about Mr Harington’s history of offending but not all the information that he wanted about his time at Mr Leishman’s school.⁵¹⁰ Secretary Bullard informed us that there were no records to suggest that the Department was aware of Mr Harington’s abuse of Mr Leishman until Mr Leishman wrote to the Department in 2015.⁵¹¹

In his statement to our Commission of Inquiry, Mr Leishman described what he felt was needed to improve the Department’s response to victim-survivors in his situation:

The process for victims to engage with and obtain information from the Department needs to be much clearer, with fewer barriers. It also needs to be focused on the needs of the individual victim-survivor. People like me need answers—even if they are not easy to hear.⁵¹²

When asked whether there was a process in the Department to guide engagement with victim-survivors, Secretary Bullard noted that people in Mr Leishman’s situation would generally be referred to the Redress Unit in the Department of Justice, which he described as ‘trauma-informed’.⁵¹³ However, he accepted that the response to Mr Leishman’s request for support and assistance from his Department following his letter to the Minister in 2015 was ‘entirely inadequate’.⁵¹⁴ Secretary Bullard noted that, apart from Ms Pearce’s interaction with Mr Leishman, he did not consider the Department’s response to Mr Leishman to have been trauma-informed.⁵¹⁵ Secretary Bullard agreed that there should be a policy or procedure in the Department to ‘assist in meeting the expectations necessary to demonstrate support, care, compassion and understanding of victim-survivors’ experiences’.⁵¹⁶ He noted that he was conscious of the need to deal with circumstances such as this in a trauma-informed way and had asked the Office of Safeguarding to ‘consider our approach to these and other similar matters’.⁵¹⁷

Reflecting on Mr Leishman’s evidence at hearings, Secretary Bullard said:

I think that Mr Leishman’s courage in revealing the betrayal of trust that happened to him as a result of an association that he made whilst he was in one of our schools is very confronting to hear, but also the barriers that then existed when he came forward later with an expectation that he would seek and receive support or acknowledgment from the Department of Education also makes me feel very disappointed and I have apologised to Mr Leishman and I’m very sorry, I’m very sorry for that.⁵¹⁸

Mr Leishman acknowledged the personal apology he received from Secretary Bullard, which he feels he was ‘gracious in accepting’.⁵¹⁹ He also said:

I hope that by speaking about my experiences, this can lead to a change to the way in which the Department engages with victim-survivors of child sexual abuse from within the education system in Tasmania. It is my hope that Commissions of Inquiry, solicitors and formal processes don’t need to get involved to encourage the Department to constructively engage with people like me, who have already suffered so much.⁵²⁰

Case study 8: ‘Andy’

Andy (a pseudonym) is a young boy with a history of childhood trauma and child protection involvement.⁵²¹ We heard allegations that Andy had engaged in harmful sexual behaviours towards several children and young people. We heard from two families impacted by his alleged behaviour as recently as 2021. His alleged behaviours can be characterised as frequent, persistent and severe. We did not explore this case study through our hearings process, but we received information from the Department about this matter.

1 ‘Family A’

Family A (a pseudonym) has two children who are younger than Andy. The children met Andy through primary school but also spent time with him outside school hours.⁵²²

The parents told us they noticed some behavioural changes in their children, particularly one of them. These included difficulties regulating emotions, wetting themselves and becoming secretive. The child eventually disclosed that Andy was sexually abusing them, with their sibling often witnessing the alleged abuse. The children described these sexual behaviours as ‘games’, but allegedly involved violent and coercive sexual acts that occurred multiple times a week, including on school grounds, in circumstances where Andy was alone with the children.

The children’s parents described some of the challenges they experienced in the aftermath of Andy’s alleged behaviour. They felt the response was inadequate and that the school failed to recognise just how serious it was. The parents said they received an apology from the principal but were otherwise left in the dark about steps taken (including whether the matter was reported to the Department). They said that privacy concerns and Andy’s right to an education were cited as justifications for not communicating with the parents or removing Andy from the school, and they felt that nothing was done.

The parents told us they ultimately removed their children from the school for the children’s safety and wellbeing. They said the children continue to experience the effects of trauma from Andy’s alleged behaviour. A lack of appropriately qualified mental health professionals made it difficult to access specialist child psychologists, and public waiting lists for psychologists are long.

The parent said of Andy: ‘I’m sorry for that boy, I am truly—I don’t blame him, I blame everyone else’. They reported hearing of Andy allegedly harming other children at the school.

2 ‘Family B’

A parent of two primary school aged children also described changes in the behaviour of one of their children not long after starting at Andy’s primary school.⁵²³ Their child would regularly complain of ‘tummy aches’, not want to go to school and find it difficult to separate from their parent. The parent said that their child’s drawings became dark in content and their child began wetting themselves at school.

The child eventually disclosed that Andy was allegedly ‘doing things’ to them at school. The alleged harmful sexual behaviours were serious. Sometimes the child’s sibling would hold their hand during the abuse, so the child was not alone. The child said they were frightened of Andy because he would allegedly threaten to kill them.

The parent went to police with their child and the child made a statement. Andy was not interviewed because his parents allegedly did not consent. Based on the evidence available to us, it does not appear that any further action has been taken by police. When the parent reported the behaviour to the school, the parent said they waited nine days for the principal to come back to them. As with Family A, Family B (a pseudonym) said they also received no information about any potential responses to Andy’s alleged behaviour, with the principal citing confidentiality as the reason.⁵²⁴ They felt that the school did nothing.

Family B said their child had changed since the alleged abuse by Andy. The parent stated that their child had changed their appearance, is often fearful and calls their parent at lunchtime for reassurance. The parent felt like there was great concern about Andy and what he may have been through, but that no one was worried about their child. The parent said: ‘I feel like we’ve been treated like the perpetrators’. They also referred to being aware of other victims.

3 The response

We did not ask the Department to respond during hearings to the information we received from Family A or Family B. However, the Department has since informed us of the following:

- The Department was not aware of any complaints, concerns or otherwise in respect of Andy’s alleged harmful sexual behaviour until Family B made allegations against Andy to the Department.
- School staff notified the Strong Families, Safe Kids Advice and Referral Line and engaged with police regarding Andy’s alleged harmful sexual behaviours.
- The Department convened a School Leadership Team (including the principal, senior departmental staff and senior school employees) and a Student and Family

Support Team (including a social worker, psychologist, a police officer, a support worker and a representative from the Child Safety Service) in response to the allegations made against Andy.

- The Department convened a Planning Team (including the principal, senior school staff, psychologists, a social worker and the student support leader) to respond to the needs of students affected by Andy's alleged harmful sexual behaviour, including Andy.
- The Department offered psychological support, social support, assistance with moving schools, tutoring, financial support and ongoing communication to Family B following the parent's complaints about Andy's alleged behaviour.
- The information provided by the Department did not suggest any comparable supports had been provided to Family A, who told us they were struggling to access appropriate therapeutic supports.
- School staff engaged in ongoing discussions with Andy's family about Andy's alleged behaviour.
- School staff prepared Risk Management Plans for Andy, including regular supervision.
- The Department offered psychological and other support to Andy's family.
- The Department increased the level of funding to Andy's school, to assist in putting necessary supervision and supports in place for Andy.
- The school communicated with families of children at the school about the supports available.⁵²⁵

4 Future responses to harmful sexual behaviours

We consider that a range of preventative actions may be taken to minimise the impact of severe harmful sexual behaviours such as those alleged to have been displayed by Andy:

- Clear policies are needed that guide principals to report more severe harmful sexual behaviours to the Department, to ensure they are supported to provide a best practice response (including the involvement of all appropriate school staff and other professionals or services).
- Appropriate referrals and reports should be made to specialist treatment services, the Child Safety Service and police in relation to the child displaying the behaviours. In cases regarding more severe harmful sexual behaviours, Child

Safety Service or police intervention may be required if the child's carers are unable to take appropriate protective actions. In some cases, the child displaying the behaviours may be at risk of abuse and neglect, and require a Child Safety Service response.

- The ongoing local response within schools should be guided and supported by harmful sexual behaviours practice specialists who can advise on the development of safety and participation plans proportionate to the changing level of risk a child may pose. Where specialist treatment services are involved, they may also inform the safety and participation plan and ongoing risk assessments.
- Schools should be supported in deciding what should be communicated to whom, including consideration of the information needed by parents whose children have been harmed to feel confident their and other children will be safe.
- Schools should be supported to identify all children known or suspected to have been harmed so that children and families affected may access support.
- Where there are concerns that multiple children may have been harmed, schools may need to be supported to implement additional tailored sexual abuse education sessions to encourage further disclosures, and there may need to be appropriate communications to the school community.
- Where there are indications that a child has sexually harmed multiple children in a range of settings, agencies including the Department, Child Safety Service and police should share information to form a comprehensive understanding of the behaviours displayed, to inform the response.

Refer to Chapter 6 for our recommendations about harmful sexual behaviours.

3 Conclusion

The case studies we discuss in this chapter identify shortcomings in the Department's response to allegations of child sexual abuse, particularly regarding addressing allegations in a timely way, conducting proper investigations, and facilitating appropriate and ongoing supports for children and young people, their families and school staff affected by abuse. Over the course of our Commission of Inquiry, there have been changes to the Department's approach to dealing with child sexual abuse matters. We are encouraged by this progress. However, there is still work to do.

While the changes the Department has made will go some way to improving responses to the issues that are apparent in the victim-survivors' experiences and case studies we discuss in this chapter, and the issues identified more broadly through our Inquiry and the Independent Education Inquiry, further improvements are needed. In Chapter 6, we explore what improvements should be made and how they can help to safeguard children and young people in the Department's care.

Notes

- 1 As noted in Chapter 1, we heard about 63 allegations of child sexual abuse in government schools. The number of people who made allegations does not necessarily correspond to the number of allegations, as some information we received contained more than one allegation.
- 2 Refer to Case studies 1, 3 and 4.
- 3 Refer to Case studies 1, 3 and 4.
- 4 Refer to Case studies 1, 3, 4 and 7.
- 5 A table detailing the number of state servants suspended due to allegations of child sexual abuse is regularly updated by the Department of Premier and Cabinet through its routine disclosures. Refer to Tasmanian Government, Department of Premier and Cabinet, *Routine Disclosures* (Web Page) <https://www.dpac.tas.gov.au/rti/routine_disclosure_log_-_departmental_information>.
- 6 Department of Education, 'ED tracker' (Excel spreadsheet), 22 February 2023, produced by the Tasmanian Government in response to a Commission notice to produce. Refer to Appendix H for the methodology used to calculate these figures. There are, at times, discrepancies between the data provided to us by the Tasmanian Government through the ED trackers and the numbers provided by Secretaries of the Departments in their evidence and statements, or differences in the methodology adopted to calculate figures. We have highlighted these discrepancies throughout our report as relevant.
- 7 Department of Education, 'ED tracker' (Excel spreadsheet), 22 February 2023, produced by the Tasmanian Government in response to a Commission notice to produce. Refer to Appendix H for the methodology used to calculate these figures.
- 8 Statement of Timothy Bullard, 10 May 2022, 48 [276].
- 9 Transcript of Timothy Bullard, 11 May 2022, 908 [29–33].
- 10 Statement of Timothy Bullard, 10 May 2022, 49 [278].
- 11 Statement of Timothy Bullard, 10 May 2022, 49 [278]; Transcript of Timothy Bullard, 11 May 2022, 909 [8–13].
- 12 Statement of Timothy Bullard, 10 May 2022, 50 [296], [298]. We note that in evidence provided to us, the term 'preliminary investigation' is commonly used. However, we prefer the term 'preliminary assessment' because it more accurately reflects the nature of this process. Preliminary assessment is also the term the Integrity Commission prefers.
- 13 Statement of Timothy Bullard, 10 May 2022, 49 [278].
- 14 Statement of Timothy Bullard, 10 May 2022, 49 [281].
- 15 Statement of Timothy Bullard, 10 May 2022, 49 [280].
- 16 Statement of Timothy Bullard, 10 May 2022, 49 [282].
- 17 Statement of Timothy Bullard, 10 May 2022, 49 [288].
- 18 Statement of Timothy Bullard, 10 May 2022, 49 [289].
- 19 Statement of Timothy Bullard, 10 May 2022, 50 [296], [298].
- 20 Statement of Timothy Bullard, 10 May 2022, 51 [304].
- 21 Statement of Timothy Bullard, 10 May 2022, 51 [305–306].
- 22 Statement of Timothy Bullard, 10 May 2022, 50 [298].
- 23 Statement of Timothy Bullard, 10 May 2022, 50 [296].
- 24 Statement of Timothy Bullard, 10 May 2022, 50 [298].
- 25 Statement of Timothy Bullard, 10 May 2022, 51 [305].
- 26 Statement of Timothy Bullard, 10 May 2022, 51 [308].
- 27 Statement of Timothy Bullard, 10 May 2022, 51 [309].
- 28 Statement of Timothy Bullard, 10 May 2022, 51 [308–309].
- 29 Transcript of Timothy Bullard, 12 September 2022, 3938 [41–43].
- 30 Transcript of Timothy Bullard, 12 September 2022, 3939 [4–7].

- 31 Transcript of Timothy Bullard, 12 September 2022, 3939 [12–17].
- 32 Statement of Timothy Bullard, 10 May 2022, 10 [60].
- 33 The name ‘John’ is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 9 May 2022; Transcript of Kerri Collins, 9 May 2022, 606 [28–30].
- 34 Transcript of Kerri Collins, 9 May 2022, 606 [36–39]; Statement of Kerri Collins, 11 April 2022, 1 [6].
- 35 Statement of Kerri Collins, 11 April 2022, 1 [7].
- 36 Transcript of Kerri Collins, 9 May 2022, 607 [40].
- 37 Statement of Kerri Collins, 11 April 2022, 1 [7]–2 [9].
- 38 Statement of Kerri Collins, 11 April 2022, 1–2 [7].
- 39 Transcript of Kerri Collins, 9 May 2022, 607 [45]–608 [10].
- 40 Statement of Kerri Collins, 11 April 2022, 2 [8].
- 41 Statement of Kerri Collins, 11 April 2022, 2 [8].
- 42 Statement of Kerri Collins, 11 April 2022, 2 [9].
- 43 Statement of Kerri Collins, 11 April 2022, 2 [10].
- 44 Statement of Kerri Collins, 11 April 2022, 2 [11].
- 45 Transcript of Kerri Collins, 9 May 2022, 613 [37].
- 46 Statement of Daryl Coates, 6 June 2022, 120 [395].
- 47 Statement of Daryl Coates, 6 June 2022, 120 [395].
- 48 Transcript of Kerri Collins, 9 May 2022, 614 [9–18].
- 49 Transcript of Kerri Collins, 9 May 2022, 612 [3–30].
- 50 Statement of Kerri Collins, 11 April 2022, 2 [12].
- 51 Statement of Kerri Collins, 11 April 2022, 2–3 [12].
- 52 Department of Education, ‘Conduct of Investigation File of “John”’, 21 February 2006, 11, produced by the Tasmanian Government in response to a Commission notice to produce.
- 53 Ms Collins said she was invited to have her father present, but recalls being too embarrassed to talk about her abuse in front of her father: Transcript of Kerri Collins, 9 May 2022, 615 [1–37].
- 54 Transcript of Kerri Collins, 9 May 2022, 614 [25]–615 [37].
- 55 Statement of Kerri Collins, 11 April 2022, 3 [14–16].
- 56 Transcript of Kerri Collins, 9 May 2022, 616 [31–37].
- 57 Transcript of Kerri Collins, 9 May 2022, 616 [39–44], 617 [3–10].
- 58 Director of Public Prosecutions, *DPP Prosecution Policy and Guidelines (2022)* 17–18.
- 59 Statement of Kerri Collins, 11 April 2022, 3 [15]; Transcript of Kerri Collins, 9 May 2022, 622 [12–22].
- 60 Transcript of Kerri Collins, 9 May 2022, 620 [25–27]; Statement of Kerri Collins, 11 April 2022, 3 [16].
- 61 Materials provided to us indicate that the Department had moved John to a non-teaching position from around 2001–2002 as a result of the police investigation into the earlier allegations. Although not specifically stated, John’s application to teach in 2004 was either a result of the fact that he was not previously required to be registered—the *Teachers Registration Act* received assent in late 2000—or because his registration had lapsed.
- 62 Transcript of Ann Moxham, 12 May 2022, 1017 [14–17].
- 63 Transcript of Ann Moxham, 12 May 2022, 1016 [46]–1017 [12]; Transcript of Timothy Bullard, 12 May 2022, 967 [38]–968 [2].
- 64 Transcript of Timothy Bullard, 12 May 2022, 967 [38]–968 [2].
- 65 Transcript of Ann Moxham, 12 May 2022, 1017 [3–12].
- 66 Statement of Ann Moxham, 27 April 2022, Annexure 17 (Summary of complaints or allegations received in relation to ‘John’, 29 March 2022) 4.
- 67 Statement of Ann Moxham, 27 April 2022, Annexure 17 (Summary of complaints or allegations received in relation to ‘John’, 29 March 2022) 5.

- 68 Transcript of Ann Moxham, 12 May 2022, 1018 [25–37].
- 69 Transcript of Ann Moxham, 12 May 2022, 1018 [39]–1019 [5].
- 70 Transcript of Ann Moxham, 12 May 2022, 1019 [7–10].
- 71 Transcript of Ann Moxham, 12 May 2022, 1019 [30–32].
- 72 Statement of Kerri Collins, 11 April 2022, 4 [17].
- 73 Statement of Kerri Collins, 11 April 2022, 4 [18].
- 74 Statement of Kerri Collins, 11 April 2022, 4 [20]–5 [21].
- 75 Refer to letter from Daryl Coates to Tasmania Police, 29 November 2018.
- 76 Statement of Daryl Coates, 6 June 2022, 123 [403].
- 77 Statement of Daryl Coates, 6 June 2022, 123 [404].
- 78 Transcript of Daryl Coates, 7 July 2022, 2624 [47]–2625 [3]. The process for charges ‘dismissed’ in the Supreme Court differs from the process for charges ‘dismissed’ in the Magistrates Court. Charges cannot be used, even as tendency evidence, where a matter has been ‘dismissed’ in the Magistrates Court (refer to *Tasmania v Finnegan* [2011] TASSC 74 [3]). However, where a matter has been ‘dismissed’ in the Supreme Court, the *Director of Public Prosecution Guidelines*, which restate section 350(2) of the *Criminal Code Act 1924*, provide an avenue to allow that matter to be proceeded with again, providing that: ‘Once a final decision has been made to discharge an accused, the decision will not be reviewed unless it is plainly wrong, i.e. it was based on incorrect or irrelevant material, or it was unreasonable, or unless new evidence becomes available’ (refer to Director of Public Prosecutions, *DPP Prosecution Policy and Guidelines* (2022) 10). In this case, the fifth complaint would constitute new evidence.
- 79 Statement of Daryl Coates, 6 June 2022, 124 [405].
- 80 Statement of Daryl Coates, 6 June 2022, Annexure E (Letter from Daryl Coates to Tasmania Police, 29 November 2018) 9.
- 81 Statement of Daryl Coates, 6 June 2022, Annexure E (Letter from Daryl Coates to Tasmania Police, 29 November 2018) 10.
- 82 Statement of Daryl Coates, 6 June 2022, Annexure E (Letter from Daryl Coates to Tasmania Police, 29 November 2018) 10.
- 83 Report of Tasmania Police regarding allegations made against ‘John’, 29 July 1991, 1; Letter from then Director of Public Prosecutions, 25 February 2004, 6.
- 84 *Tasmania v Finnegan* [2011] TASSC 74 [3].
- 85 Transcript of Daryl Coates, 7 July 2022, 2626 [4–10].
- 86 Statement of Kerri Collins, 11 April 2022, 4 [20]–5 [22].
- 87 Statement of Kerri Collins, 11 April 2022, 5 [23].
- 88 Statement of Kerri Collins, 11 April 2022, 5 [23].
- 89 Transcript of Ann Moxham, 12 May 2022, 1020 [2–4].
- 90 Order of the Commission of Inquiry, restricted publication order, 11 May 2022.
- 91 Statement of Timothy Bullard, ‘Mark’, 4 April 2022, Annexure 9(b)(ii) (Statement by ‘Jeff’, 12 September 2016); The names ‘Jeff’, ‘Jasmine’ and ‘Heather’ are pseudonyms; Order of the Commission of Inquiry, restricted publication order, 30 August 2023.
- 92 Statement of Timothy Bullard, ‘Mark’, 4 April 2022, Annexure 9(b)(ii) (Statement by ‘Jeff’, 12 September 2016).
- 93 Statement of Timothy Bullard, ‘Mark’, 4 April 2022, Annexure 9(c)(i) (Notes of interview with [redacted], 12 September 2019) 2.
- 94 Statement of Timothy Bullard, ‘Mark’, 4 April 2022, Annexure 9(c)(i) (Notes of interview with [redacted], 12 September 2019) 2.
- 95 Statement of Timothy Bullard, ‘Mark’, 4 April 2022, Annexure 9(c)(i) (Notes of interview with [redacted], 12 September 2019) 2.
- 96 Statement of Timothy Bullard, ‘Mark’, 4 April 2022, Annexure 9(b)(ii) (Statement by ‘Jeff’, 12 September 2016).

- 97 Statement of Timothy Bullard, 'Mark', 4 April 2022, Annexure 9(c)(i) (Notes of interview with [redacted], 12 September 2019) 1.
- 98 The name 'Justin' is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 11 May 2022; Statement of Timothy Bullard, 'Mark', 4 April 2022, 19 [76(a)–(b)].
- 99 Statement of Timothy Bullard, 'Mark', 4 April 2022, 19 [76(c)].
- 100 Statement of Timothy Bullard, 'Mark', 4 April 2022, Annexure 9(c)(iii) (Letter from 'Justin' to 'Mark', 15 September 2016).
- 101 Statement of Timothy Bullard, 'Mark', 4 April 2022, Annexure 9(c)(iii) (Letter from 'Justin' to 'Mark', 15 September 2016).
- 102 Statement of Timothy Bullard, 'Mark', 4 April 2022, 21 [76(j)].
- 103 Statement of Timothy Bullard, 'Mark', 4 April 2022, Annexure 9(c)(iii) (Letter from 'Justin' to 'Mark', 15 September 2016).
- 104 Statement of Timothy Bullard, 'Mark', 4 April 2022, Annexure 9(c)(iii) (Letter from 'Justin' to 'Mark', 15 September 2016).
- 105 Statement of Timothy Bullard, 'Mark', 4 April 2022, 21 [76(l)].
- 106 Statement of Timothy Bullard, 'Mark', 4 April 2022, 12 [59].
- 107 Statement of Timothy Bullard, 'Mark', 4 April 2022, 11 [55].
- 108 Statement of Timothy Bullard, 'Mark', 4 April 2022, 13 [59(i)].
- 109 Statement of Timothy Bullard, 'Mark', 4 April 2022, 12 [58].
- 110 Statement of Timothy Bullard, 'Mark', 4 April 2022, 23 [84].
- 111 Statement of Timothy Bullard, 'Mark', 4 April 2022, 22[79].
- 112 Statement of Timothy Bullard, 'Mark', 4 April 2022, 22 [78–79].
- 113 Statement of Timothy Bullard, 'Mark', 4 April 2022, 23 [85(a)–(b)].
- 114 Statement of Timothy Bullard, 'Mark', 4 April 2022, 18 [76(l)].
- 115 Statement of Timothy Bullard, 'Mark', 4 April 2022, 23 [59(f)].
- 116 Statement of Timothy Bullard, 'Mark', 4 April 2022, 12 [59(d)].
- 117 Statement of Timothy Bullard, 'Mark', 4 April 2022, 14 [59(m)].
- 118 Statement of Timothy Bullard, 'Mark', 4 April 2022, 13 [59(i)].
- 119 Statement of Timothy Bullard, 'Mark', 4 April 2022, 13 [59(j)].
- 120 Statement of Timothy Bullard, 'Mark', 4 April 2022, 15 [59(k)].
- 121 Statement of Timothy Bullard, 'Mark', 4 April 2022, 14 [59(n)].
- 122 Statement of Timothy Bullard, 'Mark', 4 April 2022, 14 [59(h)].
- 123 Transcript of Timothy Bullard, 12 May 2022, 975 [17–20].
- 124 Transcript of Timothy Bullard, 12 May 2022, 975 [25–37].
- 125 Statement of Timothy Bullard, 'Mark', 4 April 2022, 14 [59(o)].
- 126 Timothy Bullard, 'Reasons for decision regarding reasonable grounds to believe there may have been a breach of the State Service Act Code of Conduct regarding "Justin"', 18 June 2021, 1 [2–4].
- 127 Timothy Bullard, 'Reasons for decision regarding reasonable grounds to believe there may have been a breach of the State Service Act Code of Conduct regarding "Justin"', 18 June 2021, 1 [2].
- 128 Timothy Bullard, 'Reasons for decision regarding reasonable grounds to believe there may have been a breach of the State Service Act Code of Conduct regarding "Justin"', 18 June 2021, 1 [3].
- 129 Minute to the Secretary, "Justin" – Referral for Consideration of Investigation into Alleged Breaches of the *State Service Act 2000* Code of Conduct and Suspension with Pay (Employment Direction 5), 18 June 2021, 3.
- 130 The legal proceeding is not cited to protect the identities of the persons involved.
- 131 Timothy Bullard, 'Reasons for decision regarding reasonable grounds to believe there may have been a breach of the State Service Act Code of Conduct regarding "Justin"', 18 June 2021, 4 [25]–5 [29].
- 132 Statement of Timothy Bullard, 'Mark', 4 April 2022, 24 [86].

- 133 Statement of Timothy Bullard, 'Mark', 4 April 2022, 13 [59(g)].
- 134 Statement of Timothy Bullard, 'Mark', 4 April 2022, 24 [88].
- 135 Statement of Timothy Bullard, 'Mark', 4 April 2022, 17 [72].
- 136 Statement of Timothy Bullard, 'Mark', 4 April 2022, 15 [62].
- 137 Statement of Timothy Bullard, 'Mark', 4 April 2022, 24 [87].
- 138 Order of the Commission of Inquiry, restricted publication order, 11 May 2022.
- 139 Order of the Commission of Inquiry, restricted publication order, 11 May 2022.
- 140 Transcript of 'Rachel', 11 May 2022, 801 [46]–802 [1].
- 141 Statement of 'Rachel', 14 April 2022, 1 [4].
- 142 Transcript of 'Rachel', 11 May 2022, 802 [15–21].
- 143 The name 'Anne' is a pseudonym' Order of the Commission of Inquiry, restricted publication order, 11 May 2022; Transcript of 'Rachel', 11 May 2022, 803 [46]–804 [22]; refer also to Submission 092 'Anne', 1–2.
- 144 Statement of 'Rachel', 14 April 2022, 1–2 [6].
- 145 Transcript of 'Rachel', 11 May 2022, 805 [27]–806 [11].
- 146 Request for Statement to Timothy Bullard (RFS-TAS-003) 4 [5], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59]; refer also to Transcript of 'Rachel', 11 May 2022, 806 [26].
- 147 Submission 092 'Anne', 2.
- 148 Request for Statement to Timothy Bullard (RFS-TAS-003) 4 [3], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 149 Submission 092 'Anne', 2.
- 150 Letter from then Secretary of the Department of Education to 'Wayne', 14 March 2006.
- 151 Letter from then Secretary of the Department of Education to 'Wayne', 14 March 2006.
- 152 Request for Statement to Timothy Bullard (RFS-TAS-003) 4 [3], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 153 Statement of 'Rachel', 14 April 2022, 3 [13].
- 154 Transcript of 'Rachel', 11 May 2022, 808 [30–32]; 809 [15–17].
- 155 Transcript of 'Rachel', 11 May 2022, 809 [19–24].
- 156 Statement of 'Rachel', 14 April 2022, 2 [8].
- 157 Submission 092 'Anne', 2.
- 158 Statement of 'Rachel', 14 April 2022, 2–3 [11].
- 159 Statement of 'Rachel', 14 April 2022, 3 [12]. Refer also to Transcript of 'Rachel', 11 May 2022, 810 [25–40].
- 160 Transcript of 'Rachel', 11 May 2022, 810 [1–3].
- 161 Statement of 'Rachel', 14 April 2022, 2 [10].
- 162 Statement of 'Rachel', 14 April 2022, 2 [9].
- 163 Transcript of 'Rachel', 11 May 2022, 811 [21–22].
- 164 Request for Statement to Timothy Bullard (RFS-TAS-003) 5 [7], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 165 Statement of 'Rachel', 14 April 2022, 3–4 [16].
- 166 Transcript of 'Rachel', 11 May 2022, 813 [46–47].
- 167 Transcript of 'Rachel', 11 May 2022, 815 [33–36].
- 168 Statement of Timothy Bullard, 'Wayne', 4 April 2022, 25–26 [106(b)].
- 169 Statement of 'Rachel', 14 April 2022, 5 [25].
- 170 Request for Statement to Timothy Bullard (RFS-TAS-003) 5 [8], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].

- 171 Request for Statement to Timothy Bullard (RFS-TAS-003) 5 [13(a)], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 172 Request for Statement to Timothy Bullard (RFS-TAS-003) 6 [13(b)], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 173 Request for Statement to Timothy Bullard (RFS-TAS-003) 4 [5], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 174 Transcript of 'Rachel', 11 May 2022, 806 [31–34]; Email from 'Rachel' to Commission of Inquiry, 9 May 2023.
- 175 Request for Statement to Timothy Bullard (RFS-TAS-003) 5 [11], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 176 Request for Statement to Timothy Bullard (RFS-TAS-003) 5 [12], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 177 Request for Statement to Timothy Bullard (RFS-TAS-003) 5 [9], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 178 Request for Statement to Timothy Bullard (RFS-TAS-003) 5 [9], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 179 Request for Statement to Timothy Bullard (RFS-TAS-003) 6 [14], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59]; Transcript of Timothy Bullard, 12 May 2022, 943 [39–46].
- 180 Statement of 'Rachel', 14 April 2022, 4 [21–22].
- 181 Statement of 'Rachel', 14 April 2022, 7 [32].
- 182 Statement of 'Rachel', 14 April 2022, 7 [33].
- 183 Department of Education, 'Briefing note – "Rachel" complaint (2007) against "Wayne"', 1 August 2007, 3.
- 184 Statement of 'Rachel', 14 April 2022, 7 [34].
- 185 Statement of Ann Moxham, 27 April 2022, Annexure 10 (Summary of complaints or allegations against 'Wayne', 31 March 2022) 2 [1].
- 186 Statement of Ann Moxham, 27 April 2022, Annexure 10 (Summary of complaints or allegations against 'Wayne', 31 March 2022) 2 [2].
- 187 Request for Statement to Timothy Bullard (RFS-TAS-003) 6 [16–17], affirmed as correct in Statement of Timothy Bullard, 'Wayne', 4 April 2022, 13 [59].
- 188 Statement of Ann Moxham, 27 April 2022, 22 [18.2].
- 189 Statement of Ann Moxham, 27 April 2022, Annexure 10 (Summary of complaints or allegations against 'Wayne', 31 March 2022) 2 [6].
- 190 Statement of Ann Moxham, 27 April 2022, Annexure 10 (Summary of complaints or allegations against 'Wayne', 31 March 2022) 2 [7].
- 191 Statement of Ann Moxham, 27 April 2022, 22 [18.3].
- 192 Statement of 'Rachel', 14 April 2022, 6 [29].
- 193 Transcript of 'Rachel', 11 May 2022, 821 [30–35].
- 194 Transcript of 'Rachel', 11 May 2022, 809 [29–30].
- 195 Statement of Timothy Bullard, 'Wayne', 4 April 2022, 26 [107–108].
- 196 Statement of Ann Moxham, 27 April 2022, 22 [18.5].
- 197 Statement of Timothy Bullard, 'Wayne', 4 April 2022, 27 [109].
- 198 Statement of Ann Moxham, 27 April 2022, Annexure 10 (Summary of complaints or allegations against 'Wayne', 31 March 2022) 1.
- 199 Transcript of 'Rachel', 11 May 2022, 817 [33–34].
- 200 Transcript of 'Rachel', 11 May 2022, 824 [24–28].
- 201 Transcript of 'Rachel', 11 May 2022, 823 [37–44].
- 202 Transcript of 'Rachel', 11 May 2022, 823 [32–35], 824 [18–19].
- 203 Transcript of 'Rachel', 11 May 2022, 819 [36–38].

- 204 Submission 092 ‘Anne’, 3.
- 205 Transcript of Timothy Bullard, 12 May 2022, 945 [41–42].
- 206 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 25 [106(a)].
- 207 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 25 [106(a)].
- 208 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 26 [106(c)].
- 209 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 21 [94(b)].
- 210 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 25 [105(b)].
- 211 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 21 [94(c)].
- 212 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 21 [94(c)].
- 213 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 21 [94(c)].
- 214 Transcript of Timothy Bullard, 960 [44]–961 [2].
- 215 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 26 [106(d)].
- 216 Transcript of Timothy Bullard, 12 May 2022, 963 [14–22].
- 217 Transcript of Timothy Bullard, 12 May 2022, 944 [1–2] and 945 [5].
- 218 Transcript of Timothy Bullard, 12 May 2022, 944 [45].
- 219 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 30 [124].
- 220 Transcript of Timothy Bullard, 12 May 2022, 926 [1].
- 221 Transcript of Timothy Bullard, 12 May 2022, 946 [28–31].
- 222 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 31 [128].
- 223 Transcript of Timothy Bullard, 12 May 2022, 950 [19–22].
- 224 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 23 [101].
- 225 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 23 [101].
- 226 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 30 [124].
- 227 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 22 [95]; Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 22 [96].
- 228 Transcript of Timothy Bullard, 12 May 2022, 926 [25–29].
- 229 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 32 [129].
- 230 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 32 [130–131].
- 231 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 22 [99].
- 232 Statement of Timothy Bullard, ‘Wayne’, 4 April 2022, 22 [99].
- 233 *Justice Miscellaneous (Royal Commission Amendments) Act 2023* s 39; *Police Offences Act 1935* ss 35(5A) and (3).
- 234 The name ‘Peter’ is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 10 May 2022.
- 235 Statement of Katrina Munting, 5 April 2022, 2 [8].
- 236 Statement of Katrina Munting, 5 April 2022, 2 [8].
- 237 Statement of Katrina Munting, 5 April 2022, 2 [8].
- 238 Statement of Katrina Munting, 5 April 2022, 2 [9].
- 239 Statement of Katrina Munting, 5 April 2022, 2 [9].
- 240 Statement of Katrina Munting, 5 April 2022, 2 [9].
- 241 Transcript of Katrina Munting, 10 May 2022, 703 [26–35].
- 242 Transcript of Katrina Munting, 10 May 2022, 703 [26–35].
- 243 Transcript of Katrina Munting, 10 May 2022, 703 [37–39]; Statement of Katrina Munting, 5 April 2022, 3 [11].
- 244 Statement of Katrina Munting, 5 April 2022, 3 [12].
- 245 Transcript of Katrina Munting, 10 May 2022, 704 [18–29].
- 246 Transcript of Katrina Munting, 10 May 2022, 705 [11–17].
- 247 Transcript of Katrina Munting, 10 May 2022, 705 [23–35].

- 248 Statement of Katrina Munting, 5 April 2022, 3 [13].
- 249 Transcript of Katrina Munting, 10 May 2022, 705 [31–35].
- 250 Statement of Katrina Munting, 5 April 2022, 3 [14].
- 251 Transcript of Katrina Munting, 10 May 2022, 707 [11–15], [39–47].
- 252 Transcript of Katrina Munting, 10 May 2022, 708 [12–16].
- 253 Statement of Katrina Munting, 5 April 2022, 3 [16].
- 254 Transcript of Katrina Munting, 10 May 2022, 711 [39–43].
- 255 Transcript of Katrina Munting, 10 May 2022, 709 [44]–710 [10].
- 256 Transcript of Katrina Munting, 10 May 2022, 710 [12–21].
- 257 Transcript of Katrina Munting, 10 May 2022, 710 [29–37].
- 258 Statement of Katrina Munting, 5 April 2022, 4 [19].
- 259 Statement of Katrina Munting, 5 April 2022, 4 [19].
- 260 Statement of Katrina Munting, 5 April 2022, 4 [20–21].
- 261 Statement of Katrina Munting, 5 April 2022, 4 [22].
- 262 Statement of Katrina Munting, 5 April 2022, 4 [22].
- 263 Statement of Katrina Munting, 5 April 2022, 5 [23–24].
- 264 Statement of Katrina Munting, 5 April 2022, 6 [28].
- 265 Statement of Katrina Munting, 5 April 2022, 6 [29].
- 266 Statement of Katrina Munting, 5 April 2022, 7 [36].
- 267 Statement of Katrina Munting, 5 April 2022, 7 [36].
- 268 Statement of Katrina Munting, 5 April 2022, 6 [32], 7 [33], 8 [37].
- 269 Statement of Katrina Munting, 5 April 2022, 8 [39].
- 270 Transcript of Katrina Munting, 10 May 2022, 713 [9–16].
- 271 Transcript of Katrina Munting, 10 May 2022, 713 [39]–714 [18].
- 272 Transcript of Katrina Munting, 10 May 2022, 714 [28]–715 [18].
- 273 Transcript of Katrina Munting, 10 May 2022, 716 [19–29].
- 274 Transcript of Katrina Munting, 10 May 2022, 716 [31–40].
- 275 Transcript of Timothy Bullard, 11 May 2022, 888 [43–47].
- 276 Transcript of Timothy Bullard, 11 May 2022, 894 [8–20].
- 277 Statement of Timothy Bullard, 10 May 2022, 12 [77–79]; Statement of Timothy Bullard, 10 May 2022, 6 [31]; Transcript of Timothy Bullard, 11 May 2022, 889 [2–5].
- 278 Transcript of Timothy Bullard, 11 May 2022, 888 [43]–889 [6].
- 279 The name ‘Jeremy’ is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 11 May 2022.
- 280 Statement of Timothy Bullard, ‘Jeremy’, 4 April 2022, 31 [107]. Note, however, that Jeremy ‘did not return to his employment’ after 2016.
- 281 The facts of these incidents are outlined in Statement of Timothy Bullard, ‘Jeremy’, 4 April 2022, 33–34 [124]. They are also outlined in the Request for Statement served on the Department of Education, 24 February 2022, 4 [2]. Secretary Bullard accepts the facts outlined in the Request for Statement served on the Department of Education, 24 February 2022, as accurately reflecting the allegations against Jeremy and responses of the Department—refer to Statement of Timothy Bullard, ‘Jeremy’, 4 April 2022, 12 [58].
- 282 Statement of Timothy Bullard, ‘Jeremy’, 4 April 2022, 60 [231(a)]–61[231(c)]; Transcript of Timothy Bullard, 12 May 2022, 969 [13–20].
- 283 Statement of Timothy Bullard, ‘Jeremy’, 4 April 2022, 33 [124(b)], 35 [124(j)].
- 284 Statement of Timothy Bullard, ‘Jeremy’, 4 April 2022, 34 [124(g)].
- 285 Statement of Timothy Bullard, ‘Jeremy’, 4 April 2022, 34 [124(g)].
- 286 Statement of Timothy Bullard, ‘Jeremy’, 4 April 2022, 34 [124(i)].

- 287 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 35 [124(j)–(k)].
- 288 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 35 [124(m)].
- 289 Transcript of Timothy Bullard, 12 May 2022, 972 [1–12]; refer also to Request for Statement served on the Department of Education, 24 February 2022, 5 [4].
- 290 Transcript of Timothy Bullard, 12 May 2022, 972 [1–12].
- 291 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 47 [169(b)]; refer also to Request for Statement served on the Department of Education, 24 February 2022, 5 [5].
- 292 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 47 [169(c)].
- 293 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 47 [169(c)].
- 294 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 31 [109], 47 [169(f)]; refer also to Request for Statement served on the Department of Education, 24 February 2022, 5 [6–7].
- 295 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 31 [109], 47 [169(f)]; refer also to Request for Statement served on the Department of Education, 24 February 2022, 5 [6–7].
- 296 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 49 [171].
- 297 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 48 [169(g), (j)].
- 298 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 49 [172].
- 299 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 31 [111]–32 [112]; refer also to Request for Statement served on the Department of Education, 24 February 2022, 5 [9–10].
- 300 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 31–32 [112]. The Secretary had suspended Jeremy's pay when his teacher registration was suspended. However, the Department began paying Jeremy again because of the decision of the Magistrates Court to set aside his suspension.
- 301 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 31–32 [112]; refer also to Request for Statement served on the Department of Education, 24 February 2022, 6 [20–21].
- 302 Statement of Ann Moxham, 27 April 2022, 22 [21.2].
- 303 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 61 [231(e)].
- 304 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 44 [155]; refer also to Request for Statement served on the Department of Education, 24 February 2022, 5 [8], 6 [12].
- 305 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 43 [151], 61 [231(d)].
- 306 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 43 [151].
- 307 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 51 [182].
- 308 Statement of Ann Moxham, 27 April 2022, Annexure 11 (Summary of complaints or allegations received against 'Jeremy', 30 March 2022) 4 [9].
- 309 Statement of Ann Moxham, 27 April 2022, Annexure 11 (Summary of complaints or allegations received against 'Jeremy', 30 March 2022) 5 [10].
- 310 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 32 [115].
- 311 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 32 [116].
- 312 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 32 [116].
- 313 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 32 [116].
- 314 Request for Statement served on the Department of Education, 24 February 2022, 6 [19].
- 315 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 33 [121–122]; refer also to Request for Statement served on the Department of Education, 24 February 2022, 6 [20–21].
- 316 Statement of Ann Moxham, 27 April 2022, Annexure 11 (Summary of complaints or allegations received against 'Jeremy', 30 March 2022) 6 [18]–7 [21].
- 317 Statement of Ann Moxham, 27 April 2022, Annexure 11 (Summary of complaints or allegations received against 'Jeremy', 30 March 2022) 1, 6 [17]–8 [29].
- 318 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 32 [117].
- 319 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 60 [230].

- 320 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 31 [109], 51 [181–182].
- 321 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 52 [186].
- 322 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 52 [190].
- 323 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 53 [201].
- 324 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 43 [149].
- 325 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 31 [107].
- 326 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 13 [59(a)].
- 327 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 13 [59(b)].
- 328 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 13 [59(c)–(e)].
- 329 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 13 [59(f)].
- 330 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 13 [59(a), (g)].
- 331 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 14 [60(b)].
- 332 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 43 [151]; refer also to Request for Statement served on the Department of Education, 24 February 2022, 5–6 [8], 6 [12].
- 333 Transcript of Timothy Bullard, 12 May 2022, 971 [1–23].
- 334 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 14 [60(a)].
- 335 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 14 [60(b)].
- 336 In relation to the 2012 allegations refer to Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 38 [134]–40 [144]; in relation to the 2015 allegations refer to Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 45 [162]–46 [167].
- 337 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 56 [214].
- 338 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 57 [219].
- 339 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 49 [170] and 57 [219].
- 340 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 15 [61(d)–(e)].
- 341 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 15 [61(c)].
- 342 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 15 [61(e)].
- 343 Transcript of Timothy Bullard, 12 May 2022, 955 [25–26].
- 344 Transcript of Timothy Bullard, 12 May 2022, 970 [10–20].
- 345 Transcript of Timothy Bullard, 12 May 2022, 955 [22–33].
- 346 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 20 [77(b)].
- 347 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 20 [77(b)].
- 348 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 20 [77(b)].
- 349 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 21 [77(f)].
- 350 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 20 [77(c)].
- 351 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 20 [77(c)].
- 352 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 20 [77(d)].
- 353 Transcript of Timothy Bullard, 12 May 2022, 970 [10–20].
- 354 Transcript of Timothy Bullard, 12 May 2022, 957 [21–29].
- 355 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 23 [88].
- 356 Transcript of Timothy Bullard, 12 May 2022, 972 [25–41].
- 357 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 51–52 [185].
- 358 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 55 [208–209].
- 359 Transcript of Timothy Bullard, 12 May 2022, 972 [43]–973 [9].
- 360 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 55 [211].
- 361 Statement of Timothy Bullard, 'Jeremy', 4 April 2022, 55 [211].
- 362 The name 'Brad' is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 11 May 2022.

- 363 Request for Statement to Timothy Bullard (RFS-TAS-002) 1 [1], affirmed as correct in Statement of Timothy Bullard, 'Brad', 4 April 2022, 12 [57], 13 [59(a)].
- 364 Request for Statement to Timothy Bullard (RFS-TAS-002) 5 [5], affirmed as correct in Statement of Timothy Bullard, 'Brad', 4 April 2022, 53.
- 365 Statement of Ann Moxham, 27 April 2022, Annexure 14 (Summary of complaints or allegations received against 'Brad', 31 March 2022) 2 [4].
- 366 Statement of Ann Moxham, 27 April 2022, Annexure 14 (Summary of complaints or allegations received against 'Brad', 31 March 2022) 2 [4].
- 367 Statement of Ann Moxham, 27 April 2022, Annexure 14 (Summary of complaints or allegations received against 'Brad', 31 March 2022) 1 [1].
- 368 Statement of Ann Moxham, 27 April 2022, Annexure 14 (Summary of complaints or allegations received against 'Brad', 31 March 2022) 2 [5].
- 369 Statement of Ann Moxham, 27 April 2022, Annexure 14 (Summary of complaints or allegations received against 'Brad', 31 March 2022) 2 [5].
- 370 Request for Statement to Timothy Bullard (RFS-TAS-002) 5 [11], affirmed as correct in Statement of Timothy Bullard, 'Brad', 4 April 2022, 12 [53], 13 [61(a)]–14 [61(f)].
- 371 Statement of Timothy Bullard, 'Brad', 4 April 2022, 13 [61(c)]; The name 'Principal A' is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 30 August 2023.
- 372 Statement of Timothy Bullard, 'Brad', 4 April 2022, 13 [61(c)], 33 [121(a)]; refer also to Department of Education, Timeline: Allegations of Inappropriate Conduct, 'Brad', undated, 1.
- 373 Statement of Timothy Bullard, 'Brad', 4 April 2022, 13 [61(c)].
- 374 Statement of Timothy Bullard, 'Brad', 4 April 2022, 13 [61(d)]–14 [61(e)].
- 375 Request for Statement to Timothy Bullard (RFS-TAS-002) 5 [13], affirmed as correct in Statement of Timothy Bullard, 'Brad', 4 April 2022, 12 [53], 14 [61(e)].
- 376 Statement of Timothy Bullard, 'Brad', 4 April 2022, 14 [61(f)], 33 [121(c)–(d)], 38 [142].
- 377 Statement of Timothy Bullard, 'Brad', 4 April 2022, 14 [61(d)].
- 378 Statement of Timothy Bullard, 'Brad', 4 April 2022, 14 [61(f)].
- 379 Statement of Timothy Bullard, 'Brad', 4 April 2022, 33 [121(b)(ii)].
- 380 Statement of Timothy Bullard, 'Brad', 4 April 2022, 14 [61(f)].
- 381 Request for Statement to Timothy Bullard (RFS-TAS-003) 5 [12]–6 [19], affirmed as correct in Statement of Timothy Bullard, 'Brad', 4 April 2022, 12 [53], 34 [125], 35 [131].
- 382 Statement of Timothy Bullard, 'Brad', 4 April 2022, 34 [126]; The name 'Principal B' is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 30 August 2023.
- 383 Statement of Timothy Bullard, 'Brad', 4 April 2022, 34 [127(a)(iii)].
- 384 Statement of Timothy Bullard, 'Brad', 4 April 2022, 34 [127(a)(i), (ii)–128].
- 385 Statement of Timothy Bullard, 'Brad', 4 April 2022, 34 [127(b)].
- 386 Statement of Timothy Bullard, 'Brad', 4 April 2022, 34 [127(c)].
- 387 Statement of Timothy Bullard, 'Brad', 4 April 2022, 34 [127(b)–(c)].
- 388 Statement of Timothy Bullard, 'Brad', 4 April 2022, 14 [61(i)].
- 389 Statement of Timothy Bullard, 'Brad', 4 April 2022, 15 [61(k)].
- 390 Statement of Timothy Bullard, 'Brad', 4 April 2022, 35 [131].
- 391 Statement of Timothy Bullard, 'Brad', 4 April 2022, 35 [132(a)(ii)]; The name 'Principal C' is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 30 August 2023.
- 392 Statement of Timothy Bullard, 'Brad', 4 April 2022, 35 [132(a)(iii)–(iv)].
- 393 Statement of Timothy Bullard, 'Brad', 4 April 2022, 15 [61(n)].
- 394 Statement of Timothy Bullard, 'Brad', 4 April 2022, 15 [61(n)].
- 395 Statement of Timothy Bullard, 'Brad', 4 April 2022, 15 [61(n)(iii)].

- 396 Statement of Timothy Bullard, 'Brad', 4 April 2022, 15 [61(o)], 39 [148].
- 397 Statement of Ann Moxham, 27 April 2022, Annexure 14 (Summary of complaints or allegations received against 'Brad', 31 March 2022) 2 [6(iii)–(iv)].
- 398 Statement of Timothy Bullard, 'Brad', 4 April 2022, 16 [61(p)].
- 399 Email from Mandy Clarke, Department of Communities, to Trudy Pearce, Deputy Secretary Learning, Department of Education 19 February 2021.
- 400 Email from Mandy Clarke, Department of Communities, to Trudy Pearce, Deputy Secretary Learning, Department of Education 19 February 2021.
- 401 Statement of Ann Moxham, 27 April 2022, Annexure 14 (Summary of complaints or allegations received against 'Brad', 31 March 2022) 2 [8].
- 402 Statement of Timothy Bullard, 'Brad', 4 April 2022, 16 [61(q)].
- 403 Statement of Timothy Bullard, 'Brad', 4 April 2022, 16 [61(q)].
- 404 Minute to the Secretary Timothy Bullard, "'Brad" – Referral for Consideration of Alleged Misconduct and Review of Historical Allegations', 13 July 2021, 2–3.
- 405 Minute to the Secretary Timothy Bullard, "'Brad" – Referral for Consideration of Alleged Misconduct and Review of Historical Allegations', 13 July 2021, 3.
- 406 Minute to the Secretary Timothy Bullard, "'Brad" – Referral for Consideration of Alleged Misconduct and Review of Historical Allegations', 13 July 2021, 3.
- 407 Email from Mandy Clarke, Department of Communities, to Trudy Pearce, Deputy Secretary Learning, Department of Education, 'Re: "Brad"', 21 February 2021.
- 408 Statement of Timothy Bullard, 'Brad', 4 April 2022, 13 [60].
- 409 Statement of Timothy Bullard, 'Brad', 4 April 2022, 16 [61(q)].
- 410 Minute to the Secretary Timothy Bullard, "'Brad" – Referral for Consideration of Alleged Misconduct and Review of Historical Allegations', 13 July 2021, 3.
- 411 Statement of Ann Moxham, 27 April 2022, Annexure 14 (Summary of complaints or allegations received against 'Brad', 31 March 2022) 3 [9].
- 412 Statement of Ann Moxham, 27 April 2022, Annexure 14 (Summary of complaints or allegations received against 'Brad', 31 March 2022) 3 [11].
- 413 Statement of Ann Moxham, 27 April 2022, Annexure 14 (Summary of complaints or allegations received against 'Brad', 31 March 2022) 3 [12].
- 414 Statement of Timothy Bullard, 'Brad', 4 April 2022, 33 [122–123].
- 415 Statement of Timothy Bullard, 'Brad', 4 April 2022, 16 [61(r)].
- 416 Statement of Timothy Bullard, 'Brad', 4 April 2022, 16 [61(s)].
- 417 Letter from Ann Moxham to Timothy Bullard, 16 July 2021.
- 418 Statement of Timothy Bullard, 'Brad', 4 April 2022, 17 [63].
- 419 Transcript of Timothy Bullard, 12 May 2022, 979 [27–34].
- 420 Transcript of Timothy Bullard, 12 May 2022, 985 [27–35].
- 421 Statement of Timothy Bullard, 'Brad', 4 April 2022, 17 [66]. Note that 'Brad' was not eligible for mutual recognition as he was not registered at the time he sought to begin teaching in Tasmania.
- 422 Statement of Timothy Bullard, 'Brad', 4 April 2022, 18–19 [72].
- 423 Statement of Timothy Bullard, 'Brad', 4 April 2022, 19 [73].
- 424 Transcript of Timothy Bullard, 12 May 2022, 977 [21–30].
- 425 Transcript of Ann Moxham, 12 May 2022, 1003 [27–34].
- 426 Statement of Timothy Bullard, 'Brad', 4 April 2022, 18 [69].
- 427 Statement of Timothy Bullard, 'Brad', 4 April 2022, 18 [69].
- 428 Statement of Timothy Bullard, 'Brad', 4 April 2022, 17 [70–71].
- 429 Statement of Timothy Bullard, 'Brad', 4 April 2022, 22 [85].

- 430 Transcript of Ann Moxham, 12 May 2022, 995 [18–25].
- 431 Transcript of Ann Moxham, 12 May 2022, 1010 [7–11]. The Department emphasises that the legal advice it receives from the Office of the Solicitor-General is binding on the Department—refer to Department for Education, Children and Young People, *Procedural Fairness Response*, 28 March 2023, 28.
- 432 Transcript of Ann Moxham, 12 May 2022, 1000 [6–12].
- 433 Transcript of Ann Moxham, 12 May 2022, 1002 [38–46].
- 434 Transcript of Ann Moxham, 12 May 2022, 1000 [21–25].
- 435 Transcript of Ann Moxham, 12 May 2022, 1000 [33–36].
- 436 Transcript of Ann Moxham, 12 May 2022, 1005 [11–25].
- 437 Transcript of Ann Moxham, 12 May 2022, 1008 [33–44].
- 438 Transcript of Ann Moxham, 12 May 2022, 1009 [8–11].
- 439 Transcript of Ann Moxham, 12 May 2022, 1009 [19–24].
- 440 Statement of Ann Moxham, 27 April 2022, 3 [3.3], 3–4 [3.6].
- 441 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 37 [135].
- 442 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 38 [141], 39 [151].
- 443 Transcript of Timothy Bullard, 12 May 2022, 980 [34–39].
- 444 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 38 [142], [144].
- 445 Transcript of Timothy Bullard, 12 May 2022, 982 [6–8].
- 446 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 12 [54].
- 447 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 12 [56], 40 [156].
- 448 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 12 [56].
- 449 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 12 [56].
- 450 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 20 [79].
- 451 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 26–27 [110].
- 452 Transcript of Timothy Bullard, 12 May 2022, 982 [17–21].
- 453 Transcript of Timothy Bullard, 12 May 2022, 985 [1–5].
- 454 Statement of Sam Leishman, 15 March 2022, 1 [3].
- 455 Statement of Sam Leishman, 15 March 2022, 1 [4].
- 456 Transcript of Sam Leishman, 13 May 2022, 1048 [40–44].
- 457 Transcript of Sam Leishman, 13 May 2022, 1048 [26–32].
- 458 Statement of Sam Leishman, 15 March 2022, 1 [5].
- 459 Transcript of Sam Leishman, 13 May 2022, 1049 [13–16].
- 460 Transcript of Sam Leishman, 13 May 2022, 1049 [18–27].
- 461 Transcript of Sam Leishman, 13 May 2022, 1049 [38–39].
- 462 Transcript of Sam Leishman, 13 May 2022, 1048 [29–32].
- 463 Transcript of Sam Leishman, 13 May 2022, 1049 [29–45].
- 464 Transcript of Sam Leishman, 13 May 2022, 1050 [2–4].
- 465 Transcript of Sam Leishman, 13 May 2022, 1050 [10–15].
- 466 Transcript of Sam Leishman, 13 May 2022, 1050 [21–24].
- 467 Transcript of Sam Leishman, 13 May 2022, 1050 [24–27].
- 468 Transcript of Sam Leishman, 13 May 2022, 1050 [29]–1051 [5].
- 469 Transcript of Sam Leishman, 13 May 2022, 1051 [6–11].
- 470 Transcript of Sam Leishman, 13 May 2022, 1051 [27–33].
- 471 Transcript of Sam Leishman, 13 May 2022, 1051 [33–36].
- 472 Statement of Sam Leishman, 15 March 2022, 1 [5].

- 473 Transcript of Sam Leishman, 13 May 2022, 1052 [12–13].
- 474 Transcript of Sam Leishman, 13 May 2022, 1052 [26–30].
- 475 Transcript of Sam Leishman, 13 May 2022, 1053 [4–8], [16–17].
- 476 Transcript of Sam Leishman, 13 May 2022, 1053 [21–22].
- 477 Transcript of Sam Leishman, 13 May 2022, 1053 [22–27].
- 478 Transcript of Sam Leishman, 13 May 2022, 1053 [35–40].
- 479 Statement of Sam Leishman, 15 March 2022, 1 [5].
- 480 Statement of Sam Leishman, 15 March 2022, 1 [7].
- 481 Statement of Sam Leishman, 15 March 2022, 1 [7].
- 482 Transcript of Sam Leishman, 13 May 2022, 1055 [1–3].
- 483 Transcript of Sam Leishman, 13 May 2022, 1056 [3–8].
- 484 Statement of Sam Leishman, 15 March 2022, 1 [7].
- 485 Transcript of Sam Leishman, 13 May 2022, 1056 [16–29].
- 486 Statement of Sam Leishman, 15 March 2022, 2 [8].
- 487 Statement of Sam Leishman, 15 March 2022, 2 [9].
- 488 Transcript of Sam Leishman, 13 May 2022, 1056 [34–35].
- 489 Transcript of Sam Leishman, 13 May 2022, 1057 [5–10].
- 490 Statement of Sam Leishman, 15 March 2022, 2 [10].
- 491 Transcript of Sam Leishman, 13 May 2022, 1058 [40–45].
- 492 Transcript of Timothy Bullard, 13 May 2022, 1066 [31–41].
- 493 Statement of Sam Leishman, 15 March 2022, 2 [12].
- 494 Statement of Sam Leishman, 15 March 2022, 2 [12].
- 495 Statement of Timothy Bullard, regarding Sam Leishman, 8 April 2022, Annexure (Letter from Jeremy Rockliff to Sam Leishman, 23 December 2015) 1.
- 496 Transcript of Sam Leishman, 13 May 2022, 1060 [29–34].
- 497 Transcript of Sam Leishman, 13 May 2022, 1060 [40–46].
- 498 Transcript of Timothy Bullard, 13 May 2022, 1069 [17–18].
- 499 Transcript of Sam Leishman, 13 May 2022, 1061 [20–21].
- 500 Statement of Timothy Bullard, regarding Sam Leishman, 8 April 2022, 5 [31].
- 501 Transcript of Sam Leishman, 13 May 2022, 1061 [22–28].
- 502 Statement of Timothy Bullard, regarding Sam Leishman, 8 April 2022, 5 [33].
- 503 Statement of Sam Leishman, 15 March 2022, 2 [14].
- 504 Transcript of Sam Leishman, 13 May 2022, 1062 [1–8].
- 505 Transcript of Timothy Bullard, 13 May 2022, 1071 [7–17].
- 506 Transcript of Timothy Bullard, 13 May 2022, 1071 [26–27].
- 507 Transcript of Sam Leishman, 13 May 2022, 1063 [9–10].
- 508 Statement of Timothy Bullard, regarding Sam Leishman, 8 April 2022, 5 [36].
- 509 Transcript of Timothy Bullard, 13 May 2022, 1071 [29–34].
- 510 Transcript of Sam Leishman, 13 May 2022, 1063 [10–16].
- 511 Statement of Timothy Bullard, regarding Sam Leishman, 8 April 2022, 4 [25–26].
- 512 Statement of Sam Leishman, 15 March 2022, 2 [16].
- 513 Transcript of Timothy Bullard, 13 May 2022, 1070 [1–14].
- 514 Statement of Timothy Bullard, regarding Sam Leishman, 8 April 2022, 6 [41].
- 515 Statement of Timothy Bullard, regarding Sam Leishman, 8 April 2022, 6 [46].
- 516 Statement of Timothy Bullard, regarding Sam Leishman, 8 April 2022, 6 [46].

- 517 Statement of Timothy Bullard, regarding Sam Leishman, 8 April 2022, 6 [43].
- 518 Transcript of Timothy Bullard, 13 May 2022, 1066 [15–24].
- 519 Transcript of Sam Leishman, 13 May 2022, 1063 [35–38].
- 520 Statement of Sam Leishman, 15 March 2022, 2 [17].
- 521 The name ‘Andy’ is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 30 August 2023.
- 522 The name ‘Family A’ is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 30 August 2023. Anonymous session, 12 October 2022. The summary in this case study is from this anonymous session.
- 523 Anonymous session, 17 February 2022. The summary in this case study is from this anonymous session.
- 524 The name ‘Family B’ is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 30 August 2023.
- 525 Department for Education, Children and Young People, *DECYP Summary – Case Summary ‘Andy’* (March 2023).

6 The way forward: Children in schools

1 Introduction

In this chapter, we outline measures the Tasmanian Government should take to prevent child sexual abuse in government schools and improve responses when it does occur, noting that the Department for Education, Children and Young People has begun making significant changes, including developing an overarching child safeguarding policy framework. The Department's current child safeguarding measures are part of a shifting landscape as the Department responds to recommendations from the National Royal Commission, the Independent Education Review and matters identified through our Commission of Inquiry.

In Chapter 5, we identify shortcomings in the Department and other government entities' responses to allegations of child sexual abuse and harmful sexual behaviours. We outline the measures the Department has taken to address these. In this chapter, we consider more steps the Department, and other government entities, should take to make schools safer for children, including:

- implementing mandatory child sexual abuse prevention education
- limiting the focus of the Office of Safeguarding primarily to safeguarding children in education settings
- refreshing and regularly reviewing child safeguarding policies and working to embed them in schools

- developing an education-specific professional conduct policy for staff and volunteers
- implementing a mandatory professional development program for educators, staff and others who work with children and young people (including volunteers) in schools
- establishing a Child-Related Incident Management Directorate to lead the response and investigation of complaints of child sexual abuse and related behaviours by staff
- developing education-specific policies, protocols and guidance for preventing, identifying and responding to harmful sexual behaviours in schools, noting our recommendation in Chapter 9 that the Department establishes a Harmful Sexual Behaviours Support Unit to support all the Department’s portfolios
- strengthening the Teachers Registration Board’s ability to safeguard children through changes to the law.

We consider our recommendations in this chapter will help the Department to further improve its approach to safeguarding students (and younger children) in its care, and increase the ability of the Teachers Registration Board to protect all children in Tasmanian schools—government and non-government.

2 Child sexual abuse prevention education in schools

Targeted child sexual abuse prevention education programs can help children and young people to identify grooming or sexually abusive behaviours, give them confidence about asserting their boundaries, and empower them to report any violations. Such programs can also help challenge harmful norms or attitudes at an early stage, particularly around issues of consent. They can be a powerful tool in preventing child sexual abuse.

In this section, we examine the role of child sexual abuse prevention programs in schools. These programs vary in design and delivery and are discretionary in Tasmania. We outline evidence of the elements of successful programs and recommend that best practice programs form part of the mandatory curriculum in Tasmanian schools, together with respectful relationships and consent education.

Prevention programs in schools should form only part of a broader prevention strategy. In recommending more investment in prevention programs, we want to be clear that the burden of preventing abuse should not fall on children and young people. It is not their responsibility to know or interpret adult behaviour, nor is it their job to keep themselves

safe from abuse and harm. Even the objectives of the best programs can be overborne by abusers, who often deploy a range of tactics and manipulations to enforce compliance and silence.

However, we do consider that prevention education programs have an important role to play in educating and empowering children and young people about their bodily autonomy and about what constitutes healthy and acceptable sexual behaviour. Such programs are a source of important information about how to navigate or respond to any threats to their safety. These programs should complement other prevention efforts including national community-wide prevention strategies.¹ For more discussion on prevention, refer to Chapter 18.

2.1 Children's perceptions

Some children who took part in research we commissioned, conducted by Associate Professor Tim Moore and Emeritus Professor Morag McArthur, told us that sex education in schools did not cover everything they thought was relevant:

You talk about relationships and stuff but not really like modern day issues like online stuff and, no offence, adults can be pretty clueless about this stuff. And if they teach you in a way that proves they've got no idea then you're not going to go with them.²

They thought there was not enough teaching about adult–child sexual abuse, institutional child sexual abuse and who to turn to if they experience harm.³

We heard from a number of victim-survivors who did not recognise their experiences as abuse until much later in life—sometimes only becoming aware of the dynamics and features of grooming and abuse as adults. For example, Leah Sallese, a victim-survivor, described the following interaction with her psychotherapist:

I said: 'I had an affair with my teacher' and he said, 'Wait a minute, what?' He said: 'No, you didn't, that's childhood sexual abuse'. So that's the first time, as a 40-something-year-old woman, that I ever questioned what I had in my mind as a narrative my whole life.⁴

Sam Leishman, another victim-survivor whose experience we discuss in Chapter 5, described having a similar revelation as an adult:

I happened to see a grab of news and it was Julia Gillard talking about the [National] Royal Commission and how it was progressing, and I'd never thought about what happened to me as child abuse, funnily enough. I thought it's something that I initiated, that I had done and that it was just a one-off thing that this man was attracted to me for some reason and it was—it was a single thing that happened. And, out of curiosity I got on to the website ... I was just staggered, because by that stage there was volumes and volumes and volumes of work that they had done, and story after story, and I started reading through them and I thought, 'Shit, that happened to me', yeah. So it was sort of like a light-bulb moment.⁵

Victim-survivor Rachel (a pseudonym), whose experience we discuss in Chapter 5, recommended to us that an ‘educational program promoting awareness for appropriate student–teacher relationships in and out of school is implemented into the curriculum.’⁶

Victim-survivor Kerri Collins noted how sex education helped her understand what had happened to her and fellow victim-survivors when she was very young:

You knew it was wrong but you didn’t understand, because we were so young, and then after that you did understand—like, you’d done sex education at school and those sorts of things and you knew that what happened wasn’t right. But then, how do you tell somebody that, and how do you—you know, as a child you’re second guessing yourself, like, is that me, did I do that, was that my fault?⁷

We also saw evidence of problematic attitudes towards consent and relationships among Tasmanian children and young people, which is particularly relevant to harmful sexual behaviours between children. A study conducted by Anglicare Tasmania’s Social Action and Research Centre heard from 17 young Tasmanians about their experiences of domestic violence. Collectively they described 18 separate relationships involving sexual violence or abuse they had experienced.⁸ One participant in the study, Sahar, said:

They [young men and boys] envision like a big scary man, like dragging a woman into an alleyway and raping her, a stranger. But it’s not like that at all. It’s usually almost always somebody that you know, and it’s partners. But they don’t recognise that. They’ve got this, like, such a movie vision of what rape is in their head that they wouldn’t even realise if they’d done it themselves.⁹

Contrary to the common belief that gender equality is improving through generational change, those working to address violence in the community told the study author about young men in particular holding worryingly regressive views, with one worker known as Bernie saying: ‘That 1970s attitude, male attitude, exists here strongly in Tasmania’.¹⁰ A family violence worker known as Jo said she noticed young women tending to experience more extreme violence than older generations at the hands of younger partners, saying: ‘Young people are supposed to be getting all of this preventative stuff ... But these young guys can be very traditional in their views of women’.¹¹

We are also conscious that online digital technology is rapidly changing and some aspects of this can continue to support harmful attitudes. For example, the rise in pornography on the internet creates a high risk of children and young people seeing or seeking pornography online. The eSafety Commissioner notes that:

... exposure to graphic, violent or misleading messages about sexual practices and gender stereotypes could give [children and young people] the wrong idea about sex and intimate relationships.¹²

Kathryn Fordyce, Chief Executive Officer, Laurel House, pointed to the absence of statewide consistency in prevention programs across primary and high school students, as well as in early childhood support services.¹³ Ms Fordyce said:

There is a lot more work needed in organisations of all types including schools, health and disability services to ensure that we address the drivers of sexual violence, to teach children about respectful relationships and how to speak up when they feel unsafe or when something has happened to them. Unfortunately, there are social norms that mean we condition children, especially those with disabilities and health conditions, to be compliant and submissive ... All too often adults ignore a child's attempt to maintain their bodily autonomy, and then those same adults are surprised when children are abused and do not report it.¹⁴

2.2 National Royal Commission recommendations

The National Royal Commission recommended that the Australian Government implements a national strategy to prevent child sexual abuse. This strategy would encompass complementary initiatives, including prevention education delivered through school settings 'that aims to increase children's knowledge of child sexual abuse and build practical skills to assist in strengthening self-protective skills and strategies'.¹⁵ The National Royal Commission also recommended that schools extend education on issues of child sexual abuse and online safety to parents and carers.¹⁶

The National Royal Commission commissioned an Australia-wide audit of child sexual abuse prevention policies and curriculums across 32 primary school systems, covering government, Catholic and independent school sectors.¹⁷ The audit found that only 12.5 per cent of school systems had curriculums that included specific child sexual abuse prevention education and there was considerable variation across jurisdictions in the type of material available on prevention.¹⁸ There is no equivalent audit for secondary school policies and curriculums, but there may be opportunity in the Health and Physical Education learning area to address child sexual abuse.¹⁹

The audit report also found a lack of strategies to help teachers adapt content for particular groups of students such as Aboriginal children, children with disability or children from culturally and linguistically diverse backgrounds.²⁰

The National Royal Commission recommended a nationally consistent approach to prevention education in all schools and preschools, stating: 'Child sexual abuse prevention education could be integrated with education aimed at preventing all forms of violence against children, in any setting'.²¹

2.3 Features of effective child sexual abuse prevention programs

Professor Kerryann Walsh, an expert in child sexual abuse prevention, told us that although there are different examples of prevention education programs, good programs share common features, including that they:

- cover topics such as body ownership, private parts, appropriate versus inappropriate touching, distinguishing types of secrets, and who and how to tell
- are delivered interactively in groups, where teachers and children engage with the content together through strategies such as rehearsal and role-play
- use resources and materials that are diverse, spanning film, plays, songs, puppets and other methods
- are delivered in shorter modules over an extended period, which enables them to be discussed and absorbed (for example, 20-minute sessions delivered once per week over five to six weeks).²²

Professor Walsh said that child sexual abuse prevention education should begin as early as possible—by parents in the earliest years, then in childcare, long daycare and kindergartens.²³ She also said that prevention education should continue until the end of schooling.²⁴

Professor Walsh also explained that, while it is important to teach about risks of child sexual abuse from adults with sensitivity and care, studies have shown that such education does not tend to increase or decrease children’s fear or anxiety across the board.²⁵ She also noted that the risk of prevention programs increasing a child’s anxiety is lower ‘as programs have improved over the years and become more sensitive to children and more developmentally appropriate’.²⁶

Through submissions and hearings, we heard about the importance of parents and carers also engaging with content delivered about child sexual abuse. Body Safety Australia described its work designing and delivering professional development for teachers, young people and their families, noting:

We believe education for children is most effective when delivering in conjunction with information sessions for parents and teachers. Preventative education for parents, teachers and children facilitates discussion between children and the adults in their lives. While schools can and must provide some measure of protection, it is essential that parents and families continue to be the main providers of safety and assistance to children.²⁷

Professor Walsh echoed this, saying that ‘homework’ (where the school sets activities to be completed at home) can help to engage parents or carers in the programs, plus

it provides an avenue for them to reinforce the content.²⁸ She acknowledged that some children do not have the benefit of engaged and supportive parents, which makes accessing information at school particularly important.²⁹

Body Safety Australia cited common reasons teachers prefer prevention education to be delivered by external providers. These include teachers feeling unequipped to deliver the content, a belief that it is easier for children and young people to ask questions about this content and engage with a person they do not see every day, and a fear of damaging the parent–teacher relationship if they deliver confronting content.³⁰ We heard similar concerns in our Burnie stakeholder consultation, with one participant expressing concerns that there could be difficulties with teachers delivering respectful relationships programs because the programs involve discussions with children that could be inappropriate for teachers to participate in.³¹

Professor Walsh noted that not all teachers will be suited or able to deliver such curriculum (noting some may be victim-survivors themselves).³² Professor Walsh suggested that a smaller cohort of teachers with specialist training and ongoing supervision could be tasked with delivering the material across year levels.³³ Children and young people may feel more comfortable disclosing their worries or concerns to teachers. Using teachers, rather than external providers, to deliver this material would help avoid sending an unintentional message that teachers are unwilling to talk to students about child sexual abuse. Incorporating prevention education into the curriculum will support it being delivered by teachers in a school.

2.4 Child sexual abuse programs in government schools

Child sexual abuse prevention education programs are varied and largely voluntary in Tasmania. This is consistent with most other jurisdictions. As noted by Professor Walsh, the availability of programs across Australia is ‘patchy’.³⁴ Only two jurisdictions—Western Australia and South Australia (the latter of which is discussed in Section 2.5)—have mandated sexual abuse prevention programs in schools.³⁵

Departmental Secretary Timothy Bullard informed us that the Department ‘supports a range of evidence-based and age-appropriate programs to address respectful relationships, consent, sexuality, body ownership and protective behaviours’.³⁶ For government schools, the prevention curriculum is generally contained in the Health and Physical Education area of the Australian Curriculum under the ‘relationships and sexuality’ and ‘safety’ focus areas.³⁷ Secretary Bullard foreshadowed further work to support teachers to implement the Australian Curriculum on respectful relationships and consent, including updates and revisions to support the latest version endorsed nationally by education ministers in April 2022.³⁸

Safe Homes, Families, Communities: Tasmania's Action Plan for Family and Sexual Violence 2019–2022 committed to implementing prevention strategies, including embedding respectful relationships education in schools and delivering a program for children and young people targeted at harmful sexual behaviours.³⁹ The Tasmanian Government's *Third Family and Sexual Violence Action Plan 2022–2027: Survivors at the Centre* expands on this commitment by developing 'a suite of resources' that improves the Tasmanian community's understanding of 'consent, coercive control and grooming'.⁴⁰ The plan also states that a dedicated position will be created in the Department to help schools embed respectful relationships education.⁴¹

According to the Department's website, the Respectful Relationships Program is an 'essential element' of *Safe Homes, Families, Communities*.⁴² The program consists of resources to support schools, communities and individuals to understand the causes of family and sexual violence, and to reduce violence.⁴³ This includes the *Respectful Schools Respectful Behaviour: Building Inclusive Practice in Schools* resource, which 'supports school communities to build respectful, safe and supportive learning environments'.⁴⁴ Our understanding is that this resource focuses on preventing family and gender-based violence but does not directly address child sexual abuse, harmful sexual behaviours or the online environment.

The Department also supports other programs and initiatives that 'align with and complement content covered through the Australian Curriculum', although these are not mandatory and are at the discretion of principals.⁴⁵ Elizabeth Jack, Executive Director, Office of Safeguarding, explained:

Schools tend to use the programs that they believe work best for their context because all our schools are in different environments, they're a different size, they might have different issues with their student cohort. The principal and school leaders normally make that determination. So there will be professional support staff, for instance, that might contribute to that so that they determine what is best to be run in their school.⁴⁶

Secretary Bullard highlighted some programs and educational activities for young people in school settings in Tasmania including:

- Ditto's Keep Safe Adventure Program from the Bravehearts Foundation, delivered in the early years of school⁴⁷
- the Sexual Assault and Prevention Program and 'Consent is a Conversation' workshops delivered by the Sexual Assault Support Service⁴⁸
- the Prevention, Assessment, Support and Treatment program, delivered by the Sexual Assault Support Service, focusing on children and young people exhibiting harmful sexual behaviours.⁴⁹

Ms Jack identified more than 20 programs delivered in schools, highlighting to us that there is no consistent approach across Tasmanian government schools.⁵⁰ At our Hobart consultation, we heard that although information about prevention was available in schools, some principals may be reluctant to engage with it.⁵¹ The Launceston consultation also highlighted the discretionary nature of many programs.⁵²

Some prevention programs at schools are fee-based, and others are offered at no charge if the Department has a formal agreement with a program provider (under a grant deed) to provide a certain number of programs.⁵³ Where a school wishes to have a program that is not available under a grant deed, they generally need to fund this through individual budgets, known as School Resource Packages, in consultation with the school principal.⁵⁴

Decisions about which programs the Department endorses are 'guided by departmental policies and guidelines, with consideration being given to alignment with the curriculum and the quality of the program'.⁵⁵ Ms Jack noted she has received advice that suggests the programs currently running in schools are appropriate and accredited.⁵⁶ However, she indicated that the Office of Safeguarding, together with other business units across the Department, would undertake 'a review of available programs to ensure the programs being offered by schools are appropriate at a whole-of-system level, while still suiting the context for each individual school'.⁵⁷

The Department usually captures participation data for programs funded through a grant deed, but for other programs, this data is generally 'maintained at the local school level'.⁵⁸ Noting this variability and the voluntary nature of such programs, Ms Jack confirmed the Office of Safeguarding's intention to work with other business units across the Department, to better capture engagement data 'including outcomes and trends related to program participation'.⁵⁹

2.5 Mandated sexual abuse prevention education

Professor Walsh told us that programs are more likely to be delivered when they are compulsory.⁶⁰ Professor Walsh warned that in a tight resourcing environment, principals can overlook programs that require discretionary funding:

I think the literature would tell us that [schools] will only look for a sexual abuse prevention program when they have an incident; it will be reactionary why they do it. So, that is very hard for schools to do when they commit their budget at the start of the school year, there's just no wriggle room in budgets to suddenly get somebody in to deliver a program when an event happens, even though we know that's not what should happen but in practice that's often how it plays out.⁶¹

On the question of mandated programs, Ms Jack noted:

The Office [of Safeguarding] is in the early stages of discussion with both the Support and Development and Learning divisions regarding opportunities to better

identify, recommend, monitor and (where necessary) make mandatory, prevention programs in schools, noting that schools also need the ability to make decisions based on their own local context and need.⁶²

Secretary Bullard listed considerations for making these programs mandatory including:

- alignment with the curriculum and how the program can be integrated in school timetables
- consideration of who delivers the program (teachers, social workers or external providers) and the resourcing required to enable effective delivery
- acknowledging a parent or carer's right to request their child not participate in a particular program
- the need to evaluate the impact of any programs delivered.⁶³

Secretary Bullard went on to note the risk that such programs could be seen as a 'substitute for other services and processes that protect children'.⁶⁴ Also, programs should not be viewed as a 'solution' alone but should be placed in a broader safeguarding system.⁶⁵ We agree with this statement.

In addition to the Australian Curriculum (and complementary to its 'relationships and sexuality' and 'safety' focus areas), South Australia has the Keeping Safe: Child Protection Curriculum.⁶⁶ Professor Walsh described South Australia's program as the 'soundest' model because it has been developed over some time and has been 'so well thought through'.⁶⁷

The Keeping Safe: Child Protection Curriculum is mandated in all South Australian Department for Education preschools and schools for children and young people from the age of three through to year 12 and covers child safety and respectful relationships. It is delivered by teachers in the school setting. It has support materials specifically for Aboriginal children and young people, children from culturally and linguistically diverse backgrounds and children with disability or additional needs.⁶⁸ It also has resources for parents and carers.⁶⁹ We understand schools in other jurisdictions have adopted this curriculum, as have some independent schools in South Australia.⁷⁰

We consider it is important that children and young people receive child sexual abuse prevention education throughout their schooling. While we recognise the multiple competing priorities in school curriculums and budgets, the finding in the Australian Child Maltreatment Study that more than one in four Australian young people aged 16 to 24 years have experienced child sexual abuse suggests this is a priority that must be addressed.⁷¹ For this to occur, prevention education needs to be mandated across all schools and in Tasmanian government funded early learning preschool programs, through to year 12. All Tasmanian students should have the benefit of programs designed to help them learn and understand their right to be safe from sexual abuse or harmful sexual behaviours. It is also efficient to have a single, consistent approach to programs

across the State. We are not convinced there is justification for the existing variety of approaches at the local level, but note that individual schools may wish to supplement mandated curriculum content to reflect their own context or circumstances.

We consider that the Department should adopt the South Australian model of mandated prevention education. This is a significant reform agenda but one we consider vital to preventing child sexual abuse. Safeguarding Leads, supported by the Office of Safeguarding, should actively support and champion the mandatory curriculum in schools. The Department may wish to explore opportunities for cross-jurisdictional collaboration with South Australia for implementing this mandatory curriculum.

The Department should develop a plan for sustained implementation that clearly articulates the goals and objectives of the curriculum and defines the roles and responsibilities of key participants. We see potential to incorporate the Respectful Relationships and Consent Education program committed to by the Government in this curriculum, as is the approach in South Australia.⁷² The Department should evaluate the effectiveness of the mandatory curriculum after five years of implementation, with evaluation criteria created as part of the process of developing the curriculum.

The Tasmanian Government could also consider making the mandatory child sexual abuse prevention curriculum available to non-government schools.

Recommendation 6.1

1. The Department for Education, Children and Young People should introduce and fund a mandatory child sexual abuse prevention curriculum as part of the mandatory respectful behaviours curriculum from early learning programs to Year 12, across all types of government schools (including specialist schools).
2. This mandatory prevention curriculum should draw on expert evidence of best practice and successful approaches adopted in other states and territories, including South Australia's mandatory curriculum.
3. The Department should develop a plan for sustained implementation of the mandatory prevention curriculum. The plan should:
 - a. set out the goals and objectives of implementing the mandatory prevention curriculum
 - b. define the roles and responsibilities of key participants
 - c. include criteria for evaluating the curriculum.
4. The Department should evaluate the effectiveness of the mandatory prevention curriculum five years after its implementation.

3 Office of Safeguarding Children and Young People

This section examines the purpose and functions of the Office of Safeguarding and offers some early reflections on its operation. We acknowledge that the Office of Safeguarding is in the process of implementing recommendations from the Independent Education Inquiry. It is important that this occurs effectively, in line with the recommendations' objectives.

Given that the Office of Safeguarding is in its relative infancy, we did not receive extensive evidence about its performance. However, we have made some early observations of its work, as well as offering our reflections on how it may best deliver on its ambitions. We recommend that the Office of Safeguarding focuses its attention on the school and educational context, concentrating on prevention, risk identification, policy development and related workforce development.

3.1 Establishing the Office of Safeguarding

The Independent Education Inquiry recommended establishing a Director of Safeguarding in the then Department of Education in order to, among other things, develop a student safeguarding policy, support risk assessments and management plans in every school, be a point of contact for School Safeguarding Officers and oversee their induction and training.⁷³ One of the Independent Education Inquiry's primary concerns was how the Department could embed prevention into its child safeguarding system.⁷⁴

Elizabeth Jack was appointed as the inaugural Executive Director of Safeguarding Children and Young People.⁷⁵ The role's Statement of Duties outlines its function as:

To promote and protect the wellbeing of children and young people in all Education Department settings by leading and providing strategic advice and direction in relation to the Department's culture, systems, practices, processes, procedures and professional learning, relating to safeguarding children and young people from harm of abuse.⁷⁶

Ms Jack described the duties of the Executive Director of Safeguarding Children and Young People as including:

- implementing the recommendations of the Independent Education Inquiry and of the National Royal Commission allocated to the Department of Education (Ms Jack also noted that she would likely be responsible for implementing relevant recommendations of our Commission of Inquiry)⁷⁷

- supporting ‘operational responses to safeguarding children and young people’ led by other departmental business units, including Workplace Relations, Legal Services, Learning Services and Student Support⁷⁸
- championing child safeguarding issues with the Department’s Executive Group, other senior staff, school principals and departmental staff⁷⁹
- ensuring strategic communications with students, staff and stakeholders to raise awareness of safeguarding issues.⁸⁰

The Office of Safeguarding has (at the time of writing) six dedicated staff (primarily roles in policy analysis, project management and communications) and receives some support from the Department’s Strategic Policy and Planning and Strategic Systems Development areas.⁸¹

Secretary Bullard confirmed a State Budget allocation of \$2.6 million over three years beginning in 2022–23 to ‘fully staff the Office of Safeguarding Children and Young People to meet the demands of the work required to support all safeguarding-related activity across the Department’.⁸²

We understand Ms Jack has now moved to the position of Deputy Secretary, Keeping Children Safe, which oversees the Office of Safeguarding as well as Services for Children and Families (which includes the Child Safety Service, the Strong Families, Safe Kids Advice and Referral Line and out of home care).⁸³ We discuss our concerns with this organisational structure in Chapter 9. Here we focus on the role of the Office of Safeguarding.

3.2 Working strategically and sustainably for greatest impact

The Office of Safeguarding has an ambitious program of work considering its relatively small team. It relies on the cooperation and goodwill of a range of other parties—including the various departmental portfolios, departmental business units and individual schools—to achieve its objectives. In this section, we discuss some of its early areas of responsibility, including appointing Student Safeguarding Officers, undertaking systemic reviews and commenting on the Department’s responses to allegations of child sexual abuse by staff.

We also note that the Office of Safeguarding led the Department’s work on developing *Safe. Secure. Supported. Our Safeguarding Framework* (‘Safeguarding Framework’) for safeguarding children and young people, which was released in April 2023.⁸⁴ We discuss this Safeguarding Framework in Section 4.

3.2.1 Student Safeguarding Officers

Student Safeguarding Officers (also referred to as Safeguarding Leads) can expand the reach and impact of the Office of Safeguarding and embed its priorities at the local level.

The Independent Education Inquiry recommended appointing Student Safeguarding Officers in schools with the following responsibilities:

- ensuring relevant safeguarding information is reported and recorded
- contributing to school safeguarding risk assessment and management plans
- acting as a point of contact for students and staff about safeguarding concerns
- ensuring the best interests of students are at the forefront of decisions and actions of the school.⁸⁵

Secretary Bullard gave evidence that the State Budget allocated \$26.1 million over four years (and \$9.7 million ongoing) to appoint Student Safeguarding Officers in every government school.⁸⁶

Ms Jack described the role of Student Safeguarding Officers as:

... the Safeguarding Officer will be there to help the principal lead the work we're doing to put children and young people at the centre of every decision and action we take. They will be there to help with the development of risk assessment plans and monitor those plans ...⁸⁷

The Office of Safeguarding will induct and train Student Safeguarding Officers and support them to develop local safeguarding assessments and risk management plans, as recommended by the Independent Education Inquiry.⁸⁸

Professor Walsh supports creating specialist portfolios to help lift overall capability in a school. She noted that the:

... development of specialised roles would mean not every teacher would need to possess the maximum level of expertise. Instead, teachers could readily consult with an expert within the school as necessary.⁸⁹

She said that, ideally, there would be a child protection and safeguarding lead as well as a digital safety lead, accompanied by 'elevated status, remuneration and progression commensurate with the degree of expertise required'.⁹⁰

Ms Jack was adamant that the Office of Safeguarding would not simply add a title or give staff extra responsibilities without adequate resourcing. She explained:

... it may be that we take some of an existing person's role away and give them the safeguarding role if they are the right person, or it might be a recruitment of new staff depending on the skills and experience we require.⁹¹

We agree that safeguarding roles should be recognised, resourced and rewarded. Student Safeguarding Officers will have an important role in making the work of the Office of Safeguarding tangible and meaningful.

In his February 2023 update, Secretary Bullard told us that, as part of the Department’s response to the Independent Education Inquiry, a ‘staged roll out’ of its ‘Safeguarding in Schools’ model had begun in November 2022.⁹² Implementing Safeguarding in Schools requires all government schools to nominate a Safeguarding Lead during the 2023 school year. Safeguarding Leads are to then receive ‘tailored safeguarding resources and supports to ensure they are equipped with the skills and understanding needed to plan and implement strategies to support the safety of all students’.⁹³ Secretary Bullard told us that all Safeguarding Leads will be provided with ‘professional learning’ in mandatory reporting and in identifying and addressing child sexual abuse, ‘including grooming, and risk management’.⁹⁴ Under the model, the Office of Safeguarding will work with Safeguarding Leads to help them improve their skills in risk management and assessment, to enable them to ‘put in place risk management plans that focus on preventing, identifying and mitigating the risks of child sexual abuse’.⁹⁵

Children interviewed for our commissioned research said they wanted a trusted confidant who was accessible and preferably proactive in engaging students about worries or concerns.⁹⁶ They also told our commissioned researchers that they felt safer when they were asked for their feedback about how things could be improved. They said that schools might feel safer if they had feedback channels such as a ‘worries’ box where children could confidentially raise concerns with the principal, or that the principal should proactively seek feedback from students and hold regular ‘safety sessions’ with students in focus groups to reflect on and improve safety measures.⁹⁷ We consider Safeguarding Leads could actively encourage the engagement and participation of students to enhance their sense of safety in their school.

3.2.2 Systemic reviews

Every ‘incident or episode of sexual abuse in a school can be seen as a failure of its primary safeguarding systems’.⁹⁸ The Independent Education Inquiry recommended conducting reviews following incidents to encourage reflection and examine opportunities to strengthen safeguarding responses.⁹⁹

In November 2021, the Department’s Executive Group endorsed the process for conducting systemic reviews, noting that it may be subject to change following a ‘test and try’ approach in December 2021.¹⁰⁰ This ‘test and try’ review followed a report of child sexual abuse by an employee against a high school student, in which criminal charges were laid.¹⁰¹

The members of this Review Panel, as agreed by the Executive, were:

- Executive Director, Safeguarding Children and Young People (Chair)
- Director, Learning Services (Southern Region)
- Director, Legal Services and Workplace Relations
- Deputy Secretary, Corporate Services of the then Department of Communities
- Senior Project Manager, Safeguarding Children and Young People (Secretariat).¹⁰²

The review focused ‘on the systems, processes and policies that were used by [departmental] staff involved in the incident or episode, rather than any one individual’s actions or decisions’.¹⁰³ It was also not designed to be a formal audit or a precursor to any disciplinary or punitive action.¹⁰⁴

On 3 December 2021, the Review Panel met and discussed the process. Questions for consideration covered the themes of ‘prevention of abuse, early intervention and support for action and decision-making’.¹⁰⁵ Other matters considered included the physical environment of the school, records and information capturing the response to the incident and support available to the student and affected staff.¹⁰⁶

Members of the review team met with key staff (including the principal) and conducted a site visit to observe the physical environment of the school.¹⁰⁷ The team also considered record keeping and information sharing in the response to the matter.¹⁰⁸

The review made 16 wide-ranging recommendations, covering professional development, internal and external communication, policies and guidelines, consideration of risks in future capital works, and awareness and understanding of relevant policies and procedures.¹⁰⁹

A survey of the participants interviewed for the review revealed generally positive feedback about the process. One participant described it as ‘liberating’; another felt ‘supported, respected and heard’.¹¹⁰

It is pleasing that the Department has begun these reviews, and we note that the review process itself will be refined and improved over time. However, we make the following observations:

- On the face of the review, its intended audience and distribution are unclear. The Department has since clarified that the review was undertaken to provide the Department’s Executive and senior staff with information about system gaps and opportunities to improve the way the Department supports staff to prevent, identify and respond to child sexual abuse. Where the Review Panel saw other opportunities for system improvements, these were shared with relevant business units across the agency.¹¹¹

- The review made several recommendations, some of which overlap with existing recommendations or planned work and others that reflect new initiatives. Some of the Review Panel’s recommendations are ambitious and would require significant investment and effort to meaningfully embed. Others were drafted in ways that make acquittal or ‘success’ ambiguous.
- Any new or added recommendations should be drafted so that outcomes can be meaningfully measured and evaluated against specified objectives. A role holder should be allocated to act on those objectives. The implementation of recommendations should be monitored and reported on at regular intervals. Effective implementation of changes or improvements flowing from systemic reviews is key to building trust and credibility in the review processes.
- On the face of the review, it does not appear that it contemplated involving the relevant young person and/or their family.¹¹² We acknowledge this may not always be appropriate (including potentially in this case) and, if undertaken, would need to be conducted by skilled professionals in a trauma-informed and age-appropriate way. However, systemic reviews should recognise the valuable information that children and young people, as well as their families and others in the school community, can provide about their experiences of safeguarding. Reviews should also empower young people to share their experiences if they wish to do so. Inviting young people and their carers and families to be involved can also show that the Department has taken their experiences seriously and is committed to improvement into the future. We would suggest that if a Review Panel determines not to invite a young person and/or their family to participate, it should include an explanation of this decision in its report.
- It is not clear that a particular method was used to conduct the review. Using a predefined method (or a combination of methods)—for example, a root cause analysis or after-action review—helps provide consistency across reviews and ensure they are comprehensive and objective. Also, a framework for review questions should be considered before conducting a review.
- The Review Panel does not appear to have included a subject matter expert; we suggest that future panels should include someone with relevant expertise. For example, for a matter involving child sexual abuse, at least one member of the Review Panel should have expertise in child sexual abuse and perpetrator tactics to help advise other panel members in interpreting information. This will also help ensure all aspects of the incident are thoroughly examined and that reviews are comprehensive.

- The review process demonstrated by the then Serious Events Review Team in the former Department of Communities appears much more targeted and reflects a better process (Serious Events Review Team investigations are discussed in Chapter 9 and Chapter 12).

In general, implementing effective systemic reviews can contribute to a workforce culture that is reflective rather than defensive, that acknowledges mistakes, and that values feedback and suggestions for improvement. We acknowledge that achieving this takes time and strong leadership, and we consider that a clear and considered framework for systems reviews will help to achieve this. We commend the Department on having completed its first systemic review and offer the comments above as reflections to support continuous improvement in the review process itself rather than criticism. We particularly commend the conduct of the review resulting in positive feedback from review participants.

3.2.3 The role of the Office of Safeguarding in incidents—Integrity Commission audit findings

Our Commission of Inquiry was given an audit report, prepared by the Integrity Commission, into the Department’s handling of a complaint about the conduct of a teacher towards some students. Overall, the Integrity Commission’s audit was positive about the Department’s management of the matter, but it did make some critical observations about the contribution of the Executive Director, Office of Safeguarding, in relation to the complaint.

The auditor’s assessment of the Executive Director was largely based on a one-page document that was at the front of the complaint file and appeared to be a ‘review’ of the file. The Executive Director noted on this document that the conduct subject to the complaint was inappropriate and did not comply with the State Service Code of Conduct. However, the Executive Director also noted that ‘there was no intent behind these actions/behaviours to indicate grooming behaviour’.¹¹³ The Integrity Commission disagreed with this assessment.¹¹⁴

The Integrity Commission expressed concern about the role of the Executive Director in ‘reviewing’ the file, in particular:

- The Executive Director’s role (and influence over decision-making) is unclear on disciplinary and misconduct matters.¹¹⁵
- There is no clear framework for the ‘review’ or evidence of a method or supporting evidence for the assessment.¹¹⁶
- It did not appear, in the view of the Integrity Commission, that the Executive Director had relevant skills or expertise to assess whether behaviour constitutes grooming.¹¹⁷

In relation to the Executive Director, the Integrity Commission concluded:

While Ms Jack’s role may have overall Agency responsibilities, in relation to [Employment Direction No. 5—Breach of Code of Conduct] matters it is important to clarify the role of the Safeguarding Children and Young People division. The Secretary must be confident that senior executives in the Department will provide comprehensive, considered, probative and relevant advice.

In contrast to the considered, reasoned advice and recommendations provided by the Department’s Workplace Relations officers, Ms Jack’s advice is of limited value and seems misleading. The value of her review is unclear, and—from my perspective—undermined an otherwise appropriately managed matter.¹¹⁸

Ms Jack told us that she did not have a ‘direct operational role in responding to allegations, incidents, disclosures or suspicions of child sexual abuse’.¹¹⁹ The Department in fact advised that the Executive Director did not undertake a formal review of this specific case because the Office of Safeguarding is not formally involved in investigating breaches of the State Service Code of Conduct. The Department told us that the Executive Director was asked to consider the information as a ‘critical friend’ and offer her initial views.

The role and functions of the Office of Safeguarding should be clearly defined to avoid duplication and confusion, and to properly recognise where the Office of Safeguarding can add value relative to other divisions and business units.

We consider that the Office of Safeguarding should focus on policy, guidance and prevention in education, rather than engaging in investigating individual incidents. We are aware of the importance for those working in policy roles to be informed by what is occurring in practice. We consider it useful for the Office of Safeguarding to have some visibility of incidents (particularly high-level trends or areas of concern) to help inform its priorities, and we suggest that communication between the Office of Safeguarding and our proposed Child-Related Incident Management Directorate regularly occurs. However, the Office of Safeguarding should not have a role in assessing or evaluating the appropriateness of responses to incidents. We consider that this role sits most appropriately in our proposed Child-Related Incident Management Directorate, discussed in Section 6.

3.3 Focusing the Office of Safeguarding’s role in an expanded Department

We asked Secretary Bullard about how the Office of Safeguarding will operate in an expanded Department for Education, Children and Young People. We were particularly interested to know whether the Office of Safeguarding will assume functions beyond education, such as youth justice and out of home care. Secretary Bullard stated that the Office of Safeguarding will ‘work right across the new department’.¹²⁰

Extending the role of the Office of Safeguarding to work across all portfolios in the expanded Department presents some challenges:

- A large reform agenda—The Independent Education Inquiry proposed a large reform agenda for schools, and our recommendations in this chapter add to that agenda.
- The need for specialist expertise in out of home care, youth detention and child protection—In Chapter 9 we identify that child protection, including out of home care, has unique features that require the Department to have a high level of expertise as well as active and engaged executive leadership. In Chapter 12 we outline the specific need for reform in youth justice and outline a substantial reform agenda. These portfolios require different considerations and a deeper understanding of abuse, neglect and perpetration than may be required in an education context.
- Increased workload—We note in Section 3.1 that the Office of Safeguarding had a staff of six with plans to recruit another four staff, and that it received some support from the Department’s Strategic Policy and Planning and Strategic Systems Development areas. We consider that in an expanded Department, the increase in size and complexity of the role of the Office of Safeguarding, which was recommended by the Independent Education Inquiry specifically regarding schools and education, would place significant pressure on existing staff and would likely require a considerable increase in staff to cope with the increased workload.

For these reasons, we are sceptical about the effectiveness of the Office of Safeguarding operating across all portfolios in the expanded Department. We recommend that responsibility for policy formulation and implementation remains with the respective portfolios of out of home care and youth justice and that the role of the Office of Safeguarding remains (or refocuses) on schools and education.

The Office of Safeguarding must have clearly defined priorities and appropriate resourcing. To achieve its ambitions, the Office of Safeguarding will need to be disciplined and strategic. We consider that the Office’s priorities should closely align with the yet-to-be implemented recommendations of the National Royal Commission, the Independent Education Inquiry and our Commission of Inquiry in relation to schools and education. The implementation of these complex recommendations must reflect intended outcomes in all their depth and complexity. This will take time.

We are keen to see the Office of Safeguarding succeed and add genuine value to the safeguarding efforts of the Department in relation to schools and education. We do not wish to make premature judgments on its performance, but it is important that the Office of Safeguarding is accountable for its work. Establishing the Office of Safeguarding, and its associated work program, should support children to feel safe at school.

In Chapter 22, we recommend that a Child Sexual Abuse Reform Implementation Monitor evaluates the Government’s child safeguarding measures, including the implementation of the Independent Education Inquiry’s recommendations. In relation to schools and education, this evaluation could consider children’s sense of safety in schools.

Recommendation 6.2

1. The Office of Safeguarding within the Department for Education, Children and Young People should focus primarily on safeguarding children in the education context, with a particular focus on prevention, risk identification, policy development and related workforce development.
2. The Office of Safeguarding should not be involved in critical incident management beyond learning from systemic reviews and trend data.

4 Policies, procedures and guidance

Policies and procedures support schools to respond to child sexual abuse and harmful sexual behaviours. Their importance is reflected across several National Principles for Child Safe Organisations, particularly Principle 10, which states: ‘Policies and procedures document how the organisation is safe for children and young people’.¹²¹

Professor Walsh noted that because teachers encounter incidents of child sexual abuse or harmful sexual behaviours infrequently, they require ‘access to high quality, on demand guidance materials’, which should be regularly updated.¹²²

In this section, we discuss the evidence we heard about the Department’s policies on child sexual abuse, including the findings and recommendations of the Independent Education Inquiry.

We recognise the significant reform happening in relation to the Department’s policies, including the recent release of an overarching Safeguarding Framework (discussed further in Section 4.1.2). Many policies and procedures that the Independent Education Inquiry examined or were provided to us have since been revised, retired or are under development at the time of writing. Some examples of how policies have changed over time (and how these changes would affect child sexual abuse complaints) are explored in the case studies in Chapter 5.

We are pleased that this area is receiving the attention it needs. We recommend that the Department ensures its child safeguarding policies are publicly available and regularly reviewed. We also recommend developing an education-specific professional conduct policy for schools. Of course, policies alone are ineffective in improving practice

if they are not part of a cohesive policy framework that is accessible and integrated into operations. In Section 5, we recommend mandatory professional development and training for all staff and volunteers, which should occur with close reference to the refreshed safeguarding policies.

4.1 Policy improvements

4.1.1 Independent Education Inquiry

The Independent Education Inquiry made several observations about the Department's policies and procedures, including that its safeguarding policies were numerous, confusing and inaccessible, and that there was not enough focus on harmful sexual behaviours.¹²³ Similarly, one teacher told us:

The Department may have had policies and procedures about child sexual abuse detection and response, or harmful sexual behaviours, but I was not ever made aware of them, and I do not know where they were located, if they existed.¹²⁴

Some of the Department's policies on child sexual abuse were out of date or did not reflect best practice. Social worker and victim-survivor Kerri Collins described documentation on mandatory reporting, in particular, as being 'very old'.¹²⁵ Fellow social worker Debra Drake told us that the responsibility for updating, customising and delivering outdated and ill-suited mandatory reporting materials often fell to social work staff.¹²⁶

Our case studies identified several shortcomings in relation to policies and procedures, namely:

- characterisations of child sexual abuse were not broad enough to capture grooming behaviours and did not identify professional boundary breaches as serious or as possible indications of grooming behaviour—refer to the 'Wayne' and 'Mark' case studies in Chapter 5
- an absence of clear procedures for managing the inappropriate conduct of relief teachers and a lack of feedback pathways on their performance, which meant that concerning behaviour may only be identified due to proactive school leaders—refer to the 'Brad' case study in Chapter 5
- lack of clarity around appropriate social media use by school staff, which can create difficulties disciplining staff in response to complaints that a staff member has sent inappropriate messages to students—refer to the 'Mark' case study in Chapter 5

- neither the State Service Code of Conduct nor departmental policies clearly covered inappropriate conduct outside the school environment. The Solicitor-General has interpreted the law strictly, making it difficult to discipline teachers whose behaviour occurs outside the school setting. Even when the Code of Conduct arguably applies, it may be difficult to substantiate serious complaints by a student against a teacher—refer to the ‘Wayne’ case study in Chapter 5.

The Independent Education Inquiry recommended that the Department does the following in relation to policies and procedures:

- develops a comprehensive student safeguarding policy and improves existing policies on mandatory reporting, use of technology and duty of care (recommendation 4)¹²⁷
- improves the ability of staff to identify and report concerning behaviour (recommendations 10 and 11)¹²⁸
- develops an education-specific code of conduct to facilitate disciplinary action against staff (recommendation 12)¹²⁹
- integrates student safeguarding policies so their position within the Department’s safeguarding policies is clear (recommendations 11, 13 and 14)¹³⁰
- develops protocols to respond to different types of sexual abuse (recommendation 16)¹³¹
- improves public accessibility to policies (recommendations 19 and 20).¹³²

4.1.2 The Department’s response

The Department accepted these recommendations and set up the Office of Safeguarding, which is tasked with implementing them—this work is due to be completed by the end of 2023.¹³³ We discuss the role of the Office of Safeguarding in Section 3.

Since the Independent Education Inquiry report was released, the Department has undertaken the following activities in relation to policies:

- examined ‘approximately 70 existing policies and procedures that all contribute in some way to the Department’s safeguarding system’ to inform development of an overarching safeguarding framework recommended by the Independent Education Inquiry¹³⁴
- updated the mandatory reporting procedure to ensure it is clear and easy to understand¹³⁵

- updated the processes for recording and checking Registration to Work with Vulnerable People statuses, including introducing kiosks to ensure any visitors to school sites have been appropriately screened¹³⁶
- developed a new Safeguarding Children and Young People website to provide students and their families and carers with information on child sexual abuse and how to report concerns¹³⁷
- developed and internally published *Advice for Staff on Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse*, with accompanying flowcharts for principals (including a flowchart for harmful sexual behaviours)¹³⁸
- distributed updated flowcharts on ‘preventing, identifying and responding to child sexual abuse’ to schools¹³⁹
- implemented an interim *Child Safe Code of Conduct* for its staff.¹⁴⁰

We heard some positive feedback about the recent policy changes. For example, Ms Collins described some policies relating to grooming and sexual assault as ‘quite good’.¹⁴¹ Principal Monique Carter also noted that recently revised flowcharts designed for principals to respond to child sexual abuse and harmful sexual behaviours were clearer and easier to follow.¹⁴²

The Department published its framework for safeguarding children and young people in April 2023.¹⁴³ The Safeguarding Framework is structured around the National Principles for Child Safe Organisations ‘with a particular emphasis on sexual abuse’.¹⁴⁴ It provides some definitions of various forms of child sexual abuse and gives detailed examples of conduct that may constitute grooming.¹⁴⁵ The Safeguarding Framework encompasses the broader remit of the Department, which includes out of home care and youth justice.¹⁴⁶ It lists the relevant policies in relation to child safeguarding, which include:

- a child safe culture
- reporting obligations
- responding to incidents, disclosures and suspicions
- worker conduct and professional conduct
- duty of care
- risk management
- information sharing
- record keeping.

The Safeguarding Framework provides a welcome overarching framework to the Department’s response to child sexual abuse, although we note many of the relevant policies listed in the Safeguarding Framework are not publicly available.¹⁴⁷

We were particularly pleased to note that the Safeguarding Framework adopts a child participation model that is ‘grounded in the [United Nations] Convention on the Rights of the Child and promotes a rights-based approach to the active involvement of children and young people in decision-making’.¹⁴⁸

We hope that child participation is carried through in policy development and review. As noted, children and young people need to be involved in the systems and processes that impact them at schools.

4.2 Learning from South Australia—policies and guidance

Alana Girvin, former Director, Incident Management Directorate, South Australia, described fundamental changes to the way the South Australian Department for Education responds to child sexual abuse following the 2012–13 *Report of the Independent Education Inquiry* (‘Debelle Inquiry’). The Debelle Inquiry began in response to the mishandling of a sexual abuse case, which was the subject of significant community concern.

We heard that the South Australian Department for Education relies on the following policies:

- Code of Ethics (similar to Tasmania’s State Service Code of Conduct), by which all public servants are bound
- *Protective Practices for Staff in their Interactions with Children and Young People: Guidelines for Staff Working or Volunteering in Education or Care Settings* (‘Protective Practices Policy’)—this policy is ‘relatively prescriptive’ and gives examples of boundary violations, such as the unaccompanied transport of young people, filming or photographing of students when not authorised to do so, or initiating or permitting unnecessary or inappropriate physical contact with a child or young person (massage, kisses or tickling games).¹⁴⁹ It forms part of the Code of Ethics¹⁵⁰
- *Responding to Problem Sexual Behaviour in Children and Young People*, which describes processes for managing harmful sexual behaviour¹⁵¹
- *Information Sharing Guidelines*, which dictate what information is shared about child abuse allegations, when and with whom¹⁵²

- *Managing Allegations of Sexual Misconduct in SA Education and Care Settings*, which provides a comprehensive step-by-step guide on how to respond to a complaint or disclosure. Ms Girvin told us that all staff are trained to know this guide ‘inside out’.¹⁵³

These policies are publicly available and central to the accompanying mandatory professional development program in South Australia, outlined in Section 5.

Ms Girvin described how South Australia’s *Protective Practices Policy* forms part of the South Australian Department for Education’s Code of Ethics.

The National Royal Commission also found that:

... institutions that deal with children should have a code of conduct that outlines behaviour towards children that the institution considers unacceptable, encompassing concerning conduct, misconduct and criminal conduct.¹⁵⁴

The National Royal Commission recommended that a child-focused code of conduct should:

- include clear definitions of child sexual abuse and grooming
- require that all breaches or suspected breaches of the code be reported
- outline clear processes for responding to breaches
- specify consequences for breaches
- detail the protections available to those who make complaints or report potential breaches.¹⁵⁵

In relation to the South Australia’s *Protective Practices Policy*, Ms Girvin noted:

In my opinion, it is important in an education setting ... to have bespoke policies to clearly identify conduct with respect to children, including boundary breaches and child sexual abuse.¹⁵⁶

She added that the level of detail in the policy helps staff feel confident about the Department’s expectations.¹⁵⁷ Ms Girvin emphasised that protective policies are ‘designed to safeguard children, not to protect adults against allegations of misconduct’.¹⁵⁸

Policies must assist adults to understand appropriate boundaries in relation to their role and interactions with children and young people. Bespoke policies enable staff to feel confident about the Department’s expectations and conduct obligations and enable line managers to clearly address any concerns raised in performance management discussions and written records.¹⁵⁹

Ms Girvin went on to describe how the *Protective Practices Policy* serves an ‘educative function’ by defining what grooming is and giving examples of how it can occur.

The policy creates proactive obligations on teachers to report any suspected grooming by colleagues or risk being in breach of the Code of Ethics themselves.¹⁶⁰ She told us that the clarity of the policy helped minimise discretion and prevarication: ‘I think it changed the culture immediately; whether people thought it was right or wrong, didn’t matter, it wasn’t a debate’.¹⁶¹

We were impressed by the nuance in the guidance provided to staff working in rural and regional communities, where maintaining professional boundaries may be more challenging due to shared social and community events with students and their families.¹⁶² We believe the Department could benefit from the experience of its South Australian counterpart in implementing child safeguarding policies.

4.3 Our observations

We acknowledge the Department is working to refresh, combine and promote safeguarding policies. This reform must translate into meaningful improvements to child safety in schools.

We consider that the best way to support the Department’s new policies and procedures being adopted broadly across schools is through the mandatory professional development and training we recommend in Section 5. We also consider that the Department should ensure its new policies stay up to date by establishing a regular policy review program. These policies should also be publicly available so children and their parents and carers know what to expect in relation to the conduct of staff and volunteers, as well as in relation to the Department’s response to concerns or allegations of child sexual abuse.

In relation to professional conduct, in Chapter 20 we recommend that all Heads of Agencies whose agencies provide services to children should develop a professional conduct policy for the agency’s staff, contractors and volunteers. We specify that a breach of such policies may be taken to be a breach of the State Service Code of Conduct. Professional conduct policies should be based on National Royal Commission recommendations about codes of conduct and should focus on the distinctive operational environments and challenges presented in each of these sectors.¹⁶³ As outlined in Chapter 20, the professional conduct policy should have the following features:

- explain what behaviours are unacceptable including concerning conduct, misconduct or criminal conduct
- define and prohibit child sexual abuse, grooming and boundary violations
- acknowledge the challenge of maintaining professional boundaries in small communities and provide clear identification of, instructions about, and examples of how to manage conflicts of interest and professional boundaries in small communities

- provide guidance on identifying behaviours that are indicative of child sexual abuse, grooming and boundary violations that are relevant to the particular context of the organisation (in this case schools)
- outline the types of behaviours that must be reported to authorities, including what behaviours should be reported to police, child protection authorities, the Registrar of the Registration to Work with Vulnerable People Scheme and the Independent Regulator of the Reportable Conduct Scheme or other relevant agencies, such as the Teachers Registration Board
- provide that not following reasonable directions is a breach of professional standards
- provide that a failure to report a breach or suspected breach of the policy may be taken to be a breach of the policy
- outline the protections available to individuals who make complaints or reports in good faith
- provide and clearly outline response mechanisms for alleged breaches of the policy
- specify the penalties for breach, including that a breach of the policy may be taken to be a breach of the State Service Code of Conduct and may result in disciplinary action
- cross-reference any other policies, procedures and guidelines that support, inform or otherwise relate to the professional conduct policy, for example, complaint handling or child protection policies or other codes of conduct relevant to particular professions.

In Chapter 20, we also specify that the professional conduct policy should be:

- easily accessible to everyone in the Department and communicated by a range of mechanisms
- explained to, acknowledged and signed by all employees
- accompanied by training and professional development
- communicated to children and young people and their families through a range of mechanisms including publication on the Department's public-facing website.

We are pleased to note that the Safeguarding Framework lists different professional conduct policies for 'learning', the Child Safety Service and out of home care, and youth justice. We consider this approach appropriate to account for the distinct risks that arise in different areas. These professional conduct policies should apply to staff, volunteers and contractors.

In relation to responding to incidents, concerns and complaints about child sexual abuse, we recommend in Section 6 establishing a Child-Related Incident Management Directorate to help schools (and other agencies) respond to allegations of child sexual abuse by staff. We also recommend this Directorate develops guidelines and resources to support this response. The Department's policies should reflect the new process this Directorate will support.

In Section 7, we make recommendations about harmful sexual behaviours, including developing appropriate policies, protocols and guidance to support staff responding to incidents in schools.

Recommendation 6.3

1. The Department for Education, Children and Young People should make its child safeguarding policies publicly available, including policies on mandatory reporting, professional conduct, and responses to allegations and concerns about child sexual abuse.
2. The Department should establish a regular review process for its child safeguarding policies.

Recommendation 6.4

The Department for Education, Children and Young People, in developing a professional conduct policy (Recommendation 20.2), should ensure:

- a. there is a separate professional conduct policy for staff who have contact with children and young people in schools
- b. the professional conduct policy for schools, in addition to the matters set out in Recommendation 20.2, specifies expectations outlined in other relevant school policies and procedures, including those covering online technology and a duty of care owed by staff members
- c. the professional conduct policy for schools spells out expected standards of behaviour for volunteers, relief teachers, contractors and sub-contractors
- d. the Department uses appropriate mechanisms to ensure compliance by volunteers, relief teachers, contractors and sub-contractors with the professional conduct policy for schools.

5 Professional development for school staff

Teachers, other staff and volunteers in schools should have appropriate professional development to understand their obligations towards students, particularly as these obligations relate to maintaining professional boundaries and complying with relevant policies and procedures. Appropriate professional development clarifies the Department's expectations of adult behaviour and supports them to identify and respond to inappropriate behaviour by other adults.

In addition, teachers are uniquely placed to identify signs of abuse and harm. They know their students, often over many years, and will frequently be able to notice concerning changes in behaviour. Teachers may also be aware of risks faced by a student outside school (for example, if the student is known to the Child Safety Service), allowing them to pay closer attention to signs of abuse. Students often regard teachers as trusted adults, particularly if they do not have protective parents or other adults in their lives. For all these reasons, teachers should be equipped to identify abuse and harm at the earliest opportunity and to respond with sensitivity and confidence if they receive a complaint or disclosure.

5.1 Current training

During our hearings we heard that only mandatory reporting training was compulsory for departmental staff.¹⁶⁴

Teacher Nigel Russell gave evidence that apart from one session on mandatory reporting training:

In all the time that I was teaching in the Tasmanian education system, I don't remember receiving any training from the Department around child sexual abuse or harmful sexual behaviours.¹⁶⁵

Mr Russell emphasised the importance of teachers being able to 'spot' risks to children and to normalise conversations about child sexual abuse and harmful sexual behaviours. He noted that this might be achieved through increased training.¹⁶⁶

Principal Monique Carter noted that there is no central provision for annual mandatory reporting training and that this is resourced by schools themselves through their social work budgets.¹⁶⁷ As a result, we heard that child safety training is often informal (for example, managed locally by principals) or ad hoc, depending on the priorities and budget of the school. Ms Collins said:

The Department of Education does not mandate a particular content to mandatory reporting training. This means that not all schools undertake that training, and

it is generally up to the principal as to whether this takes place, and in what form ... I sometimes find that mandatory reporting training is not treated with the prominence or seriousness that it deserves.¹⁶⁸

We heard that principals play a critical role in promoting and reinforcing policies in their school environment. They are responsible for ensuring their staff understand child safety policies at the beginning of every school year.¹⁶⁹

Ms Collins described the importance of a principal's attitude when promoting and reinforcing policies:

There are some principals who are just incredible, you know, and they have just got such really good insight around what is and isn't okay, staff boundaries, all of those things. There's others that get nervous and either want to maintain the relationship with the family or, I'm not sure why, but there are staff that aren't allowed to or don't feel they're allowed to mandatory report without running it past the principal first. We tell them that that's not the case, but that's definitely a culture that's developed within the school and it's also by the principal.¹⁷⁰

As a principal, Ms Carter also described the value and importance of policies in dictating appropriate behaviour for staff, as well as the valuable reference point they offer when counselling staff on their behaviour.¹⁷¹ However, she acknowledged that the success of policies and procedures relies on a principal's motivation to embed them. She stated that if a principal is not motivated to promote safeguarding policies, this could impede the school's effective application of policies overall.¹⁷²

Steven Smith, Senior Industrial Advocate of the Australian Education Union Tasmanian Branch, also believes that the degree to which different principals and other school leaders promote policies varies from school to school: 'The impression I have is that employees are aware of these policies. However, the extent of understanding is variable'.¹⁷³ Mr Smith said he was not aware of any methods the Department uses to record or track whether staff have read or understood policies.¹⁷⁴ He also highlighted a 'concerning gap' in training and policy induction for relief educators and teaching assistants and was unclear about how schools might convey policies to new staff who have joined the school after the annual policy refresher, which generally occurs at the beginning of term 1.¹⁷⁵

We consider that mandatory professional development on child sexual abuse, harmful sexual behaviours and relevant child safeguarding policies, for all education staff and volunteers, would address this inconsistency in knowledge and training across schools.

5.2 Recent departmental initiatives

The Department has recently made efforts to offer broader professional development beyond the compulsory mandatory reporting training.

When reflecting on barriers to implementing changes, Secretary Bullard noted that the scale of the then Department of Education (which had more than 10,000 employees across 200 sites) was a challenge in developing and delivering professional development, as was the ‘diversity of skills, knowledge and capabilities’ of the workforce.¹⁷⁶ Ms Carter said that the volume of information for teachers and ‘ensuring we have access to the best and most accurate learning resources and materials is also a challenge’.¹⁷⁷

Secretary Bullard felt that these challenges could be overcome with strong leadership, a ‘differentiated approach to training and delivery’ and appropriate engagement strategies.¹⁷⁸ By way of example, he highlighted the Department’s recent efforts to raise awareness of child sexual abuse with staff through a range of communication forums, including via its website and intranet, emails to staff, online presentations, discussions at its Divisional Leaders Group and Principal Briefings, and discussions with peak organisations such as the Tasmanian Principals’ Association, the Tasmanian Association of State School Organisations, Tasmanian School Administrators’ Association, Catholic Education Tasmania, Independent Schools Tasmania and the Department’s LGBTIQ+ Working Group.¹⁷⁹

In May 2022, Secretary Bullard described a range of initiatives underway to strengthen professional development of staff while recognising that ‘processes alone will not change behaviour’.¹⁸⁰ These initiatives include:

- a review and update of mandatory reporting training as a priority, to be rolled out as compulsory annual training no later than the start of term 1, 2023¹⁸¹
- new professional development modules for school principals covering a range of topics on preventing, understanding and responding to child sexual abuse, which will also form part of compulsory annual training¹⁸²
- new mandated professional development requirements as part of school leadership and management prerequisites, with topics covering core legal responsibilities, safeguarding children and young people, parental and community engagement, issues and complaints, the ethical conduct framework and industrial relations¹⁸³
- a move to an online training environment, which will enable the Department to track training completion at the individual level, rather than relying on principal certification.¹⁸⁴

Secretary Bullard informed us in February 2023 that the Department had developed professional development modules for all staff on mandatory reporting and Registration to Work with Vulnerable People. The mandatory reporting module is compulsory for all staff and must be completed annually. The Department tracks when staff complete the module. If staff do not complete it, this triggers a reminder.¹⁸⁵ The Registration to Work with Vulnerable People module is, at the time of writing, being amended to incorporate Child and Family Services and Youth Justice. An online module is expected to be rolled out ‘later in 2023’.¹⁸⁶

The Department also ‘soft launched’ (in October 2022) an online professional development module for principals and site leaders on student safeguarding. The module gives an overview of the National Child Safe Standards and the Rights of the Child and advice on trauma-informed approaches to ‘incidents, disclosures or suspicions of child sexual abuse in school settings’.¹⁸⁷ Secretary Bullard said that work has now begun on ‘amending and augmenting’ the module so it can be used by all departmental staff and that it will be made available ‘department-wide later in 2023’.¹⁸⁸

Secretary Bullard further noted that extra funding has been allocated through the State Budget, including \$2.6 million over four years from 2022–23 (and \$600,000 ongoing), for ‘mandatory professional development’ for all departmental staff in ‘understanding, preventing and responding to child sexual abuse in schools’.¹⁸⁹

We support this increased focus on professional development and outline in Sections 5.3 and 5.4 some of the components needed for professional development directed at preventing and responding to child sexual abuse.

5.3 Learning from South Australia— professional development

South Australia’s DeBelle Inquiry recommended that all key staff be trained to implement policies and procedures effectively.¹⁹⁰ In South Australia, anyone who works or volunteers in an education setting must have completed the ‘Responding to Risks of Harm, Abuse and Neglect: Education and Care’ training. This training is delivered at two levels:

- masterclass course—for all new staff who work directly with children and young people, covering the fundamentals as well as another four-hour facilitator-led masterclass
- fundamental course—a two-hour self-directed online course designed as a refresher for those already certified, and as core knowledge for volunteers, bus drivers, canteen workers or corporate staff who do not work directly with children.¹⁹¹

The training focuses on the South Australian Department for Education’s key child sexual abuse policies, which are listed in Section 4.2—particularly the *Protective Practices Policy* and mandatory reporting obligations.¹⁹² This training is compulsory for all staff and volunteers working in the South Australian Department for Education. Ms Girvin reflected that this training has led to more proactive responses to complaints and concerns:

Because of the training I truly believe that—and because of the culture we’re in—I truly believe that teachers believe children in the main and respond immediately. And, even if they have doubts, that whole thing, it’s not for me to make a judgment, it’s for somebody else to make a judgment, so they report.¹⁹³

5.4 Compulsory and ongoing professional development

We were impressed that the South Australian model requires training of all adults working in schools. In addition to employed and registered teachers, other staff encounter children and young people on school grounds. Ms Carter said that schools often have a range of other staff and volunteers onsite, including grounds people, cleaners, office staff, literacy support staff and others who would benefit from regular training.¹⁹⁴

We recommend an approach that, in line with the South Australian model, provides foundational as well as more advanced professional development for staff on school premises. This professional development approach should closely align with the Department’s policies, procedures and guidance material. Specifically, such training should include information about the prevalence and impacts of child sexual abuse and harmful sexual behaviours, common signs of grooming and abuse, professional and ethical behaviours with students, and importantly, what to do if a disclosure or complaint is made (including mandatory reporting requirements). It should be compulsory, with a requirement to update regularly.

There is an opportunity for Tasmania to improve on the South Australian model by supplementing the masterclass and fundamentals modules with advanced modules that could help develop the expertise of Tasmanian teaching staff, rather than having them solely participate in ‘refresher courses’ for core knowledge. Professor Walsh highlighted the importance of ongoing professional development for teachers (including principals) to ‘refresh, update, and build their knowledge about child sexual abuse throughout their careers’.¹⁹⁵

We make similar recommendations for professional development for all the government institutions we have examined in this report. The Tasmanian Government could consider increasing efficiency by sharing foundational child sexual abuse training content across child-facing service areas.

Recommendation 6.5

1. The Department for Education, Children and Young People should adopt and implement a training certification program that is mandatory for all education staff and volunteers. This training should be structured to provide basic and advanced levels of training for different role holders and targeted most directly at staff and volunteers operating in higher-risk settings.
2. Training should cover:
 - a. key safeguarding policies of the Department, including appropriate standards of behaviour between adults and students and what to do if child sexual abuse or harmful sexual behaviours are witnessed or disclosed
 - b. relevant legal obligations, including requirements for reporting to Tasmania Police, Child Safety Services, the Registrar of the Registration to Work with Vulnerable People Scheme, the Independent Regulator under the *Child and Youth Safe Organisations Act 2023*, and the Teachers Registration Board.
3. Training should be refreshed periodically and delivered at a time and in a format that will maximise engagement. It should be centrally recorded to monitor participation.
4. The Department should work with the Teachers Registration Board to establish the minimum training requirements for teachers (Recommendation 6.15).

5.5 Tertiary-level teacher education

Future teachers should be supported to understand their professional obligations and the risks of child sexual abuse during their teacher education. As the Independent Education Inquiry noted:

The disparity in power [between teachers and students] needs to be emphasised in training at the very start of their career—while teachers in training are being inducted into the profession.¹⁹⁶

We agree with the Independent Education Inquiry's recommendation and the National Royal Commission that child safeguarding should form part of teachers' tertiary training.

There is limited child safety content embedded in the teacher curriculum at the University of Tasmania, where most teachers in Tasmanian government schools are educated.¹⁹⁷

The Australian Professional Standards for Teachers, which inform the tertiary curriculum, contain responsibilities connected to mandatory reporting and appropriate standards of behaviour in the following areas:

- Standard 7.1 stipulates that teachers ‘understand and apply the key principles described in codes of ethics and conduct for the teaching profession’.
- Standard 7.2 stipulates that teachers understand ‘relevant legislative, administrative and organisational policies and processes ... according to school stage’.¹⁹⁸

The focus of the Professional Standards reflects the Independent Education Inquiry’s finding that training and education on child sexual abuse at the tertiary level is generally confined to mandatory reporting, duty of care and the ethical obligations of teachers.¹⁹⁹

The Department has a strong interest in the tertiary training the University of Tasmania delivers, given that so many of its graduates go on to become employees. Yet the Independent Education Inquiry described a ‘largely indirect’ relationship between the Department and the University of Tasmania, as follows:

- A Teachers Registration Board-approved and Australian Institute for Teaching and School Leadership-supported panel of nationally trained accreditation members accredits the Bachelor of Education and Master of Teaching courses.²⁰⁰
- The Teachers Registration Board then undertakes an annual reporting process as part of the ongoing oversight of the programs in line with the national standards and Australian Institute for Teaching and School Leadership processes, as well as undertaking a review of accredited courses every five years.²⁰¹
- Departmental staff sit (alongside non-government school representatives) on the Course Advisory Committee for the same courses.²⁰²

The Independent Education Inquiry recommended that the Department works with the University of Tasmania to introduce content on preventing and responding to child sexual abuse in schools into its curriculum.²⁰³ Professor Walsh similarly recommended that education on child sexual abuse and harmful sexual behaviours should begin during tertiary training and ‘build incrementally from that point’.²⁰⁴ She added that ‘quality service provision in educational settings is dependent upon the acquisition of specialist knowledge and skills’.²⁰⁵

The National Royal Commission noted that education for tertiary students is ‘part of a career-long continuum of building capacity in staff to prevent child sexual abuse and harmful sexual behaviours by children’.²⁰⁶ It suggested that a curriculum should be included in all tertiary courses aimed at preparing students ‘for child-related occupations’ and that any such curriculum covers topics including:

- the nature and incidence of child sexual abuse, and the risk and protective factors for victim-survivors and abusers
- the long-term impacts of child sexual abuse and the critical importance of preventing abuse for children in the future

- how to talk to children, recognise behavioural indicators of abuse, including the grooming of children and adults, and the importance of maintaining professional boundaries with child clients
- online safety, including the impact of online pornography on attitudes and its use as a grooming tool
- common myths and stereotypes that can enable abuse to occur and impede identification and disclosure of abuse
- best practice approaches to the prevention of and early intervention for child sexual abuse and harmful sexual behaviours by children and young people
- how and where to seek help for people who are concerned that a child may be at risk
- common psychological and other impacts on victim-survivors and their families
- the spectrum of healthy to harmful sexual behaviours displayed by children and young people.²⁰⁷

The Department and the University of Tasmania both acknowledge that course content on understanding and preventing child sexual abuse is not yet embedded in either the Bachelor of Education or Master of Teaching and agree that it should be.²⁰⁸ We also heard that harmful sexual behaviours content is not a core component of teacher training or continuing professional development.²⁰⁹

Secretary Bullard said that the Department has been working with the University of Tasmania on incorporating suitable content about child sexual abuse into university courses and professional development activities.²¹⁰ This includes the University of Tasmania establishing a Trauma Informed Practice Research Lab. The Lab will build an evidence base for trauma-informed practice and principles that support classroom educators to recognise behaviours associated with child sexual abuse (including grooming), and how to prevent and respond to it.²¹¹

Correspondence between the Department and the University of Tasmania reflects a commitment that:

[The University of Tasmania's] School of Education, the Trauma Informed Practice Research Lab and [the Department] will work together over the course of 2022 to support the development of a set of principles, protocols and practices relating to responsibilities and responses to child sexual abuse.²¹²

We endorse the efforts of the Department and the University of Tasmania to address this gap in its tertiary curriculum. While outside our terms of reference, we note the potential for child sexual abuse to co-occur with other forms of abuse and neglect, and we encourage the Department and the University of Tasmania to ensure these reforms also improve knowledge about other forms of abuse and neglect.

6 Responding to and investigating complaints and concerns

The Department has a vital role in keeping children safe by responding to incidents of child sexual abuse in education settings. This role includes investigating complaints (often in consultation with police), supporting victim-survivors, making findings and disciplining employees if an allegation is substantiated, as well as making relevant notifications to external authorities.

The case studies we discuss in Chapter 5, like the Independent Education Inquiry, identify shortcomings in the Department's response to allegations of child sexual abuse, particularly in addressing allegations in a timely way, conducting proper investigations and facilitating appropriate and ongoing supports for children and young people, their families and school staff affected by abuse. More specifically, the systemic problems we identify include:

- School leaders had a high degree of discretion when responding to concerns or complaints of child sexual abuse, leading to inconsistent responses.
- Complaints were not fully explored, due partly to poor understanding of child sexual abuse and grooming behaviours and, sometimes, the belief that complaints made by children were unreliable.
- Record keeping was inadequate and there was no comprehensive central source of information about complaints or concerns. This made it difficult to get a complete picture of issues of concern relating to individual employees (particularly relief teachers moving from school to school).
- There was a lack of clarity about the different roles and responsibilities of Learning Services, Workplace Relations and Legal Services in responding to concerns.
- There were delays in notifications to relevant entities, including in reports to the Teachers Registration Board, the Registrar of the Registration to Work with Vulnerable People Scheme, Tasmania Police and the Strong Families, Safe Kids Advice and Referral Line.
- There was poor information sharing between these entities.
- Narrow and legalistic interpretations of the State Service Code of Conduct meant that, despite information suggesting that children might be at risk, the behaviour did not result in disciplinary action. This was particularly the case when behaviour occurred outside school grounds.

- Investigations tended to consider each individual allegation in a complaint separately rather than assessing whether the allegations reflected a pattern of behaviour consistent with sexual abuse or grooming.
- Investigation processes were slow, not trauma-informed, did not reflect good practice in interviewing children, and did not appear to understand grooming behaviours.
- Some recent briefings by Workplace Relations to the Secretary were poor, included little detail of the allegations and lacked an understanding of child sexual abuse and related concerns.
- Investigations ended if a teacher resigned.
- There was not enough support, care and communication provided to children, parents, staff and the school community.

The South Australian DeBelle Inquiry made extensive recommendations about responding to allegations of child sexual abuse, including how the disciplinary process should be conducted. The South Australian Department for Education implemented these recommendations through its Incident Management Directorate. This Directorate receives, investigates and coordinates the response to incidents and allegations of employee misconduct. In this section, we recommend that the Tasmanian Government sets up a similar Directorate.

Given many recent changes to the Department’s procedures following the Independent Education Inquiry, we begin by providing an overview of the Department’s response framework at the time of writing, before discussing some of the ongoing issues that have become clear over the course of our Inquiry.

In the final part of this section, we consider the South Australian model in some detail to give a sense of best practice in responding to child sexual abuse. On the evidence before us, this model appears to have built the trust and confidence—among children and young people, their families, site leaders and school staff—that complaints of misconduct will be taken seriously and addressed appropriately.²¹³

We note that the Tasmanian Government has legislated Child and Youth Safe Standards and a Reportable Conduct Scheme in the *Child and Youth Safe Organisations Act 2023*. All schools will be captured by these schemes.²¹⁴ The Reportable Conduct Scheme will require heads of relevant entities to notify an Independent Regulator of any reportable conduct (which includes inappropriate sexualised contact with children or sexual abuse) by staff and volunteers regardless of where that conduct occurred, and provide an outline of the steps taken to respond to that conduct as soon as possible, and no later than 30 days.²¹⁵ The Independent Regulator will oversee investigations and be empowered to offer guidance and assistance, and to intervene in the event it is not satisfied with the approach adopted.²¹⁶

We consider the introduction of the Reportable Conduct Scheme and Child and Youth Safe Standards will encourage prioritising children’s safety in managing concerns about staff and volunteer conduct, lead to greater rigour and transparency in investigations, and improve information sharing between agencies. This will address many of the problems raised in our hearings. (For further discussion of the Reportable Conduct Scheme, refer to Chapter 18.)

Our recommendations to strengthen the Department’s responses to complaints and concerns about child sexual abuse will support the Department to show best practice in managing complaints and complying with its obligations under the Reportable Conduct Scheme.

6.1 The Department’s response to child sexual abuse

In this section, we outline how the Department currently responds to allegations of child sexual abuse.

6.1.1 Guidance for staff on the initial response

As previously noted, the Department has published flowcharts to help guide staff responses to an allegation or incident of child sexual abuse. The flowcharts give step-by-step instructions on reporting obligations, supporting the complainant, contacting parents or carers, ‘critical reflection’ and record keeping.²¹⁷ The flowcharts also state that all actions are to be guided by the principal, site leader or delegate.

The *Advice for School Staff: Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* flowchart sets out the steps staff must take when an incident is witnessed or disclosed, or an allegation is made, of child sexual abuse. The flowchart advises, in step 1, that the need for emergency action (such as contacting emergency services) must be assessed.²¹⁸

Step 2 sets out reporting, advising that mandatory reporting obligations must be followed. If the matter involves a current member of staff then the principal must be notified of the incident or allegation (unless the principal is the subject of the allegation, in which case the Director of Operations, Learning, must be notified). The school must then contact Workplace Relations.²¹⁹ Within 24 hours of an allegation being reported to Workplace Relations, the Department must notify police, the Registrar of the Registration to Work with Vulnerable People Scheme, the Teachers Registration Board (if the allegation is about a teacher), the Integrity Commission and the Department’s Legal Services unit.²²⁰ If the matter involves a former employee, then Legal Services must be contacted. The flowchart advises that if the person who is the subject of the allegation is confirmed to be working at another location as an employee of the Department, then Legal Services will refer the matter to Workplace Relations. In matters involving former employees, Legal Services must (as soon as possible or within 24 hours)

notify police, the Registrar of the Registration to Work with Vulnerable People Scheme and the Teachers Registration Board (if the matter involves a teacher).²²¹

Step 3 involves ensuring the school provides appropriate support for the child or young person and advises that staff should not interview a child or young person.²²²

Step 4 provides information on contacting parents or carers, including that the staff member who is appointed as the lead for the matter must first consult with Workplace Relations, Legal Services and/or Learning Services to be advised on what information can be shared, and at what stage.²²³

Finally, step 5 gives instructions for ongoing support, critical reflection and documentation. It sets out that staff involved may need to be supported, that critical reflection on the incident may be required and that all aspects of the incident must be recorded in line with the Department's *Records Management Policy*.²²⁴

Secretary Bullard explained the Department's process for responding to an allegation of child sexual abuse if a departmental (as distinct from a school) employee is the 'first receiver' of the allegation (for example, if Learning Services receives the complaint).²²⁵

If the subject of the allegation is a current employee, the 'first receiver' at the Department must, within 24 hours, inform the Strong Families, Safe Kids Advice and Referral Line, the relevant school principal (if the allegation relates to a school-based employee), Workplace Relations (if the allegation relates to a principal) or the relevant departmental director or manager (if the allegation or incident does not relate to a school-based employee).²²⁶

Within Workplace Relations, notifications are made to the Assistant Director, Industrial Relations or the Manager, Workplace Relations (for clarity, we will refer only to Workplace Relations unless it is necessary to draw a distinction between these two positions). Once notified, Workplace Relations will provide the person referring the complaint with preliminary advice about what information may need to be gathered and whether the employee subject to the allegations should be 'immediately directed to leave the workplace pending receipt of formal correspondence from the Secretary'.²²⁷ Workplace Relations will also direct the referrer to make a mandatory report to the Strong Families, Safe Kids Advice and Referral Line, if this has not already been done.²²⁸

If the incident or allegation relates to a permanent or fixed-term employee, Workplace Relations will advise the employee of the allegation and ask them to 'remain away from the workplace whilst the matter is given further consideration'.²²⁹ If the employee is a relief teacher, Recruitment and Employment (within Human Resources at the Department) is instructed to 'mark' the employee as unsuitable for employment on the Fixed Term and Relief Employment Register, which means the relief teacher can no longer be employed by government schools.²³⁰ The process for dealing with relief employees is discussed below.

Within 24 hours of a notification, Workplace Relations must also notify the Secretary of the Department and ‘the relevant Deputy Secretary, Director of Workplace Relations and Legal Services’ about the complaint.²³¹ Notifications must also be made to police, the Registrar of the Registration to Work with Vulnerable People Scheme, the Teachers Registration Board (if the employee is a teacher), the Integrity Commission, the Head of the State Service and the Minister’s Office (deidentifying the employee).²³²

If an allegation is raised about a former employee, Workplace Relations should be immediately contacted.²³³ Workplace Relations will then refer the matter to Legal Services. Within 24 hours of being notified, Legal Services must notify police, the Registrar of the Registration to Work with Vulnerable People Scheme and the Teachers Registration Board (if the employee is a teacher).²³⁴

Secretary Bullard told us that support for complainants, parents and other students is coordinated directly through the relevant school and can involve contact with ‘onsite professional support staff or more broadly via contact with the Professional Support unit within Learning Services’.²³⁵ He noted that ongoing communication with complainants, parents, other children and officials is carried out by senior staff at the school, including ‘the principal, Social Workers and Senior School Psychologists’.²³⁶

Secretary Bullard also told us there are no formal reporting lines between schools that would allow them to share information about an allegation or incident of child sexual abuse.²³⁷ He stated that if there was an allegation or incident against an employee who had worked at multiple schools, Workplace Relations would check with those schools to determine whether there were any other matters of concern related to the employee’s conduct.²³⁸ We heard that, in some instances, schools rely on informal networks to assess the ‘safety’ of prospective employees.²³⁹

6.1.2 The investigative process

Secretary Bullard informed us that after the Department has been notified of an incident, allegation or suspicion of child sexual abuse by an employee or volunteer in an education context, an investigation is initiated within 48 hours.²⁴⁰

The investigation process will follow one of two courses, depending on whether the employee is fixed term or permanent, or a relief employee. If the employee is fixed term or permanent, the allegation is referred to the Secretary of the Department ‘for consideration of an [Employment Direction No. 5—Breach of Code of Conduct] ... investigation for an alleged breach of the *State Service Act 2000* Code of Conduct’.²⁴¹

Workplace Relations will prepare a brief and accompanying documents for the Secretary.²⁴² If the Secretary forms a reasonable belief that the State Service Code of Conduct may have been breached, the allegation must be investigated. The Department then appoints an external investigator.²⁴³ The investigator will interview the child or young person and other relevant parties as required, and the employee

against whom the allegation has been made. The investigator will prepare an investigation report for the Secretary, which the relevant employee also receives.²⁴⁴ The Secretary will consider the report and decide if a breach of the State Service Code of Conduct has occurred. If a determination is made that there has been a breach, the Secretary will decide what sanctions should apply.²⁴⁵ Possible sanctions for breaches of the Code of Conduct include counselling, a reprimand or termination.²⁴⁶ Employees may also be required to comply with any lawful and reasonable direction given by the Secretary.²⁴⁷

Investigations of potential breaches of the State Service Code of Conduct examine the employee's conduct against the provisions in the Code of Conduct. Usually, the employee's conduct is assessed against the following sections of the *State Service Act 2000* ('State Service Act'):

9(1) An employee must behave honestly and with integrity in the course of State Service employment.

9(2) An employee must act with care and diligence in the course of State Service employment.

9(3) An employee, when acting in the course of State Service employment, must treat everyone with respect and without harassment, victimisation or discrimination.

9(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.²⁴⁸

The first three of these provisions require that the relevant conduct be 'in the course of State Service employment'. Secretary Bullard told us that an Employee Direction No. 5—Breach of the Code of Conduct investigation will be triggered 'even where a question remains as to whether or not the conduct was "in the course of employment"', acknowledging that this is a matter that he considers 'should be explored as part of the investigation rather than impede an investigation commencing'.²⁴⁹ (We discuss the requirement for conduct to be 'in the course of employment' in more detail in Chapter 20 and make recommendations to modify that requirement.)

As noted above, if the subject of the allegation is a relief employee, a different investigatory process follows. A matter involving a relief employee is referred to the Secretary, who will determine if there has been a breach of departmental policy (for example, the *Conduct and Behaviour Standards* policy), not the State Service Code of Conduct, because relief employees are not covered by the State Service Act.²⁵⁰ If the Secretary considers there may have been a breach of a departmental policy, the Secretary will write to the employee seeking a response to the allegations.²⁵¹ Depending on the relief employee's response, further enquiries, coordinated through Workplace Relations and the relevant principal, may be made.²⁵²

After considering the relief employee's response, the Secretary determines whether the person poses an unacceptable risk to students or whether conditions should be imposed on the person before they are eligible for future employment.²⁵³ A determination that the

relief employee poses an unacceptable risk and is therefore unsuitable for employment will result in their removal from the Fixed Term and Relief Employment Register.²⁵⁴ Secretary Bullard emphasised that a different test is employed for relief staff because they are not subject to restrictive code of conduct provisions:

... once a relief employee has been marked as unsuitable for employment on the fixed term and relief register, they are no longer available for employment, nor does the Department have any obligation to offer further employment. However, this process and the resulting decisions have been adopted through a duty of care lens, which is outside the existing employment framework, particularly code of conduct provisions, but is the paramount consideration.²⁵⁵

We are unsure what, if any, benefit is gained by using different investigative processes for relief employees. As we understand it, the reason for the difference is that relief teachers are not covered by the State Service Act and therefore cannot be subject to sanctions for breaches under the State Service Code of Conduct.²⁵⁶ We discuss how to hold contractors, volunteers and temporary staff, including relief teachers, accountable for their professional conduct in Chapter 20.

6.2 Current challenges

We have identified gaps in the Department's response to allegations of child sexual abuse that require further reflection and improvement. In particular, we are concerned with aspects of the Department's investigative process, the lack of appropriate support for complainants and victim-survivors after an allegation is made, and whether the State Service Code of Conduct is suitable for assessing allegations of, and sanctions for, child sexual abuse. This section considers the Department's response to allegations of child sexual abuse perpetrated by adults and does not include harmful sexual behaviours displayed by children. We discuss the Department's response to harmful sexual behaviours displayed by children in Section 7.

6.2.1 Preliminary assessments

There is considerable discretion in undertaking preliminary assessments. Secretary Bullard told us that any allegation of child sexual abuse is referred to him for consideration as to whether there has been a breach of the State Service Code of Conduct (based on a reasonable belief that this may be the case).²⁵⁷ He explained that:

In circumstances where a matter is unclear as to whether child sexual abuse may have occurred and following initial assessment there is no risk to children, an action can include further preliminary inquiries to enable further and better particulars to be obtained. This may involve discussions with staff or students and obtaining statements or similar material.²⁵⁸

We understand that, in some instances, the Department may need to gather more information before it can proceed with a matter—such as whether the alleged abuser worked at a particular school—but we are concerned that preliminary assessments occur outside policy or legal frameworks and are not subject to any formal rules. Essentially, as we have observed across our institution-specific inquiries, preliminary assessments appear to have been treated as mini-investigations and have developed as a way to deal with disciplinary matters before engaging with the more involved Employment Direction No. 5—Breach of Code of Conduct process. The quality and appropriateness of the preliminary assessment can rely heavily on the skills and experience of the staff member undertaking it. A poor preliminary assessment can result in non-trauma informed, harmful engagements, such as Kerri Collins told us she experienced (refer to Chapter 5).

The lack of formal processes for a preliminary assessment means that even the small protections in place to support a trauma-informed investigation for disciplinary processes do not apply to preliminary assessments. For example, Steven Smith of the Australian Education Union told us that while Employment Direction No. 5 requires that interviews conducted with children be ‘sensitive and appropriate’, this is not a requirement for ‘preliminary investigations’, including for interviews with students conducted by educators and principals.²⁵⁹ Mr Smith’s view was that from the time an allegation is raised, ‘there should be a clear process for engaging with the children involved and trained staff who undertake those interviews and processes’.²⁶⁰

We are pleased to note that the Department’s flowchart, *Advice for School Staff—Responding to Incidents, Disclosures or Suspicions of Child Sexual Abuse* cautions that in supporting a child or young person who has suffered sexual abuse, staff should not question or conduct an interview with the child or young person.²⁶¹ However, we would like to see a specific policy on the process of conducting a preliminary assessment, which specifies the scope and timeframes of any preliminary assessments, as well as who can conduct them. The Integrity Commission’s *Guide to Managing Misconduct in the Tasmanian Public Sector* outlines best practice for preliminary assessments.²⁶² We make recommendations about the State Service Code of Conduct and associated investigative processes, including preliminary assessments, in Chapter 20.

6.2.2 Accountability and flexibility

Employment Direction No. 5—Breach of Code of Conduct is specific in the processes that must be followed and does not allow for different responses depending on the level of seriousness of the allegations. During our hearings, we asked Secretary Bullard how the Department decides which investigations should be prioritised. He responded that under Employment Direction No. 5, matters were assessed as they came to his attention.²⁶³ Secretary Bullard informed us that there is sometimes a queue of matters requiring investigation.²⁶⁴ He noted that in the past, a Head of Agency could refer more serious matters directly to the State Service Commissioner, providing for greater efficiencies in handling complaints.²⁶⁵ The Department later told us that all allegations of serious misconduct, including child sexual abuse, are dealt with immediately.²⁶⁶ It said:

... if a serious matter is reported to [the Department], it is progressed immediately through our established process and is responsive to the level of seriousness. All allegations that involve serious misconduct, e.g. assault, theft or child sexual abuse, are dealt with immediately. Lower-level conduct, though still regarded as serious (such as an allegation involving verbal comments or exchanges), is still dealt with expeditiously, but due to [Employment Direction No. 5—Breach of Code of Conduct] provisions, must follow the same process.²⁶⁷

Despite the Department's statements about how they prioritise investigations, we are concerned that the Employment Direction No. 5—Breach of Code of Conduct process leaves little flexibility to triage complaints and ensure the most serious are dealt with promptly. Quite apart from the effect of delay on the child who may have been abused, this may delay action to protect other children and young people. We outline an alternative process in Chapter 20. We also consider that it must be clear that all types of allegations about child sexual abuse and related matters (including verbal comments and exchanges, and professional boundary breaches) should be regarded as high priority.

We also asked Secretary Bullard what accountability mechanisms were in place to give the Department confidence that their processes for dealing with allegations of child sexual abuse are working. Secretary Bullard responded:

... every allegation that is raised must be referred to Workplace Relations and Workplace Relations must refer it to me. Every allegation that is raised must be referred to the ... Working with Vulnerable People Check and the Integrity Commission, and Teachers Registration Board where it relates to a teacher, and that is the process that sits in place now.²⁶⁸

Secretary Bullard said staff now have increased awareness of the requirement to report all matters of concern. He acknowledged that the Department can only respond to an allegation if conduct is recognised by observers as child sexual abuse, grooming or a professional conduct breach, and he noted the importance of training in this regard.²⁶⁹ We make recommendations about improved training in Section 5.

6.2.3 Investigations where the person is no longer an employee

In some instances, workers will resign or retire before an investigation into their conduct is complete. At the time of giving evidence, Secretary Bullard said that the Department did not have the jurisdiction to carry out an investigation in relation to a former employee—that is, an employee who had resigned or retired.²⁷⁰

The practice was for the Secretary to write to the employee letting them know:

... that a condition precedent of future employment will be for an investigation to be undertaken and a resolution attained prior to commencing employment. ... Furthermore, recruitment screening mechanisms also apply should an application for employment be made.²⁷¹

We note some of the problems with this process in Chapter 5 (refer to the ‘Brad’ case study).

We are pleased that under the recently passed *Child and Youth Safe Organisations Act 2023*, investigations into workers whose employment with the Department ends during the investigation must be completed.²⁷² Also, the Act allows for information sharing (including investigations into the conduct of a previous employee) between relevant entities, such as the Teachers Registration Board, which enables important information to be shared in circumstances where teachers may move to another school in the State or to another jurisdiction.²⁷³ We note, also, that the *Teachers Registration Act 2000* (‘Teachers Registration Act’) requires employers to notify the Teachers Registration Board if a registered teacher resigns or retires in circumstances where the employer may have had grounds to consider the teacher’s behaviour to be unacceptable.²⁷⁴

In Chapter 20, we recommend that investigations be conducted, where appropriate, even if an employee has resigned before an investigation begins—that is, investigations should be conducted into former employees if warranted—and that all misconduct-related matters be recorded, regardless of the outcome (refer to Recommendation 20.9).

In addition, where the Department cannot undertake disciplinary action, it should ensure it has made all reports to relevant bodies—such as the Registrar of the Registration to Work with Vulnerable People Scheme, the Teachers Registration Board and the Independent Regulator of the Reportable Conduct Scheme.²⁷⁵ The Department should also report breaches of the Code of Conduct by former employees to the new Register for Tasmanian State Service Code of Conduct Breaches in the State Service Management Office, Department of Premier and Cabinet, to ensure they are not employed elsewhere in the State Service in the future.²⁷⁶ Agencies should check with the State Service Management Office if people are on this register when screening new staff. In our chapter on State Service disciplinary processes, we further discuss a register of misconduct-related matters (refer to Chapter 20).

6.2.4 Investigators

It is fundamental to ensure that the investigation process does not further traumatise victim-survivors. The qualifications, skills and approach of investigators is central to achieving this aim. Victim-survivor Rachel told us that, in her case, investigators did not conduct themselves in a trauma-informed way and so she felt unable to tell them what had happened to her:²⁷⁷

... there were, from what I remember, two men in suits in a small office at school; I didn’t—it wasn’t a safe place for me, reflecting back, because I wasn’t willing to come out with anything, but I just felt like this little person with these men in suits hovering over the top of me, and scared, I feared it.²⁷⁸

Secretary Bullard gave evidence that the ‘vast majority of recent investigations’ into allegations of child sexual abuse are conducted by a single, independent investigation service.²⁷⁹ That service is staffed by two male investigators.²⁸⁰ The Department also occasionally uses three other investigative services, each staffed by single investigators—two of these investigators are female and one is male.²⁸¹ While Workplace Relations helps investigators to contact schools and to gather documents and other relevant information, investigators are independent of the Department (including the Secretary).²⁸²

Mr Smith, of the Australian Education Union, pointed out that Employment Direction No. 5—Breach of Code of Conduct instructs the Head of Agency to ensure investigatory interviews with children are conducted ‘sensitively and appropriately’, but he has not seen a policy in this respect, nor any practices ‘to monitor compliance’.²⁸³ Mr Smith believes that investigators should be trained to recognise grooming behaviours, as should others involved in decisions about the investigative process.²⁸⁴

While the Department’s investigators may each have many years of experience and various qualifications, we note that none of them has qualifications in interviewing children, trauma-informed interviewing techniques, or identifying and responding to child sexual abuse.²⁸⁵ Also, the Department does not provide specific training for investigators who investigate matters involving children or child sexual abuse, or in trauma-informed interviewing techniques.²⁸⁶

Secretary Bullard reported that investigations must also be conducted with ‘procedural fairness and in a timely manner, that is within a reasonable time and free from unreasonable delay’.²⁸⁷ When the Department’s investigation into Rachel’s case was undertaken in the 2000s, she told us that it took two years:

... two years is a very long time [for the alleged abuser] to be investigated. I wasn’t coping at all. I started drinking. I hated myself. I would see him ... and when I saw him I was so fearful of running into him. I did run into him, he smiled arrogantly and I had to run away from him.²⁸⁸

Lengthy delays may also place other children at risk.

Secretary Bullard said that factors affecting how long an investigation takes include the complexity or seriousness of the allegations, the number of witnesses and whether police were also investigating with a view to charging the employee (in which case, police may request that the Department waits for the outcome of the police investigation).²⁸⁹ Secretary Bullard noted that when a delay does occur, it can be ‘compounded at a number of points’ in the investigative process.²⁹⁰

When questioned about why there were no specific timeframes placed on investigators, Secretary Bullard stated that the Department does not want to appear to be ‘fettering the independence’ of the investigator, adding that, in a small jurisdiction like Tasmania,

there is a limited pool from which people capable of undertaking these investigations to the required standard can be drawn.²⁹¹

We consider it reasonable that the Department sets a timeframe at the outset of an investigation that accounts for the complexity of the matter and provides the investigator with an opportunity to explain why more time may be needed before this timeframe expires.

We are pleased to note that in September 2022, in response to evidence provided by victim-survivors, the Department stated it was revising its approach to conducting investigations, including:

.... ensuring that departmental staff and investigators take a trauma-informed approach in their dealings with children and young people impacted by sexual abuse as well as adult victim-survivors.²⁹²

Specific measures taken by the Department include:

- Setting a general timeframe of 12 weeks (from the appointment of an investigator), within which the investigation report should be completed.²⁹³ The Department now requires 'early notification of any delay including whether an extension will be required'.²⁹⁴ Investigators must provide monthly progress updates on the investigation to the Department.²⁹⁵ Investigators are further required to communicate to the Department any discovery of information during their investigation that may constitute a (further) breach of the State Service Code of Conduct.²⁹⁶
- Ensuring that if an investigation requires interviewing students, that 'trauma-informed practice' is used.²⁹⁷ This may include considering the 'time, location, and support to ensure the student feels safe, with appropriate trust, empowerment and choice built in' to the interview process.²⁹⁸

We also understand that, under further planned changes, the Department will require potential investigators to demonstrate 'a range of standards' including:

- experience in engaging with children and young people in stressful or traumatising situations
- training in trauma-informed practices, including the ability to apply trauma-informed practices to investigations
- experience and training (or the commitment to attend training) in contemporary interviewing techniques for children and young people.²⁹⁹

Secretary Bullard told us that the Department will set up a Standing Panel of investigators to ensure investigators have appropriate qualifications. The Standing Panel will be recruited through a tender process.³⁰⁰ Investigators appointed to the panel

will conduct State Service Code of Conduct investigations for the Department as well as other State Service agencies.³⁰¹ The Department should consider seeking tenders from investigators in other Australian jurisdictions as well as Tasmania.

We support these changes to the Department's approach. However, in terms of the required qualifications for investigators, we note that training in child sexual abuse, in particular identifying grooming behaviours and boundary breaches, is missing. We are concerned that some developments that have improved best-practice police responses to child sexual abuse are not being adopted in non-criminal settings. We discuss these developments in more detail in Chapter 16, but they include:

- taking a 'whole story' approach to interviewing a victim-survivor to allow for a pattern of behaviour and extra corroborating context to be apparent
- ensuring the environment of the interview is comfortable for the victim-survivor, and that they have a support person present if they choose, to minimise the need for multiple interviews through techniques such as video recordings
- engaging in a developmentally appropriate and trauma-informed interaction with vulnerable witnesses (for example, children and young people, people with disability, adult victim-survivors).

We recommend that training in child sexual abuse and related concerns be included in the relevant standards.

6.2.5 Support for victim-survivors

Research we commissioned highlighted the importance of supporting children and young people who have disclosed abuse. The researchers found that a key concern of children and young people following an incident is that the response is not visible—for example, there may be little or no communication with the child or young person about what the school is doing or intends to do about the complaint, and little or no support offered by way of counselling.³⁰²

Victim-survivors told us they received limited or no support from the school or the Department following their allegation of abuse:

- Victim-survivor Katrina Munting (refer to Case study 4 in Chapter 5) told us that after her disclosure she was not informed about what, if any, action was taken in response: 'so far as I know, there were no inquiries made to determine the extent of what Peter had done. I received no support for the psychological issues that arose for me then, which have persisted'.³⁰³
- Victim-survivor Kerri Collins (refer to Case study 1 in Chapter 5) similarly attested that after she alleged abuse in the late 1980s: 'I was not offered with support or counselling by the school, and it was always my understanding that the principal did not believe us'.³⁰⁴

- In an extraordinary scenario, Rachel (refer to Case study 3 in Chapter 5) described her hurt and confusion when she discovered the outcome of an investigation into her complaints in the local paper. The paper reported that following an ‘extensive’ investigation, it was determined that her abuser had not breached the Code of Conduct. Rachel told us that she did not receive any reasons from the Department for the decision and felt ‘betrayed and publicly humiliated’ by the Department: ‘they had failed to support their student and chose instead to protect the teacher’.³⁰⁵

We also heard about the impact child sexual abuse and harmful sexual behaviours can have on staff and parents. Staff may witness abuse or harmful sexual behaviours and receive disclosures. They may need to come to terms with complaints about colleagues and manage ongoing anxiety or concerns with families and carers. Some will inevitably see the effects of abuse on victim-survivors in their classrooms:

- Nigel Russell, a former high school teacher, told us about the devastating and lasting effects he suffered after witnessing an incident involving harmful sexual behaviours in his classroom. Mr Russell said: ‘The principal of the school refused to acknowledge the incident for what it was, a sexual assault’.³⁰⁶
- Robert Boost gave evidence that, in 2020, a relief teacher at his daughter’s school made inappropriate comments to some of the girls at the school. Mr Boost told us that teachers made complaints to the principal. Mr Boost said that neither the school nor the Department communicated anything about the situation to parents, nor was the incident raised with staff—the member of staff who had made the inappropriate comments simply did not show up for work the next day and nothing was ever communicated by the Department about what had happened.³⁰⁷

When asked what sort of information from the Department would have helped him, as a parent of a child at that school, Mr Boost responded that ‘it didn’t need to have any detail, just that there was an incident and ... if any kids needed counselling or if parents had queries, to contact the principal, just as simple as that’.³⁰⁸

He also reflected:

... how do we instil trust in an institution like the Department of Education when this person potentially the next day could have just gone to another school and done the same thing. ... [The Department is] so worried about adults’ feelings that they’re not ... protecting the kids ... they’re so worried about it not getting out and it being bad publicity or whatnot. That kind of behaviour needs to be called out and ... it’s for everyone’s benefit that they knew that that happened at that school.³⁰⁹

A clear and consistent process for communicating with victim-survivors is important beyond any initial departmental response. This is evident in the impact of poor communication on victim-survivor Sam Leishman, who was not contacted by the

Department after the high-profile conviction of teacher Darrel Harington in early 2020 (refer to Case study 7 in Chapter 5).³¹⁰

In this respect, we note that the *Child and Youth Safe Organisations Act 2023* provides for feedback to children and young people after an investigation.³¹¹

At hearings, Secretary Bullard acknowledged that a lack of communication from the Department to victim-survivors could be construed as inaction and can inhibit their ability to achieve closure.³¹² He stated that:

... providing information and communicating with the various parties involved is difficult given confidentiality provisions and procedural fairness requirements particularly in relation to unsubstantiated allegations and with disciplinary actions imposed on an employee.³¹³

We are pleased to note that since hearing from victim-survivors, the Department is planning to allocate dedicated case managers when an allegation of sexual abuse is made. The case manager will be ‘accountable for ensuring that the supports required are provided to the child and their family, both immediately and over the course of time’.³¹⁴ This support should be extended to adult victim-survivors where required. We consider this case manager role should sit within the Child-Related Incident Management Directorate we recommend in Recommendation 6.6.

In an update provided to us in February 2023, Secretary Bullard said that the Department had filled two ‘Student Support Response Coordinator’ positions. He explained that the coordinators are:

... responsible for professional management of responses to incidents of child sexual abuse and harmful sexual behaviour, ensuring that the best interests of the children and young people are the central consideration.³¹⁵

Other responsibilities include ensuring the ‘capture and storage’ of school records about child sexual abuse and harmful sexual behaviours ‘meet legislative and departmental requirements and can support analysis to understand trends’ and inform improvements.³¹⁶ On the information provided to us, it is unclear what role the coordinators will have, if any, in supporting students and how they will work with case managers.

6.2.6 Codes of conduct

The Independent Education Inquiry noted there was ‘broad agreement’ that the State Service Code of Conduct is not suited to the distinct context of schools and that this creates difficulties for the Department when responding to concerns or allegations of child sexual abuse.³¹⁷ Formal disciplinary proceedings require a breach of the State Service Code of Conduct. Also, the requirement that the conduct must have occurred in the course of their employment ‘has been interpreted narrowly to mean that if the conduct in question did not occur at school or on a school activity the employee cannot

be subjected to disciplinary proceedings'.³¹⁸ We heard that this interpretation has allowed some teachers to argue that allegations of child sexual abuse against them have no merit because the conduct did not occur on school grounds or during school hours.³¹⁹

The Independent Education Inquiry recommended that the Department develops a 'schools-specific' code of conduct covering employees and volunteers.³²⁰ As discussed in Chapter 4, the Department accepted all the recommendations.

When asked how the Department was approaching recommendations that an education-specific code of conduct be developed, Secretary Bullard told us that there were challenges with having two codes—that is, an education-specific code as well as the State Service Code of Conduct—because under the current drafting of the State Service Act there are practical barriers to introducing more codes of conduct.³²¹

In Section 4, we discuss the need for an education-specific professional conduct policy, and we make a recommendation for this (refer to Recommendation 6.4). We consider this will avoid the problems associated with a separate education-specific code of conduct, while meeting the intent of the recommendation of the Independent Education Inquiry.

6.3 Learning from South Australia: a model for responding to child sexual abuse in educational settings

One of the recommendations of the DeBelle Inquiry in South Australia was establishing an Incident Management Directorate ('the Directorate') in the South Australian Department for Education.³²²

The role of the Directorate is to:

... coordinate the receipt, assessment and response of incidents, particularly those of a severe/critical nature, those requiring urgent attention and/or the investigation of allegations of employee serious misconduct and all associated disciplinary processes.³²³

In contrast to the Department's current responses to allegations of child sexual abuse, which occur primarily through Workplace Relations within the human resources unit, the South Australian Directorate operates independently of human resources in the South Australian Department for Education.

The policies that inform the Directorate's work include the South Australian Public Sector Code of Ethics and the *Protective Practices Policy*, which have prescriptive guidelines on matters that may be subject to disciplinary action, such as boundary breaches and grooming.³²⁴ The Directorate's work is also informed by the South Australian Department for Education's *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* guidelines, which are based on recommendations in the DeBelle Inquiry report.³²⁵

We heard that the outcome of establishing the Directorate, alongside implementing the DeBelle Inquiry's recommendations, has provided a comprehensive framework for responding to child sexual abuse in educational settings in South Australia. Alana Girvin, former Director of the Directorate, told us that part of the success of the unit is due to an awareness among departmental and school staff that clear processes will be followed in the wake of any allegations of child sexual abuse. This includes informing the school community of the allegations, informing families when a person is charged and activating processes for terminating employment if an allegation is upheld.³²⁶ According to Ms Girvin, 'although the Directorate is concerned with investigation and response, my strong feeling is that its work has also had a preventative effect'.³²⁷

Ms Girvin's further observations about the success of the Directorate are worth quoting at length:

While I was the Director of the Directorate, the Directorate received a lot of informal feedback from site leaders who were so thankful for the support they received from their Case Manager. For example, I heard lots of feedback along the following lines, which I think is a sign of the Directorate's success: 'thank you for your support. This was obviously a horrible situation and I never wanted to have to go through it in my career, but I felt supported and it has gone as smoothly as it possibly could have. You were there to listen to me at 9 o'clock at night'.

In relation to allegations of sexual misconduct matters the Directorate measures its success in terms of the timely response, flow of accurate information, the effectiveness of the case management and single file and adherence to the guidelines/procedures.

In my view, another reflection of the Directorate's success is that the education union was supportive, or at least did not object, to the Directorate's work and its implementation of the DeBelle recommendations.³²⁸

Other key features instrumental to the success of the Directorate include:

- its operational independence from the South Australian Department for Education's human resources unit
- an articulated process which applies even when conduct does not amount to criminal behaviour
- a close relationship with South Australia Police and an obligation on South Australia Police to notify the South Australian Department for Education of particular matters
- the use of investigators with policing backgrounds who act on the evidence
- a case manager to support every principal in relation to responding to an allegation.³²⁹

In the box below, we outline in detail key aspects of the South Australian Directorate model, as a starting point for the Tasmanian Government to adopt a similar model—a Child-Related Incident Management Directorate. We consider this a central recommendation that will support a significant change to the Tasmanian Government response to allegations of child sexual abuse by staff.

South Australia’s Incident Management Directorate

The South Australian Incident Management Directorate has three key units: the Incident Report Management Unit (‘Response Unit’), the Investigations Unit and the Misconduct and Disciplinary Advice Unit. Importantly, the Directorate’s role extends to independent schools.³³⁰

Response Unit

The Directorate’s Response Unit case manages allegations of sexual abuse and oversees the Incident Report Management System.³³¹ The Response Unit aims to ensure that:

- parents and carers can be confident that the wellbeing and safety needs of their children are met
- ‘incidents (particularly those of a severe/critical nature) and reports of serious misconduct are responded to in an effective and timely manner, with respect, transparently and professionally’.³³²

Ms Girvin told us that case management involves assisting site leaders and principals to implement the *Managing Allegations of Sexual Misconduct* guidelines.³³³ Importantly, the Response Unit acts as the ‘prime point of contact for site leaders’ and oversees the ‘single file’ for all matters involving allegations of child sexual abuse.³³⁴

All ‘critical incidents’, which include harmful sexual behaviours by students, as well as fights and ‘inappropriate parent behaviour’, are logged in the Response Unit’s Incident Report Management System.³³⁵ When an incident report is entered into the system, a ‘severity rating ... is automatically applied to ... [the] incident report ... dependent upon the categories and site actions selected by the person completing the report’.³³⁶ Critical Incident Coordinators review the incident reports each day to ensure ‘all appropriate actions are being taken’ by ‘sites’ (schools).³³⁷

Ms Girvin told us that when an allegation is referred for investigation:

... an Intake and Assessment Officer (whose role is line managed under the Incident Report Management Unit) assesses whether an allegation or incident is capable (if established) of constituting serious misconduct. If the answer to that question is 'no', then the Directorate will refer the matter to the Performance Management and Incapacity Unit within the corporate office. This unit will assist site leaders with performance management matters and minor misconduct matters.

If the Intake and Assessment Officer determines that it is not to be investigated, the report will be referred to the appropriate corporate office and recorded in the central online Incident Report Management System, as well as in any documentation kept on site. If there are ongoing problematic behaviours, [the report] may be relevant for the Directorate to investigate [those other behaviours].³³⁸

When an Intake and Assessment Officer receives a report that contains allegations of serious misconduct, such as child sexual abuse, the Officer will gather all relevant information and present it to an Assessment Panel.³³⁹ Assessment Panels are composed of the '[Directorate] Director, Assistant Director, Investigations Unit Manager and Misconduct Unit Principal Investigator'.³⁴⁰

Because school principals often have little to no experience with managing serious allegations involving child sexual abuse, the Response Unit has a vital role in offering support and assistance to navigate the response process. The Response Unit provides principals and other site leaders with a case manager who is available during and outside work hours.³⁴¹ Case managers also help to minimise a site leader's discretion in the process, allowing them to focus on the aspects of their role that are within the scope of their skills and training.³⁴²

According to Ms Girvin, once parents have been informed about an allegation of child sexual abuse, 'rumours and gossip can run rampant. It often follows that the site leader is blamed'.³⁴³ While the Directorate does not play a role in managing information in this situation (with responsibility for this resting with site leaders and their managers), the assigned case manager can provide support to, and discuss concerns with, the site leader in this situation.³⁴⁴

Investigations Unit

The Directorate's Investigations Unit investigates all allegations of 'possible serious employee misconduct'.³⁴⁵

Investigators gather evidence, interview witnesses and take witness statements. They then prepare reports for the adjudicators to consider.³⁴⁶ Adjudicators sit in the Directorate's Misconduct Disciplinary Advice Unit. The South Australian process distinguishes between investigators who gather the evidence and adjudicators who make recommendations based on that evidence for review

by the Department’s Chief Executive (or Chief Operating Officer and the Director of the Directorate).³⁴⁷

All Investigation Unit investigators have a policing background and must complete ‘Specialist Vulnerable Witness Forensic Interview Training’, which is provided by the Centre for Investigative Interviewing at Griffith University.³⁴⁸

Ms Girvin noted that if, during an investigation, the investigator identifies ways in which aspects of the response process could be improved, the Directorate may request that the Executive Director of Partnerships, Schools and Preschools reviews the relevant process, ensuring a pathway for continual improvement over time.³⁴⁹ We envisage that Tasmania’s Office of Safeguarding could play a similar role.

Misconduct Disciplinary Advice Unit

The Directorate’s Misconduct Disciplinary Advice Unit is staffed by ‘Misconduct Adjudicators’. The primary function of the unit is to examine the reports prepared by the Investigations Unit and ‘determine if the evidence demonstrates serious misconduct’.³⁵⁰ If it does, a briefing is prepared for the ‘delegate (Chief Executive/ Chief Operating Officer)’ outlining:

- a. a summary of the allegation and the evidence gathered by the investigators
- b. the adjudicator’s conclusion as to whether there is evidence of serious misconduct
- c. the adjudicator’s recommendation as to any disciplinary sanction that should be made.³⁵¹

Ms Girvin told us that adjudicators in the Misconduct Disciplinary Advice Unit have legal qualifications. Unlike investigators, they have not met the accused or any witnesses, allowing them to appraise the evidence with ‘an independent eye’.³⁵²

6.4 An Incident Management Directorate

The National Royal Commission identified a number of ways institutions should handle complaints and respond to child sexual abuse allegations (using a ‘child safe’ approach), including for:

- Investigating complaints—investigations should be conducted by impartial, objective, trained investigators.³⁵³
- Interviewing children—children should not be questioned by someone ‘without relevant specialist skills, such as child development, trauma-related behaviours, indicators of abuse and investigative techniques’.³⁵⁴

- Communicating with the affected parties—many people associated with the institution will be affected by a complaint of child sexual abuse, and policies and procedures should outline what information can be shared, when and in what circumstances.³⁵⁵
- Providing support and assistance to complainants—‘concern and support’ for the person making the complaint ‘must be at the heart of an institution’s response’.³⁵⁶ Institutions should respond in a supportive and protective way to child and adult victim-survivors of child sexual abuse. Responses should be sensitive so as to not compound or cause more harm.³⁵⁷ Victim-survivors and other affected parties (including the subject of the complaint) should have access to support, therapeutic treatment services and advocacy.³⁵⁸
- Providing support and assistance to others—‘secondary victims may also require information, advocacy, support and therapeutic treatment as part of an institution’s complaint handling process’.³⁵⁹

The South Australian model embodies many of the features that the National Royal Commission recognised as being instrumental to an institution’s ability to respond to concerns or complaints of child sexual abuse in a way that is sensitive and child focused.

We recommend that the Tasmanian Government establishes a Child-Related Incident Management Directorate to oversee and respond to allegations of child sexual abuse by staff, including grooming, breaches of professional conduct policies and sexual misconduct (as defined by the Reportable Conduct Scheme). This Directorate should be based on the South Australian model and have three distinct units and functions—case management of the response, investigation and adjudication.

We recommend that this Directorate oversees the response to allegations about staff in relation to the education, the Child Safety Service, out of home care and youth justice contexts (refer to also Chapter 9 and Chapter 12). In addition to child sexual abuse, the Child-Related Incident Management Directorate should respond to other forms of staff-perpetrated abuse in schools, out of home care and youth justice, including other serious care concerns, excessive use of force and inappropriate isolation and search allegations. It could also respond to child-related critical incidents in health or family violence and homelessness services. To enable this, the unit responsible for case management should be staffed by people with knowledge and expertise of each of these organisational contexts.

During our hearings, Secretary Bullard was asked for his views on the South Australian model. He stated that he was very supportive but questioned whether a similar model should perhaps apply across the State Service in Tasmania rather than sit within the Department, considering the relatively small size of the Department and the Tasmanian State Service.³⁶⁰ We note that the State has indicated that a shared capability framework

for the investigation of serious Code of Conduct breaches would be developed by June 2023 and a Project Manager was appointed in September 2022.³⁶¹ We encourage the State to consider the role of the Directorate within the context of the shared capability framework.

We note in Chapter 5 that there have been many matters raised with the Department in recent years. Given we propose that the Directorate oversees schools, out of home care and youth justice, we consider that there will be a significant workload for the Directorate.

Despite this, we have not specified where this Directorate should be established in the Tasmanian Government, but note that the Department of Premier and Cabinet, with its responsibility for all State Servants, or the Department for Education, Children and Young People, with its responsibility for most child-facing state services, are obvious options. We recommend a similar functional capacity in the Department of Health, although again have not specified if this should form part of the same Directorate or a health-specific one (refer to Chapter 15, Recommendation 15.17).

Recommendation 6.6

1. The Tasmanian Government should establish a Child-Related Incident Management Directorate to respond to:
 - a. allegations of child sexual abuse and related conduct by staff, breaches of the State Service Code of Conduct and professional conduct policies, and reportable conduct (as defined by the *Child and Youth Safe Organisations Act 2023*) in schools, Child Safety Services, out of home care and youth justice
 - b. other forms of staff-perpetrated abuse in schools, Child Safety Services, out of home care and youth justice, including other serious care concerns and allegations of excessive use of force, inappropriate isolation or inappropriate searches of children and young people in detention.
2. The directorate should comprise three units tasked as follows:
 - a. **Incident Report Management Unit.** This unit should be responsible for case management—that is, assisting child-facing services within the Department for Education, Children and Young People with the management of incidents or allegations of child sexual abuse and related conduct, including being the point of contact for these services.
 - b. **Investigations Unit.** This unit should undertake preliminary assessments and investigations. It should comprise appropriately trained and skilled investigators or use external investigators with the requisite qualifications and training.

- c. **Adjudication Unit.** This unit should examine the investigation reports prepared by investigators and make recommendations to the Head of Agency about what disciplinary decisions are available and the appropriate response. The unit should be staffed by personnel with relevant experience, including a background in law.
3. The directorate should appoint staff with knowledge of schools, Child Safety Services, out of home care, and youth justice.
4. Within 12 months of appointment, all staff in the Investigations Unit should:
 - a. undertake specialist training in interviewing vulnerable witnesses
 - b. undertake training in child development, child sexual abuse and trauma-related behaviours.
5. The directorate should maintain a case management platform and oversee a 'single file' for all child sexual abuse allegations and concerns about staff, including recording matters that do not result in disciplinary action.
6. The Tasmanian Government should decide where in the State Service this directorate should be established. Wherever it is established, it should be separated from traditional human resources functions.

6.5 Guidelines for managing allegations of sexual misconduct

Government and non-government education sectors in South Australia jointly developed the guidelines for *Managing Allegations of Sexual Misconduct*. This is to 'ensure that staff, children and parents can expect the same standards of child protection practice no matter which sector they access'.³⁶²

The guidelines cover the government, independent and Catholic school sectors in South Australia. They apply to situations involving sexual misconduct by adults against children or young people. They aim to reduce further trauma for children and young people, parents and the staff involved when an incident occurs.³⁶³

The guidelines support the work of the Incident Management Directorate by guiding the response to an allegation of misconduct from first notification, through to the investigation and beyond. They are easily accessible on the South Australian Department for Education's website, rendering the process publicly accountable.

6.5.1 The immediate response

Staff and volunteers who are involved in managing an incident of child sexual abuse may need to recall events or conversations later, such as in court proceedings. Accordingly, the DeBelle Inquiry emphasised that it was critical for site leaders and other members of staff to 'keep a written record of all conversations relating to the allegations' of child sexual assault.³⁶⁴ The importance of making notes as soon as possible after conversations occur is incorporated into the South Australian guidelines.³⁶⁵

Ms Girvin summarised the immediate response to an allegation of sexual misconduct under the guidelines as follows, noting that these steps are not always undertaken in a sequential order and that some actions may be undertaken at the same time:³⁶⁶

- (a) Step 1: Obtain medical assistance for the child or young person if required.
- (b) Step 2: Receive report of the allegation. If the allegation is made to a staff member, it should be immediately reported to the site leader. If the allegation concerns the site leader, the report should be made to the relevant sector office.
- (c) Step 3: Report the allegation to SA Police.
- (d) Step 4: Notify the Child Abuse Report Line.
- (e) Step 5: Take basic steps to preserve any evidence, if applicable. For example, by blocking access to the site's computer network if an allegation regarding child pornography is made or locking the room in which an incident is alleged to have occurred.
- (f) Step 6: Inform the sector office and establish who will be assisting.
- (g) Step 7: Prevent the accused person from having any access to or further contact with children and young people.
- (h) Step 8: Inform parents of the victim of the allegation, unless the parent is the accused person.
- (i) Step 9: Inform the accused person of his or her immediate work requirements.
- (j) Step 10: Complete sector specific reporting requirements, including for State schools, the Department's critical incident report through the Incident Response Management System.
- (k) Step 11: Document all information/discussions/observations.

In our analysis, the Tasmanian Department's flowcharts outline a similar immediate response.³⁶⁷

6.5.2 The ongoing response

Unlike the Tasmanian flowcharts, the South Australian guidelines take a comprehensive approach to responding to allegations of misconduct beyond the initial response. The guidelines provide direction on:

- the employment status of the ‘accused person’
- delivering counselling and support to affected parties
- undertaking a risk assessment
- responsibly providing appropriate information to affected parties.³⁶⁸

In relation to the employment status of the accused person, the guidelines provide that the site leader should consult with the relevant ‘sector office’ (in the case of the public sector, the Directorate) to determine whether to suspend the person from duty pending the outcome of an investigation. If suspended, a formal letter is sent to the accused person. If the accused person is a volunteer, their role is terminated immediately.³⁶⁹

The DeBelle Inquiry noted in its report that in the aftermath of the event that precipitated its inquiry, a common complaint of parents was the lack of appropriate counselling.³⁷⁰

The Inquiry recommended that continuing support should be offered to victim-survivors, their parents, other children or parents in the school community, and staff.³⁷¹

The South Australian guidelines are detailed and require that appropriate support is provided to:

- victim-survivors and their parents—site leaders should meet with the parents and discuss continuing support for the child or young person. A written report of the meeting should be prepared and signed by the parents. Next, ‘a support and safety plan should be finalised, covering all aspects of the victim’s and the family’s ongoing needs and agreed actions’. Site leaders or the relevant sector office must monitor the wellbeing of the victim and the victim’s family through regular reviews of the plan³⁷²
- other children or young people and parents of the school—the counselling or support offered to children or young people and parents should vary depending on the circumstances of the incident. If a risk assessment finds that a wider group of parents should be informed, ‘then, generally speaking, the same services as outlined above should be offered’³⁷³
- staff members—staff (including the site leader) can be profoundly affected by sexual misconduct allegations and their ongoing wellbeing needs to be considered, particularly those who were close to the person subject to the allegations. Staff ‘will need clear guidance on how to respond to particular requests such as acting as a witness’.³⁷⁴ Staff should be reminded of the availability of supports in the weeks and months that follow, and the effect of potentially stressful events (for example, the conclusion of a trial) should be anticipated and monitored³⁷⁵
- counselling and the option of alternative placements should be considered for relatives of the accused person who are employees or enrolled students at the site or in the sector.³⁷⁶

The DeBelle Inquiry's report emphasised that how counselling is offered is important. Where possible, counselling should not be offered in 'a mere letter'.³⁷⁷ However, any offer of counselling should be followed up in writing.³⁷⁸ The Department should also 'offer counselling as quickly as possible, if not immediately, after it learns of the allegations'.³⁷⁹

The DeBelle report also emphasises the importance of ensuring the safety, health and wellbeing of other children in the wake of an allegation against a staff member. It advocates conducting a risk assessment to discover whether there might be other victim-survivors of the alleged offending.³⁸⁰

Under the South Australian guidelines, risk assessments are conducted by the Directorate 'in consultation with the site leader, drawing on information provided by South Australia Police'.³⁸¹

In making the risk assessment, the following factors are considered:

- the nature of the offending
- the circumstances in which the alleged offending occurred
- the place or places where the alleged offending occurred
- the age and gender of the victim
- the age and gender of the accused person
- whether the accused person had regular and frequent contact with other children or a group or groups of children and the nature and circumstances of that contact
- the opportunities that were available to the accused person to offend against other children.³⁸²

The DeBelle Inquiry also recommended that the South Australian Department for Education develops a policy that guides the communication of an allegation to the school community.³⁸³ This communication must achieve a balance between the rights of staff, students and parents to be informed, and the right of an individual staff member not to be identified before an assessment and/or investigation of the allegation. Avoiding liability for defamation is also a consideration when communicating about an allegation of child sexual abuse.

While there are laws in South Australia forbidding the publication of an accused person's name, the DeBelle Inquiry found that:

... it is proper for those with a legitimate interest in the matter to be informed of the alleged offending. Those who have a legitimate interest in the offending are the staff at the site, the members of the governing council of the site [school association committee], and parents of children who are likely to have been in contact with the accused person.³⁸⁴

Based on the Debelle Inquiry’s recommendations, the South Australian guidelines provide detailed directions for communicating an allegation based on the audience and the stage of the response. This approach is outlined in Appendix E. In summary, it outlines appropriate communications for staff, governing councils and parents when:

- there is an allegation only
- the accused person has been charged
- the court process is over.

The supporting documentation provides template letters for each stage of the process. Examples of letters from the Debelle Inquiry can be found at Appendix E.

Secretary Bullard noted the approach taken in the Debelle Inquiry to communicating with relevant parties and the considerations relevant at each stage of the process. He stated that he would go further by including guidance on communication where ‘the conduct does not amount to a criminal offence, or Police do not proceed with charges, but the Department investigates a potential breach of the State Service Code of Conduct’.³⁸⁵

In his February 2023 update on the safeguarding activities the Department was undertaking, Secretary Bullard informed us that there had been amendments to the letters sent to complainants and witnesses involved in Employment Direction No. 5—Breach of Code of Conduct processes related to child sexual abuse matters. These letters, he said, are now more ‘accessible and trauma-informed’.³⁸⁶ While the relevant policy is still being drafted, we also understand that the Department will, where appropriate and authorised to do so, communicate information to relevant parties about a child sexual abuse incident within the Department’s service areas, including schools.

6.5.3 Our observations

These developments outlined by Secretary Bullard are encouraging. We recommend that the Department develops a specific policy about responsible communication in the context of legal obligations. The policy should outline what communications the Department should make, and to whom they should make them, at particular stages of investigating a child sexual abuse matter. This should be based on the resources developed by the South Australian Department for Education for responding to allegations about staff.

Similar resources should be developed to support the response to allegations about harmful sexual behaviours (refer to Section 7).

We also recommend that the Department adopts a similar approach to that recommended by the Debelle Inquiry to the supports it provides to students, families, staff and the school community when dealing with child sexual abuse matters.

As indicated, we recommend that the Child-Related Incident Management Directorate oversees the response to allegations about staff in relation to the education, Child Safety Service, out of home care and youth justice contexts. Similarly, guidelines should be developed to assist in the response to allegations in all these institutional contexts.

Drawing on the South Australian example, the Department should also look to provide leadership to the Catholic and independent school sectors and consider ways to support a statewide approach to responding to child sexual abuse in schools.

Recommendation 6.7

1. The Department for Education, Children and Young People should develop guidelines that outline the ongoing supports that should be provided for victim-survivors, families, staff and the school community when there are allegations or incidents of child sexual abuse by staff or harmful sexual behaviours.
2. The guidelines should include policies, procedures, and templates for:
 - a. Counselling and support—a counselling and support plan should be developed for victim-survivors and their parents and carers, other children or young people at the school, staff at the school, and the alleged perpetrator and their family.
 - b. Risk assessment—a risk assessment should be conducted to determine whether there is any concern for the ongoing safety of other children and whether there may be other victim-survivors.
 - c. Informing responsibly—the Department should develop specific policies that outline what communications should be made by the Department, and to whom they should be made, at particular stages of a child sexual abuse matter. These policies should take account of all legal obligations and the importance of informing victim-survivors, parents and the community. Communication may be needed with children and young people, staff, School Association Committees, parents, previous students and other schools.
3. Any policy outlining the communications that should be made by the Department should extend to matters where conduct does not amount to a criminal offence or where police do not proceed with charges but the matter is investigated as a possible breach of the State Service Code of Conduct, a professional conduct policy or reportable conduct under the Reportable Conduct Scheme.
4. Guidelines should also be developed for Child Safety Services, out of home care and youth justice contexts.

Recommendation 6.8

The Department for Education, Children and Young People should work with the Catholic and independent school sectors to adopt a statewide approach to responding to child sexual abuse in schools.

7 Harmful sexual behaviours in schools

Harmful sexual behaviours are sexual behaviours displayed by a child or young person:

... that [fall] outside what may be considered developmentally, socially, and culturally expected, may cause harm to [themselves] or others, and [occur] either face to face and/or via technology. When these behaviours involve another child or young person, they may include a lack of consent, reciprocity, mutuality, and involve the use of coercion, force, or a misuse of power.³⁸⁷

Harmful sexual behaviours are occurring in Tasmanian schools and are causing immense distress and harm to students, their families and staff. Lack of understanding about harmful sexual behaviours may mean that they are either not responded to at all, or the response is disproportionate to developmentally expected or less serious problematic sexual behaviours. Consistent with the Independent Education Inquiry, we heard that schools need better guidance and training in preventing and responding to harmful sexual behaviours.

Addressing harmful sexual behaviours requires schools to balance their duty of care to the child displaying harmful sexual behaviours and to other children. An understandable desire to respond to harmful sexual behaviours in a therapeutic and thoughtful way should not overshadow the real and very damaging experiences of victim-survivors of such behaviours. Principals may be reluctant to exclude young people displaying harmful sexual behaviours from school (with all the related impacts on their education), particularly if the child has disability or if their behaviours are a product of their own victimisation. However, failures to ensure the safety of students (particularly of victim-survivors of harmful sexual behaviours) has its own impacts on their ability to learn and thrive at school. Balancing what can sometimes be competing considerations requires tailored planning and responses to meet the unique circumstances of each situation. Schools will often need access to specialist knowledge and guidance to get this balance right.

The National Royal Commission made one specific recommendation (Recommendation 13.6) about harmful sexual behaviours in the education context:

Consistent with the Child Safe Standards, complaint handling policies for schools ... should include effective policies and procedures for managing complaints about children with harmful sexual behaviours.³⁸⁸

The Department of Education considered that it had implemented this recommendation because it ‘has existing policies/procedures/practices for managing complaints about children with harmful sexual behaviour’.³⁸⁹

However, questions around the effectiveness of the Department’s policies and measures came up in the Independent Education Inquiry. That inquiry found significant uncertainties among departmental staff on how to respond appropriately to suspected or alleged harmful sexual behaviours in schools. It recommended developing protocols to respond to concerns or complaints of this nature.³⁹⁰

Leanne McLean, Commissioner for Children and Young People, acknowledged that the Department was developing a flowchart to help guide responses to harmful sexual behaviours, but she was concerned by the apparent lack of policy or procedure given that:

... during my term as Commissioner, a number of incidents have been raised with me by members of the public related to harmful sexual behaviours in educational contexts, and in particular, the responses of Department of Education employees to such allegations.³⁹¹

The Department told us of several initiatives to address this issue, including setting up a Harmful Sexual Behaviours Working Group, investing in staff expertise and developing clearer guidance for principals and staff. We discuss these initiatives and other changes throughout this section. However, we consider more needs to be done.

In this section, we begin by discussing the experiences of families affected by harmful sexual behaviours in schools. We outline steps taken since the Independent Education Inquiry to improve responses to harmful sexual behaviours in schools, including flowcharts developed to guide principals’ responses and the role of the Prevention, Assessment, Support and Treatment program in supporting the understanding and response to harmful sexual behaviours. We then discuss continuing challenges for schools in understanding and responding to harmful sexual behaviours and review positive recent initiatives to increase specialist support to schools. Finally, we outline the recommendations we have made across our report that will continue to enhance prevention, identification and responses to harmful sexual behaviours in government schools, and which build on the positive recent developments in the Department for Education, Children and Young People. We conclude by recommending the Department develops better policies, protocols and guidance for schools responding to harmful sexual behaviours.

7.1 Experiences of families affected by harmful sexual behaviours in schools

Some families (and people working with them) told us about their experiences navigating harmful sexual behaviours in schools. These experiences included significant trauma and distress because of the incident(s), as well as the way the school and/or the Department responded. Problems included:

- incidents of harmful sexual behaviours being downplayed or minimised by teachers, principals or others, including failures by schools to appropriately acknowledge and apologise for the harm caused³⁹²
- principals having too much discretion to determine whether an incident constitutes harmful sexual behaviours and the steps taken (or not) to manage it³⁹³
- the movements and actions of a victim-survivor being controlled or restricted to manage their safety, rather than the behaviour of the child or young person who had engaged in harmful sexual behaviours being managed or closely supervised³⁹⁴
- victim-survivors having to continue to encounter the young person who harmed them at school in ways that affected their sense of safety and exacerbated trauma³⁹⁵
- poor communication to affected parties (particularly parents and carers) about steps being taken following a complaint or incident, with confidentiality often cited as justification³⁹⁶
- inadequate information sharing and record keeping by schools and the Department, which can make it difficult to determine patterns of harmful sexual behaviours (particularly where a young person engaging in such behaviour moves schools)³⁹⁷
- inadequate access to appropriate psychological and support services for victim-survivors and young people engaging in harmful sexual behaviours.³⁹⁸

Some of these issues have been described to us in incidents as recent as 2021 (refer to the case study of 'Andy' in Chapter 5).

Parents and caregivers of children who had experienced harmful sexual behaviours from other children came forward to share their and their children's experience with us. For example, the parents of one young child who was subjected to harmful sexual behaviours told us:

Post care for us was so minimal. The Department of Education just said, 'I'm so sorry [redacted] I can't believe that's happened, would you like a call from Learning Support?' ... I never got an apology from the Department of Education I never got any acknowledgement, I just got the principal telling me [they were] sorry, and that they did the best they could and that they really couldn't tell anybody about it.³⁹⁹

Parents of another young child said:

If this had [have] been dealt with a little bit more ... a little bit more personally, a little bit more listening right from the beginning, well, we wouldn't be in this situation. We just have no trust left.⁴⁰⁰

We also heard from parents who told us that the only reason their child got support was because they 'yelled very loudly' and because of their connections. They said, 'if we didn't have those ... connections it would have been swept under the carpet'.⁴⁰¹

Parents of victim-survivors of harmful sexual behaviours often expressed empathy for the child or young person engaging in the behaviours, recognising its complex drivers and the vulnerability of all the children and young people involved. These parents told us:

We believe the system failed both our child and the offending child as well as us as a family. The long-term damage that has occurred to our daughter and our families' wellbeing has been a direct result of the education department not following protocol or having protocols in situ.⁴⁰²

Ignatius Kim, Clinical Lead, Child and Adolescent Mental Health Service, described his experience helping a 15-year-old girl who was sexually abused by another student on school grounds. He told us that he attended a meeting of the young woman and her parents with the school:

I came away just really angry myself about what this family was met with, the response that they were met with, which was quite officious, two senior members of the school staff, and my clear impression was that it was clearly planned and rehearsed with a view to managing the meeting, perhaps with a sort of view focused on the reputational aspects.⁴⁰³

Mr Kim said that the young woman commented after the meeting that she had just wanted the school to apologise. Mr Kim reflected:

You know, I think, if an apology had been forthcoming and a really authentic, you know, really compassionate approach had been taken in that meeting, I do think it could have gone some way.⁴⁰⁴

He noted that the student did not feel protected and continued to have inadvertent contact with the older male student who assaulted her. She was eventually forced to change schools.⁴⁰⁵

7.2 Challenges for schools in preventing and responding to harmful sexual behaviours

We heard about several challenges for schools in preventing and responding to harmful sexual behaviours, including practical challenges of maintaining safety for victim-survivors and staff while providing support for students who have displayed harmful sexual behaviours, a lack of staff confidence, and challenges with accessing professional support.

7.2.1 Difficulties maintaining safety for students and supporting staff

Understandably, principals can be reluctant to exclude students from schools, or to isolate or stigmatise them, recognising the importance of education and social connection. But this can make it difficult to maintain the safety of victim-survivors or other students and it can contribute to victim-survivors feeling unsafe at school and disengaging from their studies.

Renaë Pepper from the Sexual Assault Support Service told us that the challenge of keeping children safe may be particularly acute in rural schools, where it can be difficult to effectively separate students—for example, if there is only one class for each year level, or limited space, facilities and staff.⁴⁰⁶ She said that sometimes victim-survivors at rural schools would have to attend school feeling unsafe or anxious, or would disengage from school.⁴⁰⁷

Poor responses to harmful sexual behaviours can also affect staff involved.⁴⁰⁸ Mr Russell told us:

The lack of support offered by the Department following this [harmful sexual behaviour] incident made it hard for me to trust that the classroom would be a safe place for me or my students. My health has suffered because of this lack of support. I have had to seek my own support, and this has affected my ability to teach.⁴⁰⁹

7.2.2 Lack of confidence in identifying and responding to harmful sexual behaviours

Teachers and principals are often not confident in identifying harmful sexual behaviours. Ms Pepper described how most queries about harmful sexual behaviours that the service receives are from educators who do not fully understand the difference between normal sexual development and inappropriate behaviour, and therefore do not know how to respond.⁴¹⁰ She said:

The skills gap, in terms of lack of training on harmful sexual behaviours for teachers, principals and support staff, has a very real cost for the children or young people affected by harmful sexual behaviours.⁴¹¹

Sometimes this lack of training and understanding results in inaction despite multiple reports of inappropriate behaviour, with Ms Pepper providing a recent (2021) example of a teacher not escalating complaints:

The disclosures all related to a single child within the class, who was alleged to have been inappropriately touching the complainants. The classroom teacher had dismissed the reports and told the children not to ‘tell lies’ or ‘be unkind’. It was not until the reports from a number of children, made over this extended six to twelve month period, made their way to the principal that they were acknowledged and addressed.⁴¹²

Lack of training can also contribute to harsh discipline. Ms Pepper cited, as an example of an extreme response, the case of an eight-year-old boy who was expelled from school for holding another student's hand and kissing them on the cheek.⁴¹³

We heard that having good guidance on harmful sexual behaviours is critical and in the absence of such guidance, 'the role of teachers becomes even more complex'.⁴¹⁴ Professor Walsh acknowledged that teachers do not have to have the expertise to determine whether consent has occurred, but at a minimum they should understand the spectrum of typical sexual behaviours for a child's age and stage and be able to identify signs to suggest that support services may be necessary.⁴¹⁵

Ms Pepper agreed, stating that without such guidance there are 'really inconsistent responses' from schools:⁴¹⁶

There needs to be clear policies and procedures within individual schools as schools vary in numbers, structure, layout and ability to safety plan and protect all students, and there needs to be clear policies and procedures more broadly across [the Department] around mandatory reporting, contacting [Sexual Assault Support Service] for consultation and how investigations are carried out in regard to incidents.⁴¹⁷

Ms Pepper highlighted the need for training for all schools on harmful sexual behaviours including 'how to respond appropriately and be trauma-informed, focusing on students feeling safe and able to engage in their education'.⁴¹⁸

Dale Tolliday, a clinical adviser working in this area, said that judgment and discretion are important in managing harmful sexual behaviours incidents:

It does not require a specialist [therapeutic] response in all cases, rather there must be different layers of support where the appropriate persons are given the permission and confidence to respond.⁴¹⁹

We discuss mandatory professional development in Section 5.

7.2.3 Role of professional support staff

We heard evidence about the role that social workers, in particular, play in supporting and upskilling school staff in responding to harmful sexual behaviours (and child sexual abuse more broadly). In an anonymous submission to our Inquiry, we were told that:

School social work and psychology are often the main intervention used in [the Department of Education for harmful sexual behaviours], however both professions are woefully understaffed. Both the ... Australian Association of Social Workers and the Australian Psychological Society recommend 1 full-time social worker and psychologist per 500 students. The ratio in Tasmania is currently 1 full-time worker per 1,200 students.⁴²⁰

Ms Carter highlighted the value of social workers and professional support staff, not only in providing direct support to students but also in upskilling staff:

I mean, training in a one-off session is good, but having the people there actually supporting you through is the best sort of professional learning so that you become confident and you grow your understanding.⁴²¹

She recommended a universal ‘realistic’ allocation of such staff to schools.⁴²²

Social worker Debra Drake acknowledged that she saw children displaying harmful sexual behaviours in schools, but ‘given the high caseloads of school social workers, we do not have the capacity to provide appropriate counselling for harmful sexual behaviours.’⁴²³ Ms Drake reflected that such support would ideally be offered by specialist services that are well trained, adequately funded and external to schools.⁴²⁴ Mr Kim said that ‘school psychologists and school social workers are often stretched across several schools in their work week, so their consistency of presence is lacking and I think we need more of them’.⁴²⁵

Secretary Bullard responded to calls for increased social workers and support staff by highlighting that ‘there has already been a significant increase in social workers and psychologists into the system’ since 2014, also pointing to the broader safeguarding responsibilities of teachers:⁴²⁶

And not saying that every teacher is a skilled social worker, but every teacher understands the importance of child safeguarding, understands what our expectations are, knows how to deal with a report and where to refer it.⁴²⁷

The 2021–22 State Budget has allocated \$3.8 million over four years from 2022–23 (and \$1.68 million ongoing) to employ extra psychologists and social workers to directly support schools.⁴²⁸ These professional support staff would be ideally placed to respond to inappropriate and problematic sexual behaviours if they are provided with more professional development, guidance and practice resources to build their capability to do so. However, best practice responses suggest a more intensive specialist therapeutic response is likely to be needed for persistent, abusive and violent harmful sexual behaviours, such as a referral to a specialist service like the Prevention, Assessment, Support and Treatment program, which we discuss further in the next section.

7.3 Processes to respond to harmful sexual behaviours in schools

Schools have access to some resources to support responses to harmful sexual behaviours, including specialist therapeutic supports provided externally and recent initiatives of the Department.

7.3.1 Programs and training on harmful sexual behaviours

Schools can make referrals to specialist programs for young people displaying harmful sexual behaviours and for those who have been harmed by the behaviours. They can also access training programs for school staff on identifying and responding to such conduct.

The Prevention, Assessment, Support and Treatment program, offered by the Sexual Assault Support Service, is directed at children and young people (aged 17 or younger) who have displayed harmful sexual behaviours. Secretary Bullard described the two streams of the program:

- therapeutic intervention, assessment and case management for children and young people using harmful sexual behaviours—schools, family members or agencies can refer young people to this program⁴²⁹
- a shorter training session of about three hours for school staff (teaching years 3 to 12) on how to identify and respond to harmful sexual behaviours called ‘HSB: Overview for Educators’.⁴³⁰ This is offered on a fee-for-service basis and schools generally contact the Sexual Assault Support Service directly for this training.⁴³¹

The Prevention, Assessment, Support and Treatment program and our recommendation for increased specialist services are discussed in Chapter 21.

7.3.2 Departmental initiatives to improve responses to harmful sexual behaviours

Secretary Bullard described recent departmental initiatives to prevent and respond to harmful sexual behaviours in Tasmanian schools. These include:

- building the capacity of school social workers and psychologists to respond to children and young people who are victim-survivors of harmful sexual behaviours (and child sexual abuse)⁴³²
- the Department’s Harmful Sexual Behaviours Working Group (in operation since 2020), which identifies the signs of, and improves responses to, harmful sexual behaviours and equips support staff to identify it and respond in trauma-informed ways⁴³³
- appointing extra staff to ‘oversee the coordination, case management and follow up of the support provided to children and young people impacted’.⁴³⁴

Following up on these initiatives, Secretary Bullard told us in February 2023 that the Department had committed to employing four more full-time-equivalent senior support staff—two psychologists and two social workers—‘to provide further support for children and young people affected by harmful sexual behaviours or child sexual abuse’.⁴³⁵

He told us that three of the four positions had been filled, with the remaining position being readvertised in early 2023.⁴³⁶ The Department has also filled two more Student Support Response Coordinator positions to manage ‘responses to incidents of child sexual abuse and harmful sexual behaviour, ensuring that the best interests of children and young people are the central consideration’.⁴³⁷

We see the opportunity for these positions to form a specialist Harmful Sexual Behaviours Support Unit to help schools (and other government institutions) correctly identify harmful sexual behaviours, respond locally to inappropriate and problematic behaviour and support a critical incident response to persistent, abusive or violent harmful sexual behaviours. We recommend a Harmful Sexual Behaviours Support Unit for education, out of home care and youth justice settings in Chapter 9 (Recommendation 9.28).

7.3.3 Steps in response to allegations of harmful sexual behaviours

Principals and ‘site leaders’ are guided by a departmental flowchart entitled *Responding to Incidents, Disclosures or Suspicions of Harmful Sexual Behaviour Initiated by a Child or Young Person* when responding to disclosures or concerns about harmful sexual behaviours. The Department’s Harmful Sexual Behaviours Working Group informed the updated version of this document.⁴³⁸

According to this flowchart, principals must collect information about the alleged behaviour and then ‘immediately’ consult a student support leader, senior professional support staff, a school social worker or a psychologist to assess the situation.⁴³⁹ The reference for this assessment is Hackett’s continuum of harmful sexual behaviours, which ‘is based on a continuum model to demonstrate the range of sexual behaviours presented by children and young people, from those that are normal, to those that are highly deviant’.⁴⁴⁰ Secretary Bullard explained:

The context of the behaviour is then considered as part of the overall assessment (that is; do any of the students have a disability, what is the frequency of the behaviours, is there coercion, a difference of ages, etc.?).⁴⁴¹

The flowchart divides behaviours into only two categories—‘harmful or problematic’ or ‘developmentally appropriate’—and directs a different response for each category.

On our reading of the flowchart, we understand that if the behaviour is assessed as constituting harmful or problematic sexual behaviours, the student support leader and senior professional support staff must:

- notify the Strong Families, Safe Kids Advice and Referral Line and police, and meet with parents/carers to ‘inform, reassure and include in the response’
- form a care team and develop a risk assessment, safety plan and referrals for therapeutic support

- develop a ‘community response/containment strategy’ (where appropriate)
- store all documentation in the Student Support System.⁴⁴²

If, on the other hand, the behaviour is assessed as developmentally appropriate, the flowchart outlines the principal must notify parents/carers, provide support and ‘educate regarding the nature of the incident’ and ‘update and consult’ with relevant staff.⁴⁴³ The school social worker or psychologist is to assess the needs of student(s) and provide support.⁴⁴⁴ The principal must also ensure relevant documentation is stored in the Student Support System and turn their mind to how they can build understanding of consent and child sexual abuse prevention in their school.⁴⁴⁵

When considering the extent to which principals can apply discretion and depart from these requirements, Secretary Bullard was clear in stating:

... all school principals have a mandated responsibility to follow all departmental policies and procedures, including those related to harmful sexual behaviours, and for ensuring staff are aware of and follow all relevant policies and procedures.⁴⁴⁶

Concerns about the flowchart

While we understand the desire for a simplified flowchart to guide principals’ responses, we are concerned that reducing harmful sexual behaviours to an ‘either/or’ oversimplifies the issue and may give rise to inappropriate responses. The spectrum of behaviours described on Hackett’s continuum requires a range of more nuanced responses than described in the flowchart. For instance, sexual behaviours that are assessed to be inappropriate or problematic on Hackett’s continuum may not require statutory or specialist treatment responses, but will still require some form of local school response. We consider the guidance for developmentally appropriate behaviours to be more consistent with what would be expected for locally managed inappropriate or concerning sexual behaviours. We are concerned that the guidance in the flowchart for developmentally appropriate behaviours is not a proportionate or appropriate response to healthy sexual development. We are not clear as to why parents would be notified or records created for developmentally appropriate behaviours. As we outline below, the Department needs a more tailored response to the children and families involved, rather than an ‘either/or’ approach.

Also, any care plan and risk assessment should not be viewed as static. In any safety planning, the least intrusive actions necessary to secure the safety of all children and young people involved should be implemented. The plan should also recognise that risk is likely to change—for example, in response to effective treatment. Finally, we note that, where required, arrangements should be made for any background information, risk assessment and care plan to follow a child or young person (or children or young people) if they change schools in the aftermath of a harmful sexual behaviours incident, as is often the case.

While the flowchart covers the basics of an appropriate response, the policy should ensure attention is given to the child displaying the behaviours and any child (or children) and young people who were harmed by or witness to those behaviours, and their families. The flowchart also needs to be clearer about who takes particular actions. In Section 7.5, we recommend improved guidance on responding to harmful sexual behaviours. This guidance should align with and be complemented by the holistic across government approach to harmful sexual behaviours we recommend throughout our report, and which we summarise in relation to schools in Section 7.4.

7.4 A holistic approach to preventing, identifying and responding to harmful sexual behaviours

Given the challenges and complexities in balancing the needs of all children affected when a child displays harmful sexual behaviours, a holistic whole of government, whole of Department approach is needed. We have made recommendations across our report that will help improve the prevention and identification of, and responses to, harmful sexual behaviours in Tasmanian government schools:

- The Tasmanian Government should develop a statewide framework and plan for preventing, identifying and responding to harmful sexual behaviours that provides a common understanding of harmful sexual behaviours and high-level guidance on how to respond, and clearly articulates the roles and responsibilities of different government and government funded agencies in the response (refer to Chapter 21, Recommendation 21.8).
- The Department for Education, Children and Young People should establish a Harmful Sexual Behaviours Support Unit to support all child-facing areas of the Department (refer to Chapter 9, Recommendation 9.28). The role of the Unit would be to provide advice, support and guidance to local areas to facilitate consistent, best practice, proportionate approaches to responding to harmful sexual behaviours that balances the needs of victim-survivors, children who have displayed harmful sexual behaviours and other affected parties. The Unit would also lead harmful sexual behaviours policy development and build on the new positions already devoted to supporting responses to harmful sexual behaviours in schools, which were outlined above.
- The Tasmanian Government should fund and appropriately resource sexual assault and abuse therapeutic services, including for harmful sexual behaviours (refer to Chapter 21, Recommendations 21.1, 21.4 and 21.6).
- All teachers should have minimum mandatory education in child sexual abuse, grooming and harmful sexual behaviours (refer to Section 5 of this chapter, Recommendation 6.5). Our intent is that minimum mandatory education will assist teachers to develop a minimum level of knowledge and awareness of what are harmful sexual behaviours and how they should respond.

- There should be advanced professional education on responding to harmful sexual behaviours made available to employees who directly respond to harmful sexual behaviours. This would include principals, school social workers, school psychologists, child safety officers, youth workers and residential carers. This could be developed and provided by the Harmful Sexual Behaviours Support Unit or outsourced to specialist providers (refer to Chapter 9, Recommendation 9.28).
- There should be mandatory child sexual abuse prevention curriculum for students from early learning programs to year 12. We consider this education to be an important element in preventing harmful sexual behaviours (refer to Recommendation 6.1).

We also recommend detailed education-specific policies, protocols and guidance for principals and site leaders in identifying and responding to harmful sexual behaviours, which we discuss in Section 7.5.

7.5 Clear, specialised advice and support for schools responding to harmful sexual behaviours

While we consider that the revised flowchart for harmful sexual behaviours is an improvement on previous guidance, we consider it should be refined to allow for a more nuanced approach and underpinned by more comprehensive guidance that can explain in more detail how it should be applied. This includes greater guidance on:

- the recommended Harmful Sexual Behaviours Support Unit, how and when to access the Unit and its role in supporting school responses
- correctly identifying and distinguishing developmentally appropriate, inappropriate and harmful sexual behaviours
- proportionate local responses to inappropriate and problematic sexual behaviours
- how the needs of children displaying harmful sexual behaviours, victim-survivors of harmful sexual behaviours and other children and young people can be addressed through safety assessment and school participation planning (including describing key considerations and possible features of a safety and school participation plan, balancing the safety of all children with the school participation needs of the child displaying harmful sexual behaviours)
- supports and guidance that can be offered to victim-survivors of harmful sexual behaviours, their family and other affected parties (such as teachers or other students) including what departmental and external supports are available
- strategies to ensure appropriate supervision, support and referrals/reports occur in response to a child displaying harmful sexual behaviours

- what information should be recorded and the circumstances in which it should be shared with external authorities, affected parties and other schools
- guidance about communicating with families, other children and affected parties—this includes supports such as template letters (similar to the approach to allegations of child sexual abuse by adults discussed in Section 6.5 of this chapter)
- review processes for safety and participation plans, recognising that risk is not static.

We consider this guidance should become part of core school procedures and be used by principals and site leaders in conjunction with advice, support and guidance from the Harmful Sexual Behaviours Support Unit. A public version of the policy should be easily accessible to the public on the Department’s website with an appropriate level of detail to help parents/carers and the broader community understand the steps that will be taken in response to incidents, to help drive accountability, and to overcome the information vacuum that exacerbates distress and gives the impression (rightly or wrongly) that no action has been taken. Being able to point to more detailed guidance can also satisfy an understandable desire from the school community for information, without compromising aspects of an incident response that need to be managed privately for the young people involved.

Guidance should direct staff on when and how to seek support from the new Harmful Sexual Behaviours Support Unit for help identifying and responding to harmful sexual behaviours in schools. The Harmful Sexual Behaviours Support Unit may provide guidance on how the students involved can be safely supported in the school, recommend involving professional support staff in schools to assist, or provide more intensive support where a child has displayed persistent, abusive and/or violent harmful sexual behaviours.

Recommendation 6.9

The Department for Education, Children and Young People should develop detailed education-specific policies, protocols and guidelines for preventing, identifying and responding to harmful sexual behaviours in schools. The development of these policies, protocols and guidelines should be:

- a. led and informed by the Harmful Sexual Behaviours Support Unit (Recommendation 9.28)
- b. informed by the Tasmanian Government’s statewide framework and plan to address harmful sexual behaviours (Recommendation 21.8).

8 Teacher registration

In her second reading speech for the Teachers Registration Bill 2000, the then Minister for Education said:

Parents of students are entitled to a guarantee that their children are being taught by fully and appropriately qualified teachers who will not abuse their position of trust with students. This guarantee can be best achieved by having a fully and properly regulated teaching profession.⁴⁴⁷

The National Royal Commission recognised that teacher registration is a key mechanism through which Australian states and territories can ensure teachers meet minimum professional standards, including suitability to work with children. The National Royal Commission observed that, common to all Australian jurisdictions, teachers must:

- satisfy requirements related to professional learning and qualifications
- be able to meet the Australian Professional Standards for Teachers, including Standard 4 that requires teachers to ‘maintain student safety’⁴⁴⁸
- pass criminal history checks and/or have current authorisation to work with vulnerable people
- observe any code of conduct concerning ‘professional and ethical standards’.⁴⁴⁹

In Tasmania, the Teachers Registration Board plays an important role in protecting students from abuse by teachers. It does this by vetting the applications of new teachers for teacher registration, as well as the applications of continuing teachers seeking renewal of their registration, which is required every five years. The Board has the power to refuse, suspend or cancel the registration of a teacher if they (in the Teachers Registration Board’s opinion) are not of good character or are not fit to teach. The Board’s authority to permit or bar a person from teaching is an essential part of child safeguarding in the education system.

The Department also requires that all departmental employees, whether or not they have direct contact with children, hold Registration to Work with Vulnerable People.⁴⁵⁰ This registration is a prerequisite to registration as a teacher. Non-teaching staff working in educational settings—for example, administrators, contractors, sports coaches, parent volunteers and maintenance staff—must also hold Registration to Work with Vulnerable People.⁴⁵¹

As we discuss in Section 8.2, we heard that the teacher registration framework is not operating as well as it could, particularly for protecting children in schools.

In her second reading speech for the Teachers Registration Bill 2000, the then Minister for Education stated that the ‘introduction of the legislation will protect children in government and non-government schools from the possibility of sexual or other abuse’.⁴⁵² Yet the

Teachers Registration Act (which, among other things establishes the Teachers Registration Board), does not contain any provisions specifically requiring the Board to prevent, identify or report on child sexual abuse in schools, although it includes a good character requirement. Rather, the Act's provisions relate to teacher registration, good character and fitness to teach, and regulate how the Board should respond to complaints about teacher conduct, including about child sexual abuse.⁴⁵³

In this section, we provide an overview of the role and powers of the Teachers Registration Board. We then consider the shortcomings in the Board's operation and how these shortcomings might best be overcome.

8.1 The role of the Teachers Registration Board

All Australian states and territories require teachers to be registered (or accredited) by a statutory board or authority that is 'responsible for ensuring that registered persons have the appropriate professional qualifications and personal qualities to teach'.⁴⁵⁴ In Tasmania, the Teachers Registration Board undertakes these functions, registering teachers to work in government, Catholic and independent schools.⁴⁵⁵

The Teachers Registration Board is an independent statutory authority established under the Teachers Registration Act. The Board consists of several people appointed by the Minister: a chairperson, practising teachers from schools across the independent, Catholic and government education sectors, a nominee of the University of Tasmania's Faculty of Education, a nominee of the Department, and a parent or guardian of a student attending a Tasmanian school.⁴⁵⁶

The Board regulates the teaching profession for the wellbeing and best interests of Tasmanian students.⁴⁵⁷ One of its key functions is to register appropriately qualified teachers who 'have been determined to be of good character, competent, and fit to teach in Tasmanian schools'.⁴⁵⁸

The Board's other functions include:

- conducting investigations, inquiries and hearings to determine whether there have been breaches of the Act⁴⁵⁹
- taking disciplinary action, including placing conditions on, or suspending or cancelling, a teacher's registration⁴⁶⁰
- maintaining a code of ethics for the teaching profession.⁴⁶¹

In performing its functions and in any action taken by the Board, the Board must 'consider the welfare and best interests of students to be of paramount importance'.⁴⁶²

While the Board has a much broader role than identifying, preventing or responding to child sexual abuse, the requirements of registration, along with other powers granted to the Board under the Act, mean that much of its work is ‘aimed at preventing potential abusers from becoming registered as teachers’.⁴⁶³

All teachers who intend to work in a Tasmanian school or college must be a registered teacher or be granted a ‘Limited Authority to Teach’ by the Board.⁴⁶⁴ A Limited Authority to Teach is designed to allow a person with specialist knowledge or skills, who is not a registered teacher, to teach in circumstances where there are no registered teachers with the requisite knowledge or skills available to fill the role.⁴⁶⁵ It is an offence under the Act to teach without being registered or holding a Limited Authority to Teach.⁴⁶⁶

In determining if an applicant is of good character, the Board considers whether:

- the person has been charged with or convicted of an offence⁴⁶⁷
- the person holds a Registration to Work with Vulnerable People, including whether the person’s Registration to Work with Vulnerable People status has ever been suspended or cancelled⁴⁶⁸
- the person has engaged in conduct that does not satisfy the standard generally expected of a teacher or is ‘otherwise disgraceful or improper’⁴⁶⁹
- there are other matters the Board considers relevant such as ‘employment and registration history and any previous and/or current disciplinary proceedings’.⁴⁷⁰

In determining whether an applicant is fit to teach, the Board may consider a person’s medical or psychological conditions, their competence as a teacher and any other relevant matter.⁴⁷¹ The ‘good character’ assessment is most relevant to allegations of child sexual abuse and related concerns.

The Board requires applicants for registration to make declarations as to their character and fitness to teach and to authorise the Board to conduct a National Police Check.⁴⁷² The Board is also authorised to obtain information from a corresponding registration authority from interstate, a government department or a relevant body, and request that the applicant undergo psychiatric and/or psychological examination.⁴⁷³ Registration is for up to five years, after which time a person must apply to have their registration renewed.⁴⁷⁴

The Board produces the resource *Professional Boundaries: Guidelines for Tasmanian Teachers* to educate applicants for registration, as well as registered teachers, about maintaining appropriate boundaries with students. The guidelines state that:

For teachers, engaging in sexualised or romantic/sexual relationships with any student, regardless of their age, is completely inappropriate, and—depending on the age of the student—may also be a crime. It will result in disciplinary action.⁴⁷⁵

Teachers are advised that sexualised, romantic or sexual relationships with former students ‘may breach teacher-student professional boundaries’, including a ‘relationship that commences within **two years** of the student completing compulsory education or turning 18 (whichever is later)’ [original emphasis].⁴⁷⁶ We discuss sexual abuse by a person in a position of authority in Chapter 16. The guidelines also define grooming and explain how to identify grooming behaviours.⁴⁷⁷ Breaching the guidelines may result in a finding of ‘misconduct, serious misconduct, and a lack of suitability/fitness to teach’.⁴⁷⁸ Depending on the circumstances, a breach of the guidelines may also result in criminal charges.⁴⁷⁹ The guidelines are provided to all applicants for teacher registration, who must declare on their application they have read and understood them. The guidelines are also given to all employers of teachers.⁴⁸⁰

Other provisions in the Teachers Registration Act regulate professional conduct and empower the Board to take action against a teacher for unprofessional conduct including sexual abuse:

- Section 18 requires registered teachers (or holders of a Limited Authority to Teach) to notify the Board if they are charged with or found guilty of a prescribed offence.⁴⁸¹ Prescribed offences include offences committed in Tasmania for which a sentence of imprisonment may be imposed, or an offence committed elsewhere if a sentence of imprisonment may have been imposed had the offence been committed in Tasmania.⁴⁸² The Board must notify employers and other registration authorities as soon as reasonably practicable after becoming aware that a registered teacher has been charged with or found guilty of a prescribed offence.⁴⁸³ This would include a sexual offence.
- Section 19 provides that a person can complain to the Board *in writing* about the professional conduct or competence of a registered teacher (or a holder of a Limited Authority to Teach).⁴⁸⁴ As soon as practicable after receiving a complaint, the Board must provide ‘notice of the making of the complaint, the name of the complainant and the contents of the complaint’ to the person who is the subject of the complaint and to the employers of that person.⁴⁸⁵
- Section 6A authorises the Board to investigate a complaint made under the Act.⁴⁸⁶ When investigating the complaint, the Board will conduct a risk assessment for the alleged conduct and prepare a report for the relevant committee of the Board, which will determine an outcome.⁴⁸⁷ In a ‘high-risk situation’—for example, where the complaint alleges child sexual abuse—the investigation is expedited.⁴⁸⁸ The Board may also recommend prosecution for offences committed against the Act, although the Registrar of the Teachers Registration Board, Ann Moxham, told us that, to the best of her knowledge, this has never happened.⁴⁸⁹

- Section 20 provides that the Board may inquire into any matter relating to a registered teacher (or holder of a Limited Authority to Teach), or someone who was formerly a registered teacher (or holder of a Limited Authority to Teach), including for disciplinary actions taken by an employer against a registered teacher.⁴⁹⁰ Having completed an inquiry, the Board may impose conditions on the person's registration, suspend, revoke or cancel the person's registration, or determine that the complaint or disciplinary action is without substance.⁴⁹¹
- Section 17BA, which was inserted into the Act in 2020, allows the Board to suspend or cancel a person's registration without an inquiry, if the person's Registration to Work with Vulnerable People has been suspended or revoked.⁴⁹²
- Section 24B covers 'emergency' situations and allows the Board to suspend a teacher's registration if it believes on reasonable grounds that the person may pose a risk to a student.⁴⁹³ Ms Moxham told us that emergency suspensions are used when 'risk of harm to a student materialises and the [Board] is required to act expeditiously'.⁴⁹⁴ Decisions about an 'emergency suspension [are] undertaken by reference to a risk assessment matrix procedure'.⁴⁹⁵ Following an emergency suspension, the Board must ensure an inquiry is held as soon as possible.⁴⁹⁶
- Section 32A permits for the Board to share information with other relevant entities, including corresponding registration authorities in other jurisdictions, police, child protection authorities in Tasmania, and other state and national bodies such as the Australian Institute for Teaching and School Leadership.⁴⁹⁷

The Board can also impose conditions on a person's registration without an inquiry or investigation if it considers this to be warranted.⁴⁹⁸ Conditions include that a teacher undertakes professional development, accesses coaching and/or mentoring, or that the teacher be monitored in-school and an assessment of their conduct provided to the Board.⁴⁹⁹

In 2020, there were 31 people whose registration was subject to conditions. Of these, 26 per cent had met the conditions imposed and 48 per cent were still being monitored. The other 26 per cent had their registration lapse or expire.⁵⁰⁰

Conditions placed on a teacher's registration are included in an online database established by the Board called Watched Registrations. This database is not publicly accessible but gives teachers' employers direct access to the Tasmanian Register of Teachers.⁵⁰¹ If a teacher's registration is subject to conditions, this is indicated by two asterisks against that teacher's name. However, the details of the conditions are not included in the database. School principals are advised to contact the Board's Professional Conduct Team to find out the specific nature of any conditions on a teacher's registration if the teacher appears on the Watched Registrations list.⁵⁰² The onus is on individual schools to update the list of teachers they employ on the database.⁵⁰³

8.2 Strengthening the Board's safeguarding measures

Through public hearings, witness statements, submissions and engagement with the community, as well as through information provided to us by the Department, we have identified problems with the teacher registration system. These problems undermine the Board's capacity to act in the best interests of Tasmanian students.

We heard that, as a result of advice provided by the Office of the Solicitor-General, the Department's approach to sharing information with the Teachers Registration Board about a teacher's conduct is restrictive and undermines the Board's ability to quickly assess whether a teacher should remain registered. We understand that the Government is considering solutions that will 'make it easier to share information about risks to children, including looking at whether issues of custom, practice and culture are creating unnecessary barriers'.⁵⁰⁴ We support an approach that facilitates rather than restricts information sharing about risks to children and suggest that any changes in this regard include independent regulators such as the Teachers Registration Board. Information sharing must be supported by legislation in a way that prioritises the safety of children over privacy concerns.

We also heard that the Teachers Registration Act does not equip the Board to keep track of where teachers are employed, making it difficult for the Board to monitor teachers' conduct where concerns have been raised about the safety of children.

As reported by the National Royal Commission, a number of risks to children arise when information about child sexual abuse perpetrated by teachers (or others in educational settings) is not shared 'by and with schools (or other employers of teachers) and state and territory teacher registration authorities'.⁵⁰⁵ A lack of information exchange can allow teachers who are or have been the subject of conduct complaints 'to move between schools, systems and jurisdictions' without conduct issues being identified or addressed.⁵⁰⁶ We heard of situations where teachers in Tasmania, including some teachers from interstate, have continued to be registered and to teach despite concerns about their conduct at other schools.

In keeping with the National Royal Commission's finding that 'improved and consistent information on teacher registers should be considered' for inclusion on registers, we recommend that a teacher's place of employment be included on the Register of Teachers.⁵⁰⁷

We also heard:

- It is difficult for the Teachers Registration Board to enforce the provisions of the Teachers Registration Act, even in instances where it is aware that an unregistered teacher is teaching in a Tasmanian school.

- Changes to Commonwealth laws will mean that teachers from other jurisdictions are automatically recognised as being registered to teach in Tasmania, and this poses risks to child safety.
- The Board is not authorised to mandate training and ongoing professional development as a prerequisite to teacher registration.
- Insufficient resourcing has undermined the Board’s capacity to fulfil its statutory obligations relevant to ensuring teachers comply with professional standards.

We make recommendations that address each of these issues in the following sections.

8.2.1 Information sharing

Information sharing between institutions with responsibilities for children’s safety and wellbeing, and between those institutions and relevant professionals, is necessary to identify, prevent and respond to incidents and risks of child sexual abuse.⁵⁰⁸

The Teachers Registration Act governs what information the Board can and must share, and with whom and under what circumstances it is to be shared.

Information on the Register of Teachers that can be made publicly available is governed by section 25 of the Act, as set out in Appendix F. This information can be accessed via a search facility on the Board’s website.⁵⁰⁹ While any person can request certain information on the Register, the Act prohibits public access to information about a teacher’s registration conditions or whether a registration has been previously suspended.⁵¹⁰ If the request for information comes from a ‘teacher employing authority’ (the Department, Catholic Education, the governing body of a registered school or TasTAFE), the Board may provide particulars of any conditions or suspension. The Act does not allow other information about a teacher’s conduct to be released unless the teacher (or holder of a Limited Authority to Teach) gives their consent.

The Board can also share information about registered teachers, or someone who has applied to be registered, with other teacher registration authorities. This can include any information the Board comes across in performing its functions or exercising its powers in relation to registered teachers or a person who has applied to be registered.⁵¹¹

While the provisions of the Teachers Registration Act restrict what information the Board can share, Ms Moxham told us that to share information ‘to prevent, identify, report on, and respond to child sexual abuse (as well as other potential and actual harms against students) in relation to teachers’, the Board relies on the notification provisions in the Teachers Registration Act that allow the Board to ‘do anything necessary or convenient to perform its functions’.⁵¹²

Under the Teachers Registration Act, the Board can access police reports when considering an application for registration or renewal of registration.⁵¹³ Ms Moxham told us that, generally, police respond to these requests promptly.⁵¹⁴ But we were also told that in terms of criminal history checks, it would be more efficient if the Board could ‘sync the entire register with Tasmania Police overnight so that information, including charges, is known in real-time’.⁵¹⁵ Also, the Board has no way of knowing when a registered teacher is currently charged with an offence.⁵¹⁶ While the Act requires that a person must notify the Board if they are charged with a prescribed offence, Ms Moxham told us it is ‘uncommon for people to provide these notifications’.⁵¹⁷

Ms Moxham informed us that the Board has generally found it difficult to ‘obtain primary evidence held by other agencies, bodies and employers in relation to people it regulates’.⁵¹⁸ This, we were told, has affected the Board’s ability to conduct its own investigations with efficiency and can result in the Board not conducting investigations in a trauma-informed way.⁵¹⁹ Ms Moxham said that the way the Department provides information to the Board about professional conduct matters is ‘patchy’ and sometimes depends on who in the Department is in communication with the Board.⁵²⁰

While the Board will receive information from the Department about an allegation involving a teacher and the final decision about that allegation, it will not receive information collected during the investigation.⁵²¹ This makes it more difficult for the Board to determine if a teacher is of good character.

Ms Moxham told us that she understood limits on information sharing were due to advice from the Office of the Solicitor-General that the Department cannot disclose information collected in its investigations to a third party.⁵²² We understand this advice is based on an interpretation of the *Personal Information Protection Act 2004* (‘Personal Information Protection Act’), which we discuss in Chapter 19. This problem exists to varying degrees across education sectors in Tasmania, with some sectors recently changing their practices at the risk of breaching their privacy obligations.⁵²³

Ms Moxham noted three key reasons for sharing investigative information with the Board. First, children and young people should not be subjected to multiple interviews because this has the potential to cause or exacerbate trauma. Emily Sanders, Director, Regulation, Victorian Commission for Children and Young People, noted in her evidence:

Reducing the number of times a child or young person is asked to give their account helps to minimise the risk of exacerbating trauma through an interview. We suggest organisations check if they can gain access to an interview conducted by other investigative agencies ... to reduce multiple interviews.⁵²⁴

Second, the Board has limited resources, and using those resources to conduct investigations into matters already investigated is inefficient. Third, a significant amount of time may pass before the Board can investigate a matter (because the Department’s disciplinary process may take a long time), and this may affect the quality of the evidence

it can get.⁵²⁵ We would add that delays in resolving a matter can also exacerbate a complainant's trauma.⁵²⁶

Secretary Bullard commented on aspects of Ms Moxham's characterisation of the Department providing information and the impact on Board investigations. He told us that the Department provides 'as much information as [it is] legally able' to the Board.⁵²⁷

The Investigation Report into an [Employment Direction No. 5—Breach of Code of Conduct] matter is not routinely provided ... [to entities including the Teachers Registration Board]. This is on the basis of legal advice from the Office of the Solicitor General, that in the absence of consent, the provisions of the Personal Information Protection Act (PIP Act) prevent the Department from disclosing the [Employment Direction No. 5] report.⁵²⁸

Secretary Bullard also said that while he understood Ms Moxham's evidence to be that the Board will wait to receive a 'full investigation file' before starting its investigative processes, he 'wanted to be very clear' that when a matter of concern is raised, the Registrar could start investigating straightaway.⁵²⁹ He also asserted there was nothing preventing the Board from conducting its own investigations into matters before receiving any information from the Department.⁵³⁰ We note, however, that conducting parallel investigations into the same matter is not only a waste of resources, it may also cause further trauma to victim-survivors. Secretary Bullard ultimately agreed that it was 'nonsensical' for the Board to have to expend resources investigating a matter that has (or is being) investigated by the Department:⁵³¹

It does seem that we end up duplicating investigations in terms of, we undertake a process, I end up with a [large] file ... it would be expedient to be able to provide that through to the Teachers Registration Board in full.⁵³²

We also heard of problems with the Board sharing information with the Department, particularly about relief teachers 'who have had employment conditions imposed upon them'.⁵³³ This means that the Department may not know when allegations of unprofessional conduct have been made against relief teachers who are teaching in Tasmanian schools.⁵³⁴ Ms Moxham told us that the Board responds to all requests for information from the Department of Justice under section 52A of the *Registration to Work with Vulnerable People Act 2013* ('Registration to Work with Vulnerable People Act') for information about registered teachers.⁵³⁵ Similar information sharing should occur with the Department.

Secretary Bullard was asked in hearings whether he would support removing any barriers to the flow of information between various regulators. He replied that he would be 'very supportive' of this.⁵³⁶ Jenny Gale, Secretary, Department of Premier and Cabinet, informed us that her Department was working on a legislative reform as part of the Keeping Children Safer Actions that will enable certain information to be shared between the Department for Education, Children and Young People and entities such as the Teachers Registration Board.⁵³⁷

Ms Sanders provided evidence about how information sharing is facilitated in Victoria, with a view to avoiding the duplication of investigations. Under Victoria's Reportable Conduct Scheme, 'co-regulators' can be requested to conduct reportable conduct investigations while investigating for another purpose, such as disciplinary purposes.⁵³⁸ In the Tasmanian context, this would operate, for example, to allow the Department or the Teachers Registration Board to investigate for the purposes of both an Employment Direction No. 5—Breach of Code of Conduct matter and an assessment of fitness to teach.

Ms Sanders noted that while different regulators may assess matters based on different criteria, in Victoria, the fact that there has not been a 'substantiated finding under the [Reportable Conduct] Scheme' by one co-regulator does not preclude another co-regulator, for example the Victorian Institute of Teaching (the Victorian equivalent of the Tasmanian Teachers Registration Board), from finding that professional conduct standards have been breached. Ms Sanders told us that if information sharing occurs properly, 'the co-regulators in a particular matter should all have access to the relevant information held by others that they need for their role'.⁵³⁹

In terms of information sharing across jurisdictions, the Teachers Registration Act specifies that the Board can provide limited information to corresponding teacher registration authorities.⁵⁴⁰ The Board may also seek information from a corresponding authority about a registered teacher, on the proviso that written authorisation is provided by the teacher concerned.⁵⁴¹

Secretary Bullard's view of information sharing across jurisdictions was that a 'coordinated response at the Commonwealth level to information sharing between state and territory education agencies would be useful'.⁵⁴² He noted that:

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.⁵⁴³

Automatic mutual recognition is discussed in Section 8.2.5.

The situation in Tasmania for sharing information between the Board and the Department—in particular, information gathered by the Department during its investigations into misconduct involving allegations or suspicions of child sexual abuse—is unsatisfactory. The situation does not prioritise the safety of children, nor meet the needs of victim-survivors.⁵⁴⁴ The reluctance to share information between government entities, even when there would be clear benefits to children to do so, appears to be the product of an excessively risk-averse culture in the State Service, possibly influenced by narrow legal advice. Also, the focus is on the wrong risk—that of breaching a person's privacy, and not of exposing children to potential harm. As expressed by Secretary Gale, it 'almost beggars belief that people guard information as if they own it and that that would [potentially put] young children at risk'.⁵⁴⁵

There appears to be a clear desire on behalf of the Tasmanian Government to overcome actual and perceived barriers to sharing information about child sexual abuse in order to protect children. To help remedy the current situation, the Department of Premier and Cabinet is planning reforms for government-wide information sharing in the form of ‘overarching legislation that would be superior to ... all other ... legislation in relation to that information’.⁵⁴⁶ This issue is discussed in Chapters 18 and 19.

Presumably, the reforms noted by Secretary Gale will also affect how the Department shares information with entities such as the Teachers Registration Board and the Registration to Work with Vulnerable People Scheme. However, in the absence of more detail about the reforms, and irrespective of any changes to the privacy legislative framework, we recommend short- and long-term solutions to restrictions on sharing information between the Department and the Board.

There is a relatively straightforward interim solution to this issue: the Department can seek an exemption under the Personal Information Protection Act, thereby allowing it to share information about investigations into employees suspected of child sexual abuse with the Board.

Section 13 of the Personal Information Protection Act allows a ‘personal information custodian’ to apply for exemptions ‘from compliance with any or all provisions’ of the Act.⁵⁴⁷ In determining whether or not to approve an application for an exemption, the Minister must be satisfied that ‘the public benefit outweighs to a substantial degree the public benefit from compliance with the personal information protection principles’.⁵⁴⁸ In our view, providing information to the Board in these circumstances would nearly always satisfy this requirement. We note that in a later hearing Secretary Bullard informed us there is ‘work under way’ towards applying for an exemption from the Act.⁵⁴⁹

While the longer-term measures in Recommendation 6.10 are being implemented, the Department should seek a section 13 exemption from the Personal Information Protection Act.

In the longer term, the Government should amend the Teachers Registration Act to support information sharing. An amended Act should empower the Teachers Registration Board to compel other entities to provide relevant information to the Board, including information gathered by the Department as part of an investigation into alleged misconduct by a teacher, in circumstances where child sexual abuse of a student by a registered teacher or holder of a Limited Authority to Teach is alleged or suspected. Providing such information will allow the Board to conduct investigations more efficiently, thereby reducing potential trauma to witnesses.

Part 6A of the Registration to Work with Vulnerable People Act, which allows the Registrar under that Act to compel information or documents, provides a useful model for amendments to the Teachers Registration Act.⁵⁵⁰ We note that the Personal

Information Protection Act would not pose a barrier to sharing such information because if a provision of the Personal Information Protection Act is inconsistent with a provision in another Act, the other Act will prevail.⁵⁵¹ Also, the Personal Protection Principles in Schedule 1 of the Personal Information Protection Act allow personal information to be revealed if disclosure is required or authorised by another law.⁵⁵² This approach will help create consistency in the ability of independent regulators to request information relevant to child sexual abuse while limiting the personal information shared in these circumstances to that which is requested.

While allowing the Teachers Registration Board to compel information from other government entities will help improve the Board's investigative processes, the Board may still not know when to request that an entity provides such information. In other words, the Board may not be aware of child sexual abuse allegations or suspicions against a teacher. We understand the Department's policy is to notify the Board within 24 hours of receiving information about allegations of child sexual abuse by a teacher.⁵⁵³ Secretary Bullard told us that the Department also notifies the Board when it starts a formal investigation into misconduct by a teacher under Employment Direction No. 5—Breach of Code of Conduct.⁵⁵⁴

We consider, however, that such notifications, which are vital to helping the Board safeguard children, should be legal requirements. Also, these notification requirements should apply to other entities that may have information about allegations or suspicions of child sexual abuse by a teacher. For example, other employers of teachers (such as non-government schools) the Registrar of the Registration to Work with Vulnerable People Scheme, police and the Child Safety Service should all be subject to a mandatory requirement to notify the Board. Equally, the Board should be allowed to share information relevant to matters involving alleged or suspected child sexual abuse by a teacher, with all relevant entities. We note that under the new *Child and Youth Safe Organisation Act 2023*, entities will be able to share information relevant to the Child and Youth Safe Standards and the Reportable Conduct Scheme.⁵⁵⁵

To facilitate more efficient information sharing and use of resources, and to reduce the possibility of investigations into child sexual abuse matters being duplicated, any investigation of allegations or suspicions of child sexual abuse by a teacher that the Department (or the Board) seeks to undertake should be done jointly, taking into account the relevant criteria of the Department and the Board.

Recommendation 6.10

The Tasmanian Government should introduce legislation to:

- a. allow the Teachers Registration Board to compel relevant entities—including the Department for Education, Children and Young People, other employers of teachers, the Registrar of the Registration to Work with Vulnerable People Scheme, police, and Child Safety Services—to give the Board information or documentation that is relevant to child sexual abuse matters involving a registered teacher or a holder of a Limited Authority to Teach
- b. compel these relevant entities to notify the Teachers Registration Board when they become aware of allegations or suspicions of child sexual abuse by a teacher. Such entities should also be required to notify the Board if they begin any formal investigation that involves allegations or suspicions of child sexual abuse by a teacher or a holder of a Limited Authority to Teach, and the outcome of any investigation
- c. allow entities, when investigating matters involving child sexual abuse by a registered teacher or holder of a Limited Authority to Teach, to jointly appoint investigators to investigate the matter, taking into account the different criteria required for investigations by the Department and the Board.

8.2.2 Keeping track of where teachers are working

Ms Moxham told us that the Teachers Registration Board ‘does not have reliable information about where a teacher is employed’ because a teacher’s registration is not associated with a particular school, and under the Teachers Registration Act, there is no provision requiring that a teacher’s location of employment be disclosed.⁵⁵⁶ Also, a teacher does not have to inform the Board when they change their place of employment, although they must let the Board know about a change of residential address.⁵⁵⁷ As Ms Moxham noted:

Teachers are not required under the Act to update us whenever they change schools, only if they change address and they don’t even always do that, and there’s some limitations with our Act about actually pursuing them over those matters.⁵⁵⁸

As discussed in Section 8.1, the Watched Registrations list helps the Board keep track of teachers with conditions on their registration.⁵⁵⁹ But this relies on individual schools to maintain updates. Ms Moxham noted that even if schools update their lists, the whereabouts of relief teachers may remain unknown to the Board because these teachers ‘commonly do not appear on Watched Registration lists’.⁵⁶⁰ Ms Moxham told us that ‘it’s almost impossible’ for the Board to know where a relief teacher is employed on any given day.⁵⁶¹

The National Royal Commission found that:

... including employers' details [on teacher registers] may enable registration authorities to notify them of circumstances related to allegations or incidents of child sexual abuse by a teacher employee.⁵⁶²

Including such details may be particularly useful where teachers work at more than one school or in more than one school system.⁵⁶³

Most Australian jurisdictions require details about a teacher's place of employment to be recorded on the Register of Teachers or notified to the relevant teacher registration authority. Most jurisdictions also require that the relevant teacher registration authority be notified when a teacher's place of employment changes. In some Australian jurisdictions, there are penalties for failing to notify the relevant teacher registration authority of a change to place of employment. Tasmania is the only state that does not require place of employment to be included on the Register of Teachers.

We note that although most jurisdictions require teachers to notify the relevant registration authority of their place of employment, including any changes to their place of employment, there may be gaps in compliance. Such gaps mean that a registration authority may not know the whereabouts of an unknown number of teachers for a period. Another issue is that the requirement to inform the relevant authority of place of employment does not apply to relief teachers, who may teach at different schools within short periods.

To help keep children safe in Tasmanian schools, we consider that a teacher's work-related address(es) should be included on the Register of Teachers. This requirement should also apply to holders of a Limited Authority to Teach. When a registered teacher or a holder of a Limited Authority to Teach begins teaching at a different school, a notification should be made to the Teachers Registration Board, and the Register updated accordingly. Schools should be able to capture these details electronically, which would allow notifications to occur simply and quickly, thereby providing improved visibility of where teachers, particularly relief teachers, are teaching. Also, rather than requiring teachers (or a holder of a Limited Authority to Teach) to notify the Board, a more effective approach may be to require employers to make such notifications.

To facilitate the accurate and timely recording and exchange of information about teachers, we understand that improvements may be required to be made to the Register of Teachers. The Board noted that it would require resources for an upgraded, fit-for-purpose Customer Records Management System that can support information exchange in real time with third parties, including other jurisdictions. We were told this is proving to be a resourcing challenge that is delaying efforts to keep students safe.⁵⁶⁴

Recommendation 6.11

The Tasmanian Government should:

- a. introduce legislation to amend the *Teachers Registration Act 2000* (or regulations) to require details of the prospective or current place of employment of a teacher (or a holder of Limited Authority to Teach) to be included on the Register of Teachers
- b. develop an electronic means of updating the Register of Teachers with details of the place of employment of a teacher (or a holder of Limited Authority to Teach)
- c. require employers to make updates to a teacher's place of employment—including when a teacher (or a holder of Limited Authority to Teach) begins working at the school or is no longer working at the school
- d. fund the Teachers Registration Board to develop an upgraded, fit-for-purpose Customer Records Management System to enable the Board to maintain a Register of Teachers which can support information exchange in real time with other bodies working with children, and other jurisdictions.

8.2.3 Improving compliance and enforcement

Under several provisions of the Teachers Registration Act, non-compliance with the provision attracts a penalty. For example, if a person who is not a registered teacher teaches in a school in Tasmania, they can be fined up to 50 penalty units (approximately \$9,000 at the time of writing).⁵⁶⁵ The Act also specifies that a person must not employ someone who is an unregistered teacher. The penalty is a fine of up to 50 penalty units for a first offence and up to 100 penalty units for a second offence (and an ongoing daily fine of 10 penalty units for each day the offence continues).⁵⁶⁶ All other states and territories have similar provisions.⁵⁶⁷

We heard that:

- there are 'regular offenders who employ unregistered teachers'⁵⁶⁸
- although the Teachers Registration Act requires that teachers notify the Board if they are charged with a prescribed offence, teachers seldom comply with this provision⁵⁶⁹
- although the Act requires that employers notify the Board when they take disciplinary action or dismiss a teacher due to unacceptable behaviour, this provision is not always followed, at least by some independent schools⁵⁷⁰

- although the Act requires teachers to update the Board of changes to their residential address, some teachers do not do so, despite non-compliance attracting a penalty.⁵⁷¹

Ms Moxham gave evidence that, despite the Act including ‘enforcement’ provisions for a range of ‘offences’, the Board has never undertaken an investigation to determine whether someone has contravened the provisions of the Act nor has it recommended prosecution against the Act.⁵⁷² Ms Moxham explained that this is largely due to the ‘costly and time-consuming process of filing matters with the Administrative Division of the Magistrates Court’ to have a fine issued for a contravention.⁵⁷³ Regarding taking action against a school that employs an unregistered teacher, she stated:

... the only process by which we can do that is to take the matter to the Magistrates Court, the administrative division of the Magistrates Court, and the time, energy, effort and resources to undertake that process has [worked] against the board ever taking any of those matters. So, we write letters, but you can imagine that if you’ve got a school that regularly offends and they’ve had five letters and a visit from us—no teeth. It’s something that should be fixed in our Act.⁵⁷⁴

As with all legislation, effective enforcement is key to ensuring compliance with the Act. In turn, compliance with the Act is essential to ensuring that only qualified, fit and proper people are registered as teachers. Providing the Board with a simplified means of enforcing the provisions in the Act, particularly those that have relatively low-level sanctions attached, could help improve compliance with the Act and, in some instances, relieve the Board of costly and time-consuming enforcement processes.

As was pointed out in a submission to the Australian Law Reform Commission’s Review of Federal Civil and Administrative Penalties, infringement schemes can be an appropriate means to address non-compliant behaviour, particularly in the context of a failure to provide notification or information to a regulator, which potentially reduces the effectiveness of the regulator ‘in performing its regulatory functions’.⁵⁷⁵ Such schemes have the advantage of providing a relatively quick and cost-effective means of dealing with contraventions of legislative provisions and are not uncommon in Tasmanian legislation.⁵⁷⁶

Under section 55 of the Registration to Work with Vulnerable People Act, an infringement notice can be issued if the Registrar ‘believes that the person has committed an infringement offence’.⁵⁷⁷ Infringement offences are listed in Schedule 2 of the *Registration to Work with Vulnerable People Regulations 2014*. Infringement offences include engaging in a regulated activity as an unregistered person and employing an unregistered person in a regulated activity. Infringement notice schemes such as that in the Registration to Work with Vulnerable People Act are not uncommon in Tasmanian legislation and have the advantage of providing a relatively quick and efficient means of dealing with contraventions of legislative provisions.⁵⁷⁸

While other states and territories do not have infringement notice provisions in their teacher registration legislation, some jurisdictions do specify that breaches of particular provisions are strict liability offences. For example, in the Northern Territory it is an offence (as it is in Tasmania) to teach while unregistered or without authorisation (the maximum penalty for this is 50 penalty units). The Act specifies that this is a strict liability offence.⁵⁷⁹ Similarly, in the Australian Capital Territory a person will commit an offence under the *Teacher Quality Institute Act 2010* (ACT) if they teach in a school without being an approved teacher. This is also a strict liability offence (attracting a penalty of 50 penalty units).⁵⁸⁰

To enforce the Teachers Registration Act and thereby enhance the Board's ability to protect children and young people in Tasmanian schools, we recommend that the Act be amended to allow the Board to issue infringement notices for those provisions in the Act that carry penalties in the form of fines.

We understand that the Office of the Director of Public Prosecutions provides advice to, and undertakes summary prosecutions on behalf of government departments and State Service agencies.⁵⁸¹ The Teachers Registration Board should consider entering an agreement with the Office of the Director of Public Prosecutions to prosecute summary offences.

Recommendation 6.12

The Tasmanian Government should introduce legislation to amend the *Teachers Registration Act 2000* to allow administrative infringement notices to be issued for noncompliance with the provisions of the Act that currently carry penalties in the form of fines.

8.2.4 The emergency suspension provision

The Teachers Registration Act allows for an 'emergency suspension' of a teacher's registration if the Board believes, on reasonable grounds, that a registered teacher (or holder of a Limited Authority to Teach) poses 'a risk of harm to a student'.⁵⁸² In 2020, the Board used this provision to suspend the registration of six teachers.⁵⁸³

The emergency suspension provision has recently been subject to an appeal, which was upheld by the Magistrates Court. The Court found that if the Department has already suspended a teacher's employment, there is no 'emergency' justifying the Board to use the provision. The Court therefore ordered that the suspension of the teacher's registration be set aside, but that a condition be placed on his registration that he not be able to teach. The Registrar of the Teachers Registration Board described this as 'contrary to the function of the Board'.⁵⁸⁴ This arose as an issue in the 'Jeremy' case study (refer to Chapter 5).

In other jurisdictions, there is no specification that the relevant registering authority must demonstrate an ‘emergency’ to suspend a teacher’s registration. For example, in Queensland, the *Education (Queensland College of Teachers) Act 2005* (Qld) says that a teacher may be suspended if they pose an unacceptable risk to children or if they are charged with a serious offence.⁵⁸⁵

The Victorian Institute of Teaching may suspend a teacher’s registration if it forms a reasonable belief that the teacher poses an unacceptable risk of harm to children. The Institute may also suspend a registration if a person is charged with ‘a Category B offence’ (these include sexual offences).⁵⁸⁶

Ms Moxham told us that the ‘emergency suspension’ provision in the Teachers Registration Act should be amended to read ‘immediate suspension’, which ‘would provide greater clarity about the purpose of the section’.⁵⁸⁷ We agree. Also, allowing the Board to suspend registration where a person has been charged with a serious offence (as is the case in Queensland and Victoria) would help the Board to ensure children are protected in a timely manner in such circumstances.

Recommendation 6.13

The Tasmanian Government should introduce legislation to amend section 24B of the *Teachers Registration Act 2000* to:

- a. allow for the immediate rather than emergency suspension of registration or a Limited Authority to Teach when the Teachers Registration Board considers there is an unacceptable risk of harm to children
- b. allow the Board to suspend a person’s registration or a Limited Authority to Teach where that person has been charged with a serious offence.

8.2.5 Mutual and automatic mutual recognition for teachers

The national mutual recognition scheme allows registered and licensed professionals to work throughout Australia. Under the scheme, a registered teacher in another Australian jurisdiction can ‘lodge a notice’ to become a registered teacher in Tasmania. If the application is lodged correctly, within seven days the Board will provide the applicant with a notification of ‘deemed registration’.⁵⁸⁸ Once deemed registration is granted, the applicant can start teaching in Tasmania, pending the ‘granting or refusal of substantive registration’ within 30 days.⁵⁸⁹ This is commonly referred to as mutual recognition.

A requirement for lodging a valid notice is that the teacher seeking mutual recognition must state whether they have been subject to any disciplinary proceedings in any other jurisdiction, including a ‘preliminary investigation’ or other action that could result in disciplinary proceedings.⁵⁹⁰ Ms Moxham told us that if the notice contains any

materially false or misleading information, the application may be refused.⁵⁹¹ The Board can receive and share relevant information with equivalent registration boards in other jurisdictions, to inform a decision to grant or refuse substantive registration.⁵⁹²

Building on the mutual recognition scheme, national changes to mutual recognition laws in 2021 provide for automatic mutual recognition in some circumstances. In Tasmania, teaching is exempt from the automatic recognition scheme until July 2025.⁵⁹³ Once automatic mutual recognition is implemented, it will dispense with the requirement for a teacher to ‘lodge a notice’ for recognition of their registration in another jurisdiction.⁵⁹⁴

The Independent Education Inquiry heard about concerns with mutual recognition:

An example provided to us described an applicant who falsified this declaration, gained registration as a relief teacher in Tasmania and went on to allegedly offend at multiple Tasmanian Government schools. We were told that a systemic weakness of the *Mutual Recognition Act 1992* (Cth) is that a teacher’s previous registration body is not obliged to disclose information about disciplinary proceedings to the teacher’s new registration body. We heard that under the current processes in Tasmania, a teacher can obtain registration under the mutual recognition legislation much quicker than it takes to receive [Registration to Work with Vulnerable People]. This has the potential to result in instances where a teacher is able to begin work as a registered teacher in a school prior to being cleared to work with children.⁵⁹⁵

We heard similar concerns. Both Ms Moxham and Secretary Bullard expressed concerns about the mutual recognition scheme, particularly automatic mutual recognition.⁵⁹⁶ Their primary concern was that the Board may not be notified if teachers from interstate start working in Tasmania. Without a requirement for notification, the Board cannot assess whether the person is suitable to work as a teacher in Tasmania, even if registered in their original jurisdiction.⁵⁹⁷ The automatic mutual recognition scheme will also make it difficult for the Board to know who is working in this jurisdiction (and whether those who are working in Tasmania are registered in another jurisdiction). It may also make it difficult to validate teachers’ principal place of residence and/or work, to monitor their ongoing eligibility to work under the *Mutual Recognition Act 1992* (Cth), and to identify previous places of employment to access information about their conduct.⁵⁹⁸

We note that the *Mutual Recognition Act 1992* (Cth) allows for an occupation to be excluded from the operation of the automatic mutual recognition scheme if automatic recognition poses a significant risk to consumer protection, environment protection, animal welfare or the health and safety of workers or the public. Exemptions from the scheme can be granted for up to five years.⁵⁹⁹

Given that the operation of the automatic mutual recognition scheme has been paused for teacher registration, we recommend that the Board continues to advocate at the national level that the risks posed by the scheme to the safety of children in Tasmanian schools be addressed before the exemption expires.

Recommendation 6.11 about teachers' employers being required to notify the Board of their place of employment may go some way to addressing some of the risks described above. The Board would be aware of a 'new' teacher in their jurisdiction and could conduct its own checks.

Recommendation 6.14

The Tasmanian Government, Department for Education, Children and Young People and the Teachers Registration Board should continue to advocate at the national level for an automatic mutual recognition scheme that takes into account risks to child safety and imposes measures to address these risks.

8.2.6 Professional development and training

During our hearings Ms Moxham indicated that it would be beneficial if training on mandatory reporting was part of Tasmania's teacher registration process.⁶⁰⁰ She pointed out that in South Australia mandatory reporting training is a requirement of teacher registration; that is, teachers cannot be registered until they have successfully completed this training.⁶⁰¹ In Section 5, we make recommendations about compulsory and ongoing professional development on child safeguarding and related matters.

There is benefit in requiring that training for identifying, preventing and responding to child sexual abuse be completed as a prerequisite to registration. This is in keeping with the role of governments to enforce appropriate professional standards, as argued in the seminal work *The Professions*.⁶⁰² We note, however, that the Teachers Registration Board does not have the authority to set requirements for teacher registration.

We recommend that the Teachers Registration Act be amended to allow the Board to require that particular training be undertaken for the purpose of registration, renewal of registration and professional development. The content of that training should be set out in the Regulations so the Board can revise the training as required, without the need for more amendments to the principal Act.

Recommendation 6.15

1. The Tasmanian Government should introduce legislation to amend the *Teachers Registration Act 2000* to allow the Teachers Registration Board to set requirements for minimum training and ongoing professional development.
2. The Teachers Registration Board should make child safeguarding training (Recommendation 6.5) a mandatory requirement for the granting of teacher registration and as part of ongoing registration requirements.

8.2.7 Resourcing

When asked whether the current level of funding was sufficient for the Teachers Registration Board to perform all its regulatory functions, Ms Moxham told us that ‘the short answer to this question is no’.⁶⁰³ She added that due to lack of funding, developing policy and procedures as well as ‘leveraging ... technical solutions’ lag behind other parts of the Board’s work.⁶⁰⁴ If the Board is to take a more active role in enforcing the provisions of the Teachers Registration Act, this may place more pressure on available resources.

Ms Moxham told us that the ability to undertake investigations was also hampered by a lack of resources in a context where the Board is ‘currently inundated with matters requiring complex and, in many cases, historical investigations’.⁶⁰⁵ The Board’s ‘conduct team’ comprises only two full-time investigators—a person who deals with applications (checking good character and fitness to teach based on national criminal history checks and other declarations made by applicants) and a person whose role primarily involves processing right to information requests.⁶⁰⁶ Our recommendation that investigators be jointly appointed and for increased information sharing with the Board by relevant entities may help to reduce unnecessary duplication and thereby save resources.

Ms Moxham stated while the Board’s funding was once exclusively sourced through registration fees, since 2017 it has also received some funding from the Tasmanian Government.

We heard that in the past the Board has advocated for a significant increase to teacher registration fees to help meet the costs of performing its functions under the Teachers Registration Act.⁶⁰⁷ The Department has denied this request.⁶⁰⁸ Instead, the Department reviewed the functions and powers of the Board and determined which areas were within the Board’s ‘central role of registration’ and which were ‘other’. ‘Other’ included functions concerned with professional conduct. More funding was then provided for roles deemed to not be part of the core teacher registration function of the Board (including functions concerned with professional conduct).⁶⁰⁹ We are concerned that professional conduct matters were not seen as core business of the Board.

This funding is indexed to increase each year, but it is unclear for how long this will continue.⁶¹⁰ Ms Moxham noted that although the Board will receive extra funding in 2023 and 2024, this funding is akin to a two-year grant, ‘not a structural/recurrent funding arrangement’.⁶¹¹ According to Ms Moxham, greater certainty of funds would enable the Board to ‘fully address [its] regulatory remit (inclusive of educative and co-regulation processes)’.⁶¹²

We note that the Board also has concerns about how its funding arrangements may affect its independence. Ms Moxham’s view was that ‘ad hoc grants on a per annum or project basis’ are not enough to ensure the independence of the Board and that, for the Board to be ‘truly independent’, funding should be drawn from consolidated revenue rather than the departmental purse.⁶¹³

We also note that, in response to the recent Education Regulation Review, the *Education Legislation Amendments (Education Regulation) Act 2022* has amended the *Education Act 2016* to require the Registrar of the Teachers Registration Board and the Secretary of the Department to enter into a 'Framework Agreement'.⁶¹⁴ The Framework Agreement will cover matters such as the Registrar's staffing, budgets and the application of departmental policies.⁶¹⁵ The intention of the amendment is to further safeguard the independence of education regulators (such as the Board) by providing 'greater transparency and clarity on administrative support' provided by the Department.⁶¹⁶

Ms Moxham told us that this amendment 'appears to give effect to what is already achieved by the [Teachers Registration Board] and the Department via Memoranda of Understanding and ... Service Level Agreements'.⁶¹⁷ She also stated:

... while ever the regulator is subject to the Department for the funding it needs over and above teacher registration fees (rather than from consolidated government revenue), the Department can continue to consider the regulator as a business unit of the Department and subject [to] its strategic intent, rather than to the important reforms needed to ensure the most efficient and effective use of resources for the best outcomes for the welfare and best interests of students (vulnerable children and young people).⁶¹⁸

During our hearings, Secretary Bullard commented on Ms Moxham's concerns that changes effected by the Education Regulation Review mean that the Board will become less independent. His view was that rather than bringing the Board closer to Government, the changes will have the opposite effect, in part due to introducing a skills-based Board to replace the representative Board and the 'higher level of scrutiny and regulatory oversight to the activities of the [Teachers Registration Board]' that this change will bring.⁶¹⁹

Ultimately, from the perspective of keeping children safe in Tasmanian schools, the most important point is that the Board can perform its statutory functions. Given Ms Moxham's concerns and noting that one of the purposes of establishing the Board was to 'protect children in government and non-government schools from the possibility of sexual or other abuse', consideration should be given to whether the Board's funding levels are enough for it to perform *all* of its functions under its Act—whether under current funding arrangements or through the new Framework Agreement.⁶²⁰

While the registration of teachers is a core function of the Board, those functions deemed 'other' by the Department—that is, functions concerned with professional conduct, compliance and enforcement—are equally important to protecting children and fostering student wellbeing. Adequate resources should be provided to enable the Teachers Registration Board to perform these functions, without which students may be at increased risk. In this respect, we note that the Review of Education Regulation report recommended that the Department develops a methodology, with input from regulators such as the Board, to determine sustainable funding.⁶²¹

Recommendation 6.16

The Tasmanian Government should ensure the Teachers Registration Board is funded to perform its core function of regulating the professional conduct of teachers.

9 Conclusion

Schools should always be a safe place for children and young people. Students are entitled to expect that school staff will always act in their best interests and are equipped to help them if they disclose concerns. We acknowledge that, overwhelmingly, teachers and school staff are committed to ensuring the safety, wellbeing and educational achievement of students in their care. Their actions can have an enormous impact on the lives of children and young people—many teachers will shape the lives of their students for the better.

The Department should consistently strive to prevent child sexual abuse through strong screening and registration requirements, clear and practical policies and guidance, and a commitment to ongoing training and education. The Department can make an important contribution to the knowledge and confidence of young people, and their ability to recognise and understand risks to their safety, by providing child sexual abuse prevention education to all children in Tasmanian Government schools. The Teachers Registration Board should be equipped to robustly regulate the registration and professional conduct of teachers. The Board should have access to the powers, information and funding that it needs to acquit its functions and to be responsive to the risks that teachers may pose to students.

There are instances where students are not kept safe. Sometimes they are harmed by teachers who they trusted, in other instances by fellow students who display harmful sexual behaviours. While these incidents are more common than we would like to believe, they often occur relatively infrequently in the careers of individual principals and teachers. While school staff and leadership should have foundational skills in line with their responsibilities to receive a disclosure and know what to do, there is a place for specialist roles to closely guide and support schools when concerns are raised about a teacher's conduct or a student's safety. While it is inevitable that such incidents will cause distress and concern, the impact of abuse can be greatly alleviated by an effective and supportive response.

We are greatly encouraged by the efforts of the Department in implementing the recommendations of the Independent Education Inquiry and progressing a range of other safeguarding initiatives designed to improve the safety of students. We see

great promise in these initiatives. However, we consider it is important that the Department be accountable for its commitments. We consider it appropriate that the Child Sexual Abuse Reform Implementation Monitor we recommend in Chapter 22 monitors the implementation of the Independent Education Inquiry's recommendations.

For many victim-survivors, the most pressing concern is preventing what happened to them from happening to another student. We expect the Department to share this commitment of victim-survivors and to prove this commitment through its actions.

Notes

- 1 Refer to, for example, Department of the Prime Minister and Cabinet, *National Strategy to Prevent and Respond to Child Sexual Abuse 2021–2030* (2021) 37–39; National Centre for Action on Child Sexual Abuse, *Here for Change: Five Year Strategy 2023–2027* (June 2023) 22–23.
- 2 Tim Moore and Morag McArthur, *Take notice, believe us and act! Exploring the safety of children and young people in government run organisations* (Research Report prepared for the Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings, February 2023) 65.
- 3 Tim Moore and Morag McArthur, *Take notice, believe us and act! Exploring the safety of children and young people in government run organisations* (Research Report prepared for the Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings, February 2023) 65.
- 4 Transcript of Leah Sallèse, 8 July 2022, 2638 [35–39].
- 5 Transcript of Sam Leishman, 13 May 2022, 1054 [35]–1055 [3].
- 6 The name ‘Rachel’ is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 11 May 2022; Statement of ‘Rachel’, 14 April 2022, 8 [38].
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- 8 Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* (Report, Social Action & Research Centre, Anglicare Tasmania, November 2022) 50.
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- 10 Carmel Hobbs, *Young, In Love and In Danger: Teen Domestic Violence and Abuse in Tasmania* (Report, Social Action & Research Centre, Anglicare Tasmania, November 2022) 40.
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- 14 Statement of Kathryn Fordyce, 3 May 2022, 16 [50].
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- 16 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 6, Recommendation 6.2.
- 17 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 6, 72.
- 18 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 6, 72.
- 19 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 6, 73.
- 20 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 13, 156.
- 21 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 13, 156.
- 22 Statement of Kerryann Walsh, 15 April 2022, 11–12 [38].
- 23 Transcript of Kerryann Walsh, 13 May 2022, 1105 [14–40].
- 24 Transcript of Kerryann Walsh, 13 May 2022, 1106 [18–41].
- 25 Transcript of Kerryann Walsh, 13 May 2022, 1107 [12–45].
- 26 Transcript of Kerryann Walsh, 13 May 2022, 1107 [12–45].
- 27 Submission 067 Body Safety Australia, 2.
- 28 Transcript of Kerryann Walsh, 13 May 2022, 1106 [6–14].
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- 30 Submission 067 Body Safety Australia, 5.

- 31 Burnie consultation, 24 August 2021.
- 32 Statement of Kerryann Walsh, 15 April 2022, 12 [39].
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- 36 Statement of Timothy Bullard, 10 May 2022, 11 [63].
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- 38 Statement of Timothy Bullard, 10 May 2022, 11 [67].
- 39 Tasmanian Government, *Safe Homes, Families, Communities: Tasmania's Action Plan for Family and Sexual Violence 2019–2022* (2019) 9.
- 40 Tasmanian Government, *Survivors at the Centre: Tasmania's Third Family and Sexual Violence Action Plan 2022–2027* (November 2022) 19.
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- 58 Statement of Elizabeth Jack in response to Questions on Notice, 3 June 2022, 2.
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- 60 Statement of Kerryann Walsh, 15 April 2022, 12 [39].
- 61 Transcript of Kerryann Walsh, 13 May 2022, 1117 [14–22].
- 62 Statement of Elizabeth Jack in response to Questions on Notice, 3 June 2022, 3.
- 63 Statement of Timothy Bullard, 10 May 2022, 31 [187].
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- 66 Department for Education South Australia, 'Keeping Safe: Child Protection Curriculum information for educators', *Curriculum Programs* (Web Page, 17 November 2022) <<https://www.education.sa.gov.au/schools-and-educators/curriculum-and-teaching/curriculum-programs/keeping-safe-child-protection-curriculum-information-educators>>.

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- 75 Statement of Elizabeth Jack, 29 April 2022, Annexure 2 (Department of Education, 'Statement of Duties for Executive Director, Safeguarding Children and Young People', July 2021) 3 [13].
- 76 Statement of Elizabeth Jack, 29 April 2022, Annexure 2 (Department of Education, 'Statement of Duties for Executive Director, Safeguarding Children and Young People,' July 2021) 3 [13].
- 77 Statement of Elizabeth Jack, 29 April 2022, 6 [28].
- 78 Statement of Elizabeth Jack, 29 April 2022, 5 [27].
- 79 Statement of Elizabeth Jack, 29 April 2022, 6 [30].
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- 89 Statement of Kerryann Walsh, 15 April 2022, 13 [46].
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- 91 Transcript of Elizabeth Jack, 13 May 2022, 1119 [47]–1120 [10].
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- 93 Letter from Timothy Bullard to the Commission of Inquiry, 9 February 2023, 1.
- 94 Letter from Timothy Bullard to the Commission of Inquiry, 9 February 2023, 1.
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- 111 Department for Education, Children and Young People, *Procedural Fairness Response*, 17 March 2023, 10.
- 112 The Department has since told us that although its deliberations were not detailed in the review, the Review Panel did give specific consideration to whether the relevant young person and/or their family should be invited to participate in an interview. We are told that the Review Panel determined that it would be inappropriate to do so in the circumstances. We consider it important that any similar future reports detail all critical deliberations. Department for Education, Children and Young People, *Procedural Fairness Response*, 17 March 2023, 11–12.
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- 132 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 81–82.
- 133 Statement of Stephen Smallbone, 28 April 2022, 8 [31]; Statement of Elizabeth Jack, 29 April 2022, Annexure 12 (Excel spreadsheet: 'Planned and completed implementation of DoE Inquiry Recommendations', 29 April 2022) 5.
- 134 Statement of Timothy Bullard, 10 May 2022, 7 [39].
- 135 Statement of Timothy Bullard, 10 May 2022, 43 [250].
- 136 Statement of Timothy Bullard, 10 May 2022, 14 [91].
- 137 Statement of Timothy Bullard, 10 May 2022, 23 [143].
- 138 Statement of Timothy Bullard, 10 May 2022, 27 [169].
- 139 Letter from Timothy Bullard to the Commission of Inquiry, 9 February 2023, 2.
- 140 A URL link for the *Child Safe Code of Conduct (Interim)* can be found in Department for Education, Children and Young People, *Safe. Secure. Supported. Our Safeguarding Framework* (April 2023) 69.
- 141 Transcript of Kerri Collins, 9 May 2022, 636 [26–34].
- 142 Transcript of Monique Carter, 10 May 2022, 752 [23–27].
- 143 Department for Education, Children and Young People, *Safe. Secure. Supported. Our Safeguarding Framework* (April 2023).
- 144 Department for Education, Children and Young People, *Safe. Secure. Supported. Our Safeguarding Framework* (April 2023) 6.
- 145 Department for Education, Children and Young People, *Safe. Secure. Supported. Our Safeguarding Framework* (April 2023) 65.
- 146 Letter from Timothy Bullard to the Commission of Inquiry, 9 February 2023, 6.
- 147 Department for Education, Children and Young People, *Safe. Secure. Supported. Our Safeguarding Framework* (April 2023) 69.
- 148 Department for Education, Children and Young People, *Safe. Secure. Supported. Our Safeguarding Framework* (April 2023) 9.
- 149 Statement of Alana Girvin, 28 April 2022, 6 [28].
- 150 Statement of Alana Girvin, 28 April 2022, 4 [22].
- 151 Statement of Alana Girvin, 28 April 2022, 5 [26].
- 152 Statement of Alana Girvin, 28 April 2022, 5 [26].
- 153 Transcript of Alana Girvin, 11 May 2022, 862 [36–39].
- 154 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 7, 185.

- 155 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 7, 186.
- 156 Statement of Alana Girvin, 28 April 2022, 4–5 [24].
- 157 Statement of Alana Girvin, 28 April 2022, 4–5 [24].
- 158 Statement of Alana Girvin, 28 April 2022, 5 [25].
- 159 Statement of Alana Girvin, 28 April 2022, 5 [24].
- 160 Statement of Alana Girvin, 28 April 2022, 6 [29].
- 161 Transcript of Alana Girvin, 11 May 2022, 863 [15–17].
- 162 Statement of Alana Girvin, 28 April 2022, Annexure ASG-3 (Guideline: ‘Protective practices for staff in their interactions with children and young people’, 2019) 11.
- 163 Refer to *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 7, 186.
- 164 Transcript of Elizabeth Jack, 13 May 2022, 1114 [45–46].
- 165 Statement of Nigel Russell, 29 April 2022, 1 [8].
- 166 Statement of Nigel Russell, 29 April 2022, 4 [29]–5 [31].
- 167 Transcript of Monique Carter, 10 May 2022, 773 [28–36].
- 168 Statement of Kerri Collins, 11 April 2022, 9 [40].
- 169 Transcript of Monique Carter, 10 May 2022, 760 [9–13].
- 170 Transcript of Kerri Collins, 9 May 2022, 637 [9–19].
- 171 Transcript of Monique Carter, 10 May 2022, 759 [7–11].
- 172 Transcript of Monique Carter, 10 May 2022, 760 [22–35].
- 173 Statement of Steven Smith, 22 April 2022, 5 [35].
- 174 Statement of Steven Smith, 22 April 2022, 6 [36].
- 175 Statement of Steven Smith, 22 April 2022, 6 [37].
- 176 Statement of Timothy Bullard, 10 May 2022, 15 [94].
- 177 Statement of Monique Carter, 26 April 2022, 8 [52].
- 178 Statement of Timothy Bullard, 10 May 2022, 15 [94].
- 179 Statement of Timothy Bullard, 10 May 2022, 22–23 [142].
- 180 Statement of Timothy Bullard, 10 May 2022, 22 [137].
- 181 Statement of Timothy Bullard, 10 May 2022, 6 [33].
- 182 Statement of Timothy Bullard, 10 May 2022, 6 [34].
- 183 Statement of Timothy Bullard, 10 May 2022, 32 [189].
- 184 Transcript of Timothy Bullard, 12 May 2022, 987 [46]–988 [5].
- 185 Letter from Timothy Bullard to Commission of Inquiry, 9 February 2023, 7.
- 186 Letter from Timothy Bullard to Commission of Inquiry, 9 February 2023, 7.
- 187 Letter from Timothy Bullard to Commission of Inquiry, 9 February 2023, 6.
- 188 Letter from Timothy Bullard to Commission of Inquiry, 9 February 2023, 6.
- 189 Statement of Timothy Bullard, 6 June 2022, 13 [53].
- 190 Statement of Alana Girvin, 28 April 2022, Annexure ASG-2 (‘Key DeBelle Report Recommendations’, 28 April 2022) 6 [16–17], [21]; refer to Recommendations 16, 17, 21.
- 191 Statement of Alana Girvin, 28 April 2022, 5–6 [26].
- 192 Statement of Alana Girvin, 28 April 2022, 5 [25].
- 193 Transcript of Alana Girvin, 11 May 2022, 868 [27–32].
- 194 Transcript of Monique Carter, 10 May 2022, 774 [34–46], 775 [1–12].
- 195 Statement of Kerryann Walsh, 15 April 2022, 6 [18].
- 196 Statement of Katrina Munting, 5 April 2022, 9 [45].

- 197 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 12.
- 198 Statement of Elizabeth Jack, 29 April 2022, Annexure 17 (Letter from Elizabeth Jack to Dean and Head of School, Education, University of Tasmania, 21 December 2021) 1–2.
- 199 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 12.
- 200 Teachers Registration Board, *Procedural Fairness Response*, 17 March 2023, 2.
- 201 Teachers Registration Board, *Procedural Fairness Response*, 17 March 2023, 2.
- 202 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 12.
- 203 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 78.
- 204 Statement of Kerryann Walsh, 15 April 2022, 6 [18].
- 205 Statement of Kerryann Walsh, 15 April 2022, 7 [23].
- 206 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 6, 89.
- 207 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 6, 90.
- 208 Statement of Elizabeth Jack, 29 April 2022, Annexure 17 (Letter from Elizabeth Jack to Dean and Head of School, Education, University of Tasmania, 21 December 2021) 1–2.
- 209 Statement of Kerryann Walsh, 15 April 2022, 8 [25].
- 210 Statement of Timothy Bullard, 10 May 2022, 6 [35].
- 211 Statement of Elizabeth Jack, 29 April 2022, Annexure 17 (Letter from Elizabeth Jack to Dean and Head of School, Education, University of Tasmania, 21 December 2021) 2.
- 212 Statement of Elizabeth Jack, 29 April 2022, Annexure 17 (Letter from Elizabeth Jack to Dean and Head of School, Education, University of Tasmania, 21 December 2021) 2.
- 213 We note that increases and decreases in allegations or incidents of child sexual abuse must be viewed in a broader context. A decrease in reporting does not necessarily coincide with a decrease in incidents, just as an apparent increase in incidents may reflect increased awareness and reporting. For example, we note in Chapter 5 that Secretary Bullard has attributed a recent increase in reports in the Department to 'people getting the message'. However, over time, if the measures designed to prevent child sexual abuse and their implementation are successful, we would expect there to be an overall decrease in incidents, as appears to be the case in South Australia.
- 214 *Child and Youth Safe Organisations Act 2023* ss 14 and 22.
- 215 *Child and Youth Safe Organisations Act 2023* s 34.
- 216 *Child and Youth Safe Organisations Act 2023* s 30.
- 217 For example, Department for Education, Children and Young People, *Advice for School Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022). Other flowcharts include: Department for Education, Children and Young People, *Responding to Incidents, Disclosures or Suspicions of Child Sexual Abuse by a Current Department Employee or Volunteer* (version 2.0, undated); Department for Education, Children and Young People, *Responding to Incidents, Disclosures or Suspicions of Child Sexual Abuse by a Former Department Employee* (version 2.0, undated); Department for Education, Children and Young People, *Responding to Incidents, Disclosures or Suspicions of Child Sexual Abuse by an Adult in the Family or Community, Including Visitors in Schools* (version 2.0, undated); Department for Education, Children and Young People, *Responding to Incidents, Disclosures or Suspicions of Harmful Sexual Behaviour* (version 2.0, undated); Department for Education, Children and Young People, *Online Child Sexual Abuse Material: Response Flowchart for Staff* (version 2.0, undated). In February 2023, Secretary Bullard told us that flowcharts relating to preventing, identifying and responding to child sexual abuse were updated and distributed to schools: Letter from Timothy Bullard to Commission of Inquiry, 9 February 2023, 2.
- 218 Refer to Department for Education, Children and Young People, *Advice for School Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022).

- 219 Refer to Department for Education, Children and Young People, *Advice for School Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022).
- 220 Department for Education, Children and Young People, *Advice for School Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022).
- 221 Department for Education, Children and Young People, *Advice for School Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022). The flowchart also provides contacts that should be made for matters involving harmful sexual behaviours and abuse by a family member or member of the community.
- 222 Department for Education, Children and Young People, *Advice for School Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022).
- 223 Department for Education, Children and Young People, *Advice for School Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022).
- 224 Department for Education, Children and Young People, *Advice for School Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022).
- 225 Statement of Timothy Bullard, 10 May 2022, 55 [336].
- 226 Department of Education, *Department of Education Process Where an Allegations(s) of Child Sexual Abuse is Made Against a Current Employee* (2021) 1. This policy is available on the Workplace Relations *Child Sexual Abuse* Intranet page.
- 227 Department of Education, *Department of Education Process Where an Allegations(s) of Child Sexual Abuse is Made Against a Current Employee* (2021) 1.
- 228 Statement of Timothy Bullard, 10 May 2022, 33 [191].
- 229 Statement of Timothy Bullard, 10 May 2022, 33 [191].
- 230 This occurs in relation to the fixed term and relief employment register: Statement of Timothy Bullard, 10 May 2022, 33 [191].
- 231 Statement of Timothy Bullard, 10 May 2022, 33 [191].
- 232 Statement of Timothy Bullard, 10 May 2022, 33 [191].
- 233 Department for Education, Children and Young People, *Advice for DoE Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022).
- 234 Department for Education, Children and Young People, *Advice for DoE Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022).
- 235 Statement of Timothy Bullard, 10 May 2022, 33 [192].
- 236 Statement of Timothy Bullard, 10 May 2022, 34 [193].
- 237 Statement of Timothy Bullard, 10 May 2022, 41 [244].
- 238 Statement of Timothy Bullard, 10 May 2022, 41 [244].
- 239 Transcript of Monique Carter, 10 May 2022, 765 [3–40].
- 240 Department of Education, *Department of Education Process Where an Allegations(s) of Child Sexual Abuse is Made Against a Current Employee* (2021) 2.
- 241 Statement of Timothy Bullard, 10 May 2022, 34 [194].
- 242 Department of Education, *Department of Education Process Where an Allegations(s) of Child Sexual Abuse is Made Against a Current Employee* (2021) 2.
- 243 Statement of Timothy Bullard, 10 May 2022, 34 [194].
- 244 Statement of Timothy Bullard, 10 May 2022, 34 [194].
- 245 Statement of Timothy Bullard, 10 May 2022, 34 [194].
- 246 *State Service Act 2000* s 10(1).
- 247 *State Service Act 2000* s 9(6).
- 248 *State Service Act 2000* s 9.
- 249 Statement of Timothy Bullard, 10 May 2022, 10 [60].

- 250 Statement of Timothy Bullard, 10 May 2022, 34 [194].
- 251 Statement of Timothy Bullard, 10 May 2022, 34 [194].
- 252 Statement of Timothy Bullard, 10 May 2022, 34 [194].
- 253 Statement of Timothy Bullard, 10 May 2022, 34 [194].
- 254 Statement of Timothy Bullard, 10 May 2022, 35 [202].
- 255 Statement of Timothy Bullard, 10 May 2022, 36 [217].
- 256 Refer to *State Service Act 2000* s 3 (definition of ‘employee’), 10(1). Refer also to Statement of Timothy Bullard, 10 May 2022, 35 [202].
- 257 Statement of Timothy Bullard, 10 May 2022, 56 [347].
- 258 Statement of Timothy Bullard, 10 May 2022, 56 [348].
- 259 Statement of Steven Smith, 22 April 2022, 6 [39].
- 260 Statement of Steven Smith, 22 April 2022, 6 [39].
- 261 Refer to Department for Education, Children and Young People, *Advice for School Staff – Responding to Incidents, Disclosures or Suspicions of Child Sexual Abuse (2022)* 2.
- 262 Integrity Commission, *Guide to Managing Misconduct in the Tasmanian Public Sector* (March, 2021).
- 263 Transcript of Timothy Bullard, 11 May 2022, 904 [4–9].
- 264 Transcript of Timothy Bullard, 11 May 2022, 904 [23–30].
- 265 Transcript of Timothy Bullard, 11 May 2022, 904 [11–21]. Refer also to Commissioner’s Direction 5/2002.
- 266 Department for Education, Children and Young People, *Procedural Fairness Response*, 17 March 2023, 23.
- 267 Department for Education, Children and Young People, *Procedural Fairness Response*, 17 March 2023, 23.
- 268 Transcript of Timothy Bullard, 12 May 2022, 955 [27–33].
- 269 Transcript of Timothy Bullard, 12 May 2022, 957 [5–29].
- 270 Transcript of Timothy Bullard, 12 May 2022, 960 [23–25].
- 271 Statement of Timothy Bullard, 10 May 2022, 57 [357].
- 272 *Child and Youth Safe Organisations Act 2023* s 35(3).
- 273 *Child and Youth Safe Organisations Act 2023* s 40(3).
- 274 *Teachers Registration Act 2000* s 31(3).
- 275 *Child and Youth Safe Organisations Act 2023* s 34.
- 276 We note that the State Service Management Office issued practices, procedures and standards on 8 July 2022 that enabled these breaches to be recorded: State Service Management Office, *Practices, Procedures and Standards No. 5: Register for Tasmanian State Service Code of Conduct Breaches Resulting in or that would have Resulted in Termination* (8 July 2022).
- 277 Transcript of ‘Rachel’, 11 May 2022, 811 [14–16].
- 278 Transcript of ‘Rachel’, 11 May 2022, 809 [45]–810 [3].
- 279 Statement of Timothy Bullard, 10 May 2022, 56 [342].
- 280 Statement of Timothy Bullard in response to Questions on Notice, 6 June 2022, 2 [7].
- 281 Statement of Timothy Bullard in response to Questions on Notice, 6 June 2022, 2 [6]–3 [10].
- 282 Statement of Timothy Bullard, 10 May 2022, 56 [343–346].
- 283 Statement of Steven Smith, 22 April 2022, 6 [39]. Refer also to Employment Direction No. 5, *Procedures for the Investigation and Determination of Whether an Employee Has Breached the Code of Conduct* (2013) cl 7.3.
- 284 Statement of Steven Smith, 22 April 2022, 7 [39].
- 285 Statement of Timothy Bullard in response to Questions on Notice, 6 June 2022, 2 [6]–3 [10].
- 286 Statement of Timothy Bullard, 10 May 2022, 55 [341].
- 287 Statement of Timothy Bullard, 10 May 2022, 3 [24].
- 288 Transcript of ‘Rachel’, 11 May 2022, 813 [17–26].
- 289 Statement of Timothy Bullard, 10 May 2022, 58 [361–364].

- 290 Transcript of Timothy Bullard, 11 May 2022, 901 [28–32].
- 291 Transcript of Timothy Bullard, 11 May 2022, 902 [29–35].
- 292 Statement of Timothy Bullard, 12 September 2022, 6 [18].
- 293 Statement of Timothy Bullard, 12 September 2022, 10 [32].
- 294 Statement of Timothy Bullard, 12 September 2022, 10 [32].
- 295 Statement of Timothy Bullard in response to Questions on Notice, 6 June 2022, 3 [16].
- 296 Statement of Timothy Bullard in response to Questions on Notice, 6 June 2022, 3 [16].
- 297 Statement of Timothy Bullard, 12 September 2022, 10 [32].
- 298 Statement of Timothy Bullard, 12 September 2022, 10 [32].
- 299 Statement of Timothy Bullard, 12 September 2022, 6 [19].
- 300 Statement of Timothy Bullard, 12 September 2022, 10 [33].
- 301 Statement of Timothy Bullard, 12 September 2022, 10 [33].
- 302 Tim Moore and Morag McArthur, *Take notice, believe us and act! Exploring the safety of children and young people in government run organisations* (Research Report prepared for the Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings, February 2023) 47.
- 303 Statement of Katrina Munting, 5 April 2022, 5 [23]. The name ‘Peter’ is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 10 May 2022.
- 304 Statement of Kerri Collins, 11 April 2022, 2 [11].
- 305 Statement of ‘Rachel’, 14 April 2022, 4 [22]–5 [23]. The name ‘Wayne’ is a pseudonym; Order of the Commission of Inquiry, restricted publication order, 11 May 2022.
- 306 Statement of Nigel Russell, 28 April 2022, 3 [22–23].
- 307 Transcript of Robert Boost, 12 September 2022, 3894 [34–47].
- 308 Transcript of Robert Boost, 12 September 2022, 3895 [10–18].
- 309 Transcript of Robert Boost, 12 September 2022, 3894 [45]–3895 [8].
- 310 Statement of Sam Leishman, 15 March 2022, 2 [11] and [15].
- 311 *Child and Youth Safe Organisations Act 2023*, s 42.
- 312 Statement of Timothy Bullard, regarding Sam Leishman, 8 April 2022, 6 [43].
- 313 Statement of Timothy Bullard, 10 May 2022, 58 [365].
- 314 Statement of Timothy Bullard, 10 May 2022, 10 [60].
- 315 Letter from Timothy Bullard to the Commission of Inquiry, 9 February 2023, 2.
- 316 Letter from Timothy Bullard to the Commission of Inquiry, 9 February 2023, 2.
- 317 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education’s Responses to Child Sexual Abuse* (Report, June 2021) 50, 10.
- 318 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education’s Responses to Child Sexual Abuse* (Report, June 2021) 10.
- 319 Refer to, for example, Transcript of Timothy Bullard, 12 May 2022, 930 [9–43].
- 320 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education’s Responses to Child Sexual Abuse* (Report, June 2021) 79, Recommendation 12.
- 321 Transcript of Timothy Bullard, 12 September 2022, 3938 [26–30].
- 322 Statement of Alana Girvin, 28 April 2022, 2 [11].
- 323 Statement of Alana Girvin, 28 April 2022, 2 [14].
- 324 Department for Education, *Protective Practices for Staff in Their Interactions with Children and Young People* (2nd ed, Government of South Australia, 2019) 7.
- 325 Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 3.
- 326 Statement of Alana Girvin, 28 April 2022, 20 [86].

- 327 Statement of Alana Girvin, 28 April 2022, 20 [87].
- 328 Statement of Alana Girvin, 28 April 2022, 21 [88–90].
- 329 Conversation with Alana Girvin, former Director of the Incident Management Directorate in the South Australian Department for Education (staff, Commission of Inquiry, 3 March 2022).
- 330 Statement of Alana Girvin, 28 April 2022, 2 [12].
- 331 The current Incident Report Management System is to be replaced from 2022 with a new system based on a new technology platform. Refer to Department for Education, *Annual Report 2021* (Report, Government of South Australia, 2021) 37.
- 332 Statement of Alana Girvin, 28 April 2022, 3 [15].
- 333 Statement of Alana Girvin, 28 April 2022, 11 [43].
- 334 Statement of Alana Girvin, 28 April 2022, 11 [43].
- 335 Statement of Alana Girvin, 28 April 2022, 11 [43].
- 336 Department for Education, *Management of Complaints, Incidents and Non-Compliance in Family Day Care and Respite Care Program Procedure* (Government of South Australia, 2022) 6.
- 337 Statement of Alana Girvin, 28 April 2022, 11 [43].
- 338 Statement of Alana Girvin, 28 April 2022, 12 [44–45].
- 339 Statement of Alana Girvin, 28 April 2022, 12 [46].
- 340 Statement of Alana Girvin, 28 April 2022, 12 [46].
- 341 Statement of Alana Girvin, 28 April 2022, 12 [49].
- 342 Statement of Alana Girvin, 28 April 2022, 13 [50].
- 343 Statement of Alana Girvin, 28 April 2022, 13 [51].
- 344 Statement of Alana Girvin, 28 April 2022, 13 [53].
- 345 Statement of Alana Girvin, 28 April 2022, 13 [54].
- 346 Statement of Alana Girvin, 28 April 2022, 13 [56].
- 347 Transcript of Alana Girvin, 11 May 2022, 868 [41]–869 [4]; Statement of Alana Girvin, 28 April 2022, 16 [70].
- 348 Statement of Alana Girvin, 28 April 2022, 14 [57].
- 349 Statement of Alana Girvin, 28 April 2022, 15 [64].
- 350 Statement of Alana Girvin, 28 April 2022, 15 [66].
- 351 Statement of Alana Girvin, 28 April 2022, 16–17 [70].
- 352 Transcript of Alan Girvin, 11 May 2022, 855 [6–11].
- 353 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 7, 206.
- 354 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 7, 206.
- 355 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 7, 193.
- 356 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 7, 211.
- 357 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 7, 211.
- 358 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 7, 213.
- 359 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 7, 211.
- 360 Transcript of Timothy Bullard, 13 May 2022, 1092 [4–23].
- 361 Department of Premier and Cabinet, ‘*Keeping Children Safer Implementation Status Report*’, *Keeping Children Safer (Policy Document, 31 May 2023)* 6, Action 21 <<https://www.dpac.tas.gov.au/keepingchildrensafer>>.
- 362 Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 3.
- 363 Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 3.

- 364 Government of South Australia, *Report of the Independent Education Inquiry* (Report, 2013) 231 [695]; Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 11 [3.1].
- 365 Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 11 [3.1].
- 366 There are other actions that should be taken by the ‘sector office’: Statement of Alana Girvin, 28 April 2022, 8 [36].
- 367 Refer to Department for Education, Children and Young People, *Advice for DoE Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022).
- 368 Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 14 [3.3]; Government of South Australia, *Report of the Independent Education Inquiry* (Report, 2013) 252 [3.3].
- 369 Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 14 [3.3.1]; Government of South Australia, *Report of the Independent Education Inquiry* (Report, 2013) 252 [3.3.1].
- 370 Government of South Australia, *Report of the Independent Education Inquiry* (Report, 2013) 200 [610].
- 371 Government of South Australia, *Report of the Independent Education Inquiry* (Report, 2013) 230 [692]–231 [693], 252 [3.3.2], 280 [12].
- 372 Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 14 [3.3.2].
- 373 Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 14 [3.3.2].
- 374 Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 15 [3.3.2].
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- 377 Government of South Australia, *Report of the Independent Education Inquiry* (Report, 2013) 231 [693].
- 378 Government of South Australia, *Report of the Independent Education Inquiry* (Report, 2013) 231 [693], 252 [3.3.2], 280 [12].
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- 381 Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 15 [3.3.3].
- 382 Government of South Australia, *Report of the Independent Education Inquiry* (Report, 2013) 194 [592], 253 [3.3.3]. Refer also to Department for Education, *Managing Allegations of Sexual Misconduct in SA Education and Care Settings* (Government of South Australia, 2019) 15 [3.3.3].
- 383 Government of South Australia, *Report of the Independent Education Inquiry* (Report, 2013) 277 [1–2].
- 384 Government of South Australia, *Report of the Independent Education Inquiry* (Report, 2013) 253–254 [3.3.4].
- 385 Statement of Timothy Bullard, 31 October 2022, 3 [13].
- 386 Letter from Timothy Bullard to the Commission of Inquiry, 9 February 2023, 8.

- 387 National Office for Child Safety, 'Discussion Paper from the National Clinical Reference Group – Language and Terminology' (Discussion Paper, December 2022); Statement of Dale Tolliday, 29 April 2022, 3 [14]. Harmful sexual behaviours are also discussed in the out of home care setting in Chapter 9, Ashley Youth Detention Centre in Chapter 12, and therapeutic interventions in Chapter 21. For more information about harmful sexual behaviours in institutional contexts, refer to the National Royal Commission's final report, which outlines important research and understanding of this form of child sexual abuse: *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 10.
- 388 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 13, 29.
- 389 Department of Justice, 'Summary Table of Tasmanian Government Progress Towards Implementing the National Royal Commission Recommendations', 22 September 2021, 49 [13.6], produced by the Tasmanian Government in response to a Commission notice to produce.
- 390 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education's Responses to Child Sexual Abuse* (Report, 7 June 2021) 80.
- 391 Statement of Leanne McLean, 12 April 2022, 32 [111].
- 392 Anonymous session, 12 October 2022; Anonymous session, 16 August 2022; Anonymous session, 17 February 2022.
- 393 Submission 093 Anonymous, 1; Statement of Nigel Russell, 29 April 2022, 2–3 [15]; Transcript of Ignatius Kim, 9 May 2022, 689 [12–13].
- 394 Submission 093 Anonymous, 1; Submission 086 Angela Sdrinis Legal, 78; Statement of Ignatius Kim, 20 April 2022, 7 [45].
- 395 Anonymous session, 16 August 2022; Anonymous session, 12 October 2022; Anonymous session, 17 February 2022; Submission 086 Angela Sdrinis Legal, 78; Burnie consultation, 24 August 2021; Hobart consultation, 13 August 2021.
- 396 Submission 086 Angela Sdrinis Legal, 78; Anonymous session, 16 August 2022; Anonymous session, 12 October 2022; Anonymous session, 17 February 2022.
- 397 Consultation with Tasmania Police (Hobart), 25 August 2021; Anonymous session, 12 October 2022.
- 398 Burnie consultation, 24 August 2021; Hobart consultation, 13 August 2021.
- 399 Anonymous session, 12 October 2022.
- 400 Anonymous session, 17 February 2022.
- 401 Anonymous session, 13 October 2021.
- 402 Submission 093 Anonymous, 1.
- 403 Transcript of Ignatius Kim, 9 May 2022, 684 [39–45].
- 404 Transcript of Ignatius Kim, 9 May 2022, 686 [41–45].
- 405 Statement of Ignatius Kim, 20 April 2022, 7 [45]; Transcript of Ignatius Kim, 9 May 2022, 687 [1–6].
- 406 Statement of Renae Pepper, 30 April 2022, 12 [51].
- 407 Statement of Renae Pepper, 30 April 2022, 12 [51].
- 408 Statement of Nigel Russell, 28 April 2022, 3 [22–23].
- 409 Statement of Nigel Russell, 28 April 2022, 3 [22].
- 410 Statement of Renae Pepper, 30 April 2022, 6 [25].
- 411 Statement of Renae Pepper, 30 April 2022, 12 [50].
- 412 Statement of Renae Pepper, 30 April 2022, 6 [26].
- 413 Statement of Renae Pepper, 30 April 2022, 11 [46].
- 414 Statement of Kerryann Walsh, 15 April 2022, 6 [19].
- 415 Statement of Kerryann Walsh, 15 April 2022, 6 [19].
- 416 Transcript of Renae Pepper, 10 May 2022, 733 [4–5].
- 417 Statement of Renae Pepper, 30 April 2022, 13 [51].
- 418 Statement of Renae Pepper, 30 April 2022, 13 [51].

- 419 Statement of Dale Tolliday, 29 April 2022, 17 [71].
- 420 Submission 078 Anonymous, 3.
- 421 Transcript of Monique Carter, 10 May 2022, 774 [28–32].
- 422 Transcript of Monique Carter, 10 May 2022, 773 [22–24].
- 423 Statement of Debra Drake, 6 May 2022, 7 [45].
- 424 Statement of Debra Drake, 6 May 2022, 7 [44].
- 425 Transcript of Ignatius Kim, 9 May 2022, 688 [32–36].
- 426 Transcript of Timothy Bullard, 12 May 2022, 988 [21–24].
- 427 Transcript of Timothy Bullard, 12 May 2022, 988 [39–43].
- 428 Statement of Timothy Bullard, 6 June 2022, 13 [53].
- 429 Statement of Timothy Bullard, 10 May 2022, 30 [19(d)].
- 430 Statement of Timothy Bullard, 10 May 2022, 30 [19(d)]; Statement of Renae Pepper, 30 April 2022, 3 [14].
- 431 Statement of Timothy Bullard, 10 May 2022, 30 [19(d)].
- 432 Statement of Timothy Bullard, 10 May 2022, 12 [72].
- 433 Statement of Timothy Bullard, 10 May 2022, 12 [73], 39 [236].
- 434 Statement of Timothy Bullard, 10 May 2022, 12 [73].
- 435 Letter from Timothy Bullard to Commission of Inquiry, 9 February 2023, 2.
- 436 Letter from Timothy Bullard to Commission of Inquiry, 9 February 2023, 2.
- 437 Letter from Timothy Bullard to Commission of Inquiry, 9 February 2023, 2.
- 438 Statement of Timothy Bullard, 10 May 2022, 37 [226]–39 [235]; Department for Education, Children and Young People, ‘Responding to Incidents, Disclosures or Suspicions of Harmful Sexual Behaviour Initiated by a Child or Young Person (Flowchart)’, undated, produced by the Tasmanian Government in response to a Commission notice to produce.
- 439 Statement of Elizabeth Jack, 29 April 2022, Annexure 8 (Flowchart: ‘Responding to Incidents, Disclosures or Suspicions of Child Sexual Abuse by a Current or Former DoE Employee’, undated).
- 440 Statement of Timothy Bullard, 10 May 2022, 38 [229]; Statement of Elizabeth Jack, 29 April 2022, Annexure 8 (Flowchart: ‘Responding to Incidents, Disclosures or Suspicions of Child Sexual Abuse by a Current or Former DoE Employee’, undated).
- 441 Statement of Timothy Bullard, 10 May 2022, 38 [230].
- 442 Department for Education, Children and Young People, ‘Responding to Incidents, Disclosures or Suspicions of Harmful Sexual Behaviour Initiated by a Child or Young Person (Flowchart)’, undated, produced by the Tasmanian Government in response to a Commission notice to produce.
- 443 Department for Education, Children and Young People, ‘Responding to Incidents, Disclosures or Suspicions of Harmful Sexual Behaviour Initiated by a Child or Young Person (Flowchart)’, undated, produced by the Tasmanian Government in response to a Commission notice to produce.
- 444 Department for Education, Children and Young People, ‘Responding to Incidents, Disclosures or Suspicions of Harmful Sexual Behaviour Initiated by a Child or Young Person (Flowchart)’, undated, produced by the Tasmanian Government in response to a Commission notice to produce.
- 445 Statement of Elizabeth Jack, 29 April 2022, Annexure 8 (Flowchart: ‘Responding to Incidents, Disclosures or Suspicions of Child Sexual Abuse by a Current or Former DoE Employee’, undated).
- 446 Statement of Timothy Bullard, 10 May 2022, 40 [240].
- 447 Tasmania, *Parliamentary Debates*, House of Assembly, 14 November 2000, 43 (Paula Wriedt, Minister for Education).
- 448 Refer to *Australian Professional Standards for Teachers*, Standard 4, Focus area 4.4.
- 449 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 13, 60.
- 450 Refer to Department for Education, Children and Young People, *Registration to Work with Vulnerable People Policy* (2021).

- 451 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 13, 168.
- 452 Tasmania, *Parliamentary Debates*, House of Assembly, 14 November 2000, 40 (Paula Wriedt, Minister for Education).
- 453 In relation to applications for registration, refer to *Teachers Registration Act 2000* pt 3. In relation to discipline and inquiries, refer to *Teachers Registration Act 2000* pt 4.
- 454 Ben Mathews, *Oversight and Regulatory Mechanisms Aimed at Protecting Children from Sexual Abuse: Understanding Current Evidence of Efficacy* (Report prepared for the Royal Commission into Institutional Responses to Child Sexual Abuse, 2017) 88 [2.7.4.4.1].
- 455 Refer to *Teachers Registration Act 2000* s 6A; Teachers Registration Board, *Employing Teachers in Tasmania* (Web Page, 2022) <<https://www.trb.tas.gov.au/employing-teachers-in-tasmania/>>.
- 456 *Teachers Registration Act 2000* s 6.
- 457 *Teachers Registration Act 2000* s 7A.
- 458 Teachers Registration Board, *About Us* (Web Page, 2022) <<https://www.trb.tas.gov.au/about-us/>>.
- 459 *Teachers Registration Act 2000* s 6A(d)–(e).
- 460 *Teachers Registration Act 2000* s 6A(f) s 24.
- 461 *Teachers Registration Act 2000* s 6A(i).
- 462 *Teachers Registration Act 2000* s 7A.
- 463 Statement of Ann Moxham, 27 April 2022, 2 [1.5].
- 464 Under the *Teachers Registration Act 2000* s 11, it is an offence to teach in these institutions without registration or a Limited Authority to Teach.
- 465 *Teachers Registration Act 2000* pt 3, div 3.
- 466 *Teachers Registration Act 2000* s 11.
- 467 *Teachers Registration Act 2000* s 17J(a).
- 468 *Teachers Registration Act 2000* s 17J(a)(b).
- 469 *Teachers Registration Act 2000* s 17J(b); Teachers Registration Board, *Determining Good Character and Fitness to Teach: Board Policy July 2020* (Version 1.2, 8 October 2022). The Teachers Registration Board may also take into account any other matter it considers relevant: *Teachers Registration Act 2000* s 17J.
- 470 *Teachers Registration Act 2000* ss 7A, 17J(c); Teachers Registration Board, *Annual Report 2020* (Report, 2021) 30.
- 471 *Teachers Registration Act 2000* s 17K; Teachers Registration Board, *Determining Good Character and Fitness to Teach: Board Policy July 2020* (Version 1.2, 8 October 2022).
- 472 Teachers Registration Board, *Determining Good Character and Fitness to Teach: Board Policy July 2020* (Version 1.2, 8 October 2022).
- 473 Teachers Registration Board, *Determining Good Character and Fitness to Teach: Board Policy July 2020* (Version 1.2, 8 October 2022).
- 474 *Teachers Registration Act 2000* ss 16, 17A. Provisionally registered teachers should become fully registered within five years. Limited Authorities to Teach are granted for a period of up to two years.
- 475 Teachers Registration Board, *Professional Boundaries: Guidelines for Tasmanian Teachers* (2021) 8.
- 476 Teachers Registration Board, *Professional Boundaries: Guidelines for Tasmanian Teachers* (2021) 8.
- 477 Teachers Registration Board, *Professional Boundaries: Guidelines for Tasmanian Teachers* (2021) 7–8.
- 478 Teachers Registration Board, *Professional Boundaries: Guidelines for Tasmanian Teachers* (2021) 9.
- 479 Teachers Registration Board, *Professional Boundaries: Guidelines for Tasmanian Teachers* (2021) 9. Teachers must also abide by the Code of Professional Ethics, which is a statement about ‘the ethical commitments, practices and aspirations that underpins the identity of the teaching profession in Tasmania’. Refer to Statement of Ann Moxham, 27 April 2022, 9 [6.3].
- 480 Statement of Ann Moxham, 27 April 2022, 9 [6.2].
- 481 *Teachers Registration Act 2000* s 18.

- 482 *Teachers Registration Act 2000* s 3 (definition of ‘prescribed offence’).
- 483 *Teachers Registration Act 2000* s 27A(3)–(4).
- 484 *Teachers Registration Act 2000* s 19.
- 485 *Teachers Registration Act 2000* s 19(3)(a)(i)–(ii). Section 19(2) of the *Teachers Registration Act 2000* requires complaints to be in writing and disclose the name and address of the complainant.
- 486 *Teachers Registration Act 2000* s 6A(d).
- 487 Statement of Ann Moxham, 27 April 2022, 21 [13.2].
- 488 Statement of Ann Moxham, 27 April 2022, 21 [13.4].
- 489 Statement of Ann Moxham, 27 April 2022, 8 [5.13].
- 490 *Teachers Registration Act 2000* ss 20(1)(a), 20(1)(c), 31.
- 491 *Teachers Registration Act 2000* s 24. This also applies in respect of a Limited Authority to Teach.
- 492 *Teachers Registration Act 2000* s 17BA(2)–(3).
- 493 *Teachers Registration Act 2000* s 24B.
- 494 Statement of Ann Moxham, 27 April 2022, 17 [10.23].
- 495 Statement of Ann Moxham, 27 April 2022, 17 [10.23].
- 496 *Teachers Registration Act 2000* s 24B(2)(b).
- 497 *Teachers Registration Act 2000* s 26A; Teachers Registration Regulations 2021 reg 5(1).
- 498 *Teachers Registration Act 2000* s 17(a).
- 499 Statement of Ann Moxham, 27 April 2022, 18 [11.5].
- 500 Teachers Registration Board, *Annual Report 2020* (Report, 2021) 43.
- 501 Watched Registrations contains a person’s Teachers Registration Board number, their registration type, the expiry date of their registration and the cycle expiry date (end of five-year cycle registration). Refer to Teachers Registration Board, *Watched Registrations* (Web Page) <<https://www.trb.tas.gov.au/watched-registrations>>.
- 502 Teachers Registration Board, *Watched Registrations* (Web Page) <<https://www.trb.tas.gov.au/watched-registrations>>.
- 503 Statement of Ann Moxham, 27 April 2022, 3 [3.4].
- 504 Statement of Jenny Gale, 23 November 2022, Annexure 3 (Keeping Children Safer – Implementation Status Report – as at 16 November 2022, Ref 18); refer to Department of Premier and Cabinet, ‘Keeping Children Safer Implementation Status Report’, *Keeping Children Safer* (Policy Document, 31 May 2023) 5, Action 18 <<https://www.dpac.tas.gov.au/keepingchildrensafes>>.
- 505 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 13, 248.
- 506 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 13, 248. Refer also to vol 8, 283.
- 507 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 8, 292.
- 508 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 8, 30.
- 509 Refer to Teachers Registration Board, ‘Teacher Search’, *TRB Online* (Web Page) <<https://trbonline.trb.tas.gov.au/Home/Search>>. Information provided includes registration number, name, type of registration and date until which the person is registered.
- 510 *Teachers Registration Act 2000* s 25(4)(a).
- 511 *Teachers Registration Act 2000* s 32A.
- 512 Statement of Ann Moxham, 27 April 2022, 13 [9.10].
- 513 *Teachers Registration Act 2000* s 17L.
- 514 Statement of Ann Moxham, 27 April 2022, 13 [9.10].
- 515 Statement of Ann Moxham, 27 April 2022, 13 [9.23].
- 516 Statement of Ann Moxham, 27 April 2022, 13 [9.25].

- 517 Statement of Ann Moxham, 27 April 2022, 13 [9.25].
- 518 Statement of Ann Moxham, 10 June 2022, 2 [2][A].
- 519 Statement of Ann Moxham, 10 June 2022, 2 [2][A]. Note that under the *Teachers Registration Act 2000* s 12(3), the Board can request information relating to an applicant from any registration authority or any other person or government department. However, this only applies in respect of an application for registration and the applicant must authorise the Board to obtain the information.
- 520 Transcript of Ann Moxham, 12 May 2022, 995 [11–15].
- 521 Transcript of Ann Moxham, 12 May 2022, 995 [14–24].
- 522 Transcript of Ann Moxham, 12 May 2022, 995 [16–20]. Note that this would be subject to any other applicable exceptions to the application of the Act’s principles as set out in sch 1 cl 2 of the *Personal Information Protection Act 2004*: sch 1 cl 2(1)(b).
- 523 Transcript of Ann Moxham, 12 May 2022, 995 [1–7], 1011 [35–36].
- 524 Statement of Emily Sanders, 5 May 2022, 22 [91].
- 525 Transcript of Ann Moxham, 12 May 2022, 998 [5–16].
- 526 Transcript of Ann Moxham, 12 May 2022, 997 [39–44].
- 527 Transcript of Timothy Bullard, 13 May 2022, 1081 [3–4].
- 528 Statement of Timothy Bullard, 6 June 2022, 3–4 [10].
- 529 Transcript of Timothy Bullard, 13 May 2022, 1091 [20–24].
- 530 Refer to Transcript of Timothy Bullard, 13 May 2022, 1091 [9–12]; Transcript of Timothy Bullard, 12 September 2022, 3941 [37–44].
- 531 Transcript of Timothy Bullard, 13 May 2022, 1083 [34–42].
- 532 Transcript of Timothy Bullard, 13 May 2022, 1081 [39–44].
- 533 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education’s Responses to Child Sexual Abuse* (Report, 7 June 2021) 14.
- 534 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education’s Responses to Child Sexual Abuse* (Report, 7 June 2021) 14.
- 535 Statement of Ann Moxham, 27 April 2022, 12 [9.16].
- 536 Transcript of Timothy Bullard, 13 May 2022, 1084 [10–14].
- 537 Transcript of Jenny Gale, 13 September 2022, 4021 [9–22].
- 538 Statement of Emily Sanders, 5 May 2022, 11 [46].
- 539 Statement of Emily Sanders, 5 May 2022, 11 [48].
- 540 *Teachers Registration Act 2000* s 32A(1).
- 541 *Teachers Registration Act 2000* s 32A(2).
- 542 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 17 [65].
- 543 Statement of Timothy Bullard, ‘Brad’, 4 April 2022, 17 [66].
- 544 It should also be noted that the *Personal Information Act 2004* is also currently a barrier to keeping complainants informed about their complaints.
- 545 Transcript of Jenny Gale, 13 September 2022, 4022 [34–36].
- 546 Transcript of Jenny Gale, 13 September 2022, 4021 [17–21].
- 547 *Personal Information Protection Act 2004* s 13.
- 548 *Personal Information Protection Act 2004* s 14(1)(a).
- 549 Transcript of Timothy Bullard, 12 September 2022, 3941 [12–15].
- 550 Refer to *Registration to Work with Vulnerable People Act 2013* s 52A.
- 551 *Personal Information Protection Act 2004* s 4.
- 552 *Personal Information Protection Act 2004* sch 1 cl 2(1)(f).

- 553 Statement of Timothy Bullard, 6 June 2022, 2 [6]. The notification is made by Workplace Relations. Refer to Department for Education, Children and Young People, *Advice for DoE Staff – Responding to Incidents, Disclosures and Suspicions of Child Sexual Abuse* (2022) 1.
- 554 Statement of Timothy Bullard, 6 June 2022, 2 [7].
- 555 *Child and Youth Safe Organisation Act 2023* s 42.
- 556 Statement of Ann Moxham, 27 April 2022, 3 [3.2]; Transcript of Ann Moxham, 12 May 2022, 1008 [12–20].
- 557 Transcript of Ann Moxham, 12 May 2022, 1008 [11–21].
- 558 Transcript of Ann Moxham, 12 May 2022, 1008 [14–20].
- 559 Transcript of Ann Moxham, 12 May 2022, 1008 [22–26].
- 560 Statement of Ann Moxham, 27 April 2022, 3 [3.6].
- 561 Transcript of Ann Moxham, 12 May 2022, 1008 [8–11].
- 562 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 13, 249.
- 563 *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 13, 249.
- 564 Statement of Ann Moxham, 27 April 2022, 8 [5.15]–9 [5.21].
- 565 *Teachers Registration Act 2000* s 11(1). A penalty unit is the base amount from which a monetary penalty is calculated. The base amount is adjusted each year according to movements in the consumer price index (for Hobart) in the previous year and notice of the amount is published in the Gazette: refer to *Penalty Units and Other Penalties Act 1987*. The penalty unit amount for 1 July 2022 to 30 June 2023 is \$181.
- 566 *Teachers Registration Act 2000* s 27(1).
- 567 *ACT Teacher Quality Institute Act 2010* (ACT) ss 28–29; *Teacher Accreditation Act 2004* (NSW) s 28; *Teacher Registration (Northern Territory) Act 2004* (NT) s 73; *Education (Queensland College of Teachers) Act 2005* (Qld) ss 82–83; *Teachers Registration and Standards Act 2004* (SA) s 20; *Education and Training Reform Act 2006* (Vic) ss 2.6.56–2.6.56B; *Teacher Registration Act 2012* (WA) ss 6–7.
- 568 Transcript of Ann Moxham, 12 May 2022, 1012 [30–31].
- 569 Statement of Ann Moxham, 27 April 2022, 13 [9.25]; *Teachers Registration Act 2000* s 18. Section 3 of the *Teachers Registration Act 2000* defines prescribed offences as offences for which a sentence of imprisonment may be imposed.
- 570 Transcript of Ann Moxham, 12 May 2022, 1011 [44]–1012 [6].
- 571 Transcript of Ann Moxham, 12 May 2022, 1008 [14–21].
- 572 Statement of Ann Moxham, 27 April 2022, 8 [5.13]; refer to *Teachers Registration Act 2000* ss 6A(e), 6A(l).
- 573 Statement of Ann Moxham, 10 June 2022, 3.
- 574 Transcript of Ann Moxham, 12 May 2022, 1012 [19–29].
- 575 Australian Law Reform Commission, *Principled Regulation: Federal Civil and Administrative Penalties in Australia* (Report No 95, March 2003) 445.
- 576 Refer generally to *Monetary Penalties Enforcement Act 2005*. There are over 70 Tasmanian Acts that allow for infringement notices to be issued.
- 577 *Registration to Work with Vulnerable People Act 2013* s 55(2).
- 578 Infringement notices are governed by the *Monetary Penalties Enforcement Act 2005*.
- 579 *Teacher Registration (Northern Territory) Act 2004* (NT) s 73(1)–(2).
- 580 *ACT Teacher Quality Institute Act 2010* (ACT) s 28.
- 581 Government of Tasmania, Director of Public Prosecutions, *Prosecution Policy and Guidelines* (2022) 121.
- 582 *Teachers Registration Act 2000* s 24B.
- 583 Teachers Registration Board, *Annual Report 2020* (Report, 2021) 45.
- 584 Statement of Ann Moxham, 27 April 2022, 22 [21.2].
- 585 *Education (Queensland College of Teachers) Act 2005* (Qld) ss 48 and 49. ‘Harm’ is defined in s 7.
- 586 Refer to Victorian Institute of Teaching, *Immediate Action* (Web Page, 2021) <<https://www.vit.vic.edu.au/conduct/immediate-action>>.

- 587 Statement of Ann Moxham, 14 June 2022, 3 [2(C)].
- 588 Transcript of Ann Moxham, 12 May 2022, 1004 [23–30]. Commonwealth legislation adopted in 1992 sets out the scheme (refer to *Mutual Recognition Act 1992* (Cth)). All states and territories have implemented the scheme in their respective jurisdictions – for example, *Mutual Recognition (Tasmania) Act 1993*; *Mutual Recognition (New South Wales) Act 1992* (NSW); *Mutual Recognition (Victoria) Act 1998* (Vic); *Mutual Recognition (Queensland) Act 1992* (Qld); *Mutual Recognition (South Australia) Act 1993* (SA); *Mutual Recognition (Western Australia) Act 2020* (WA); *Mutual Recognition (Australian Capital Territory) Act 1992* (ACT); *Mutual Recognition (Northern Territory) Act 1992* (NT). A similar scheme exists with New Zealand: refer to *Trans-Tasman Mutual Recognition Act 1997* (Cth).
- 589 Transcript of Ann Moxham, 12 May 2022, 1004 [23–30]; Teachers Registration Board, *Mutual Recognition Policy* (9 March 2022) 3.
- 590 Teachers Registration Board, *Mutual Recognition Policy* (9 March 2022) 2.
- 591 Statement of Ann Moxham, 27 April 2022, 17 [10.28].
- 592 *Teachers Registration Act 2000* s 32A.
- 593 Department of Treasury and Finance, ‘Automatic mutual recognition for occupational licences’, *Economy* (Web Page, 2022) <<https://www.treasury.tas.gov.au/economy/economic-policy-and-reform/automatic-mutual-recognition>>.
- 594 Refer to, for example, Department of Treasury and Finance, ‘Automatic Mutual Recognition for Occupational Licences’, *Economy* (Web Page, 2022) <<https://www.treasury.tas.gov.au/economy/economic-policy-and-reform/automatic-mutual-recognition>>; refer generally to Department of the Prime Minister and Cabinet, *Improving Occupational Mobility* (Web Page) <<https://deregulation.pmc.gov.au/priorities/improving-occupational-mobility>>.
- 595 Stephen Smallbone and Tim McCormack, *Independent Inquiry into the Tasmanian Department of Education’s Responses to Child Sexual Abuse* (Report, 7 June 2021) 11.
- 596 Statement of Ann Moxham, 14 June 2022, 5; Transcript of Timothy Bullard, 12 May 2022, 977 [14–34].
- 597 Statement of Ann Moxham, 14 June 2022, 5.
- 598 Statement of Ann Moxham, 14 June 2022, 5.
- 599 *Mutual Recognition Act 1992* (Cth) s 42S.
- 600 Transcript of Ann Moxham, 12 May 2022, 1013 [9–18]. Mandatory reporting requirements are set out in the *Children, Young Persons and Their Families Act 1997*.
- 601 Transcript of Ann Moxham, 12 May 2022, 1013 [9–18].
- 602 Alexander Morris Carr-Saunders and Paul Alexander Wilson, *The Professions* (Frank Cass & Co., 1964).
- 603 Statement of Ann Moxham, 27 April 2022, 7 [5.6].
- 604 Transcript of Ann Moxham, 12 May 2022, 1006 [32–37].
- 605 Statement of Ann Moxham, 27 April 2022, 8 [5.18].
- 606 Transcript of Ann Moxham, 12 May 2022, 999 [14–43].
- 607 Transcript of Ann Moxham, 12 May 2022, 1007 [22–37].
- 608 Transcript of Ann Moxham, 12 May 2022, 1007 [20–29].
- 609 Transcript of Ann Moxham, 12 May 2022, 1007 [22–37].
- 610 Transcript of Ann Moxham, 12 May 2022, 1007 [37–40].
- 611 Statement of Ann Moxham, 10 June 2022, 4 [2(G)].
- 612 Statement of Ann Moxham, 10 June 2022, 5.
- 613 Statement of Ann Moxham, 10 June 2022, 4 [2(G)].
- 614 *Education Legislation Amendments (Education Regulation) Act 2022* s 13.
- 615 Clause Notes, Education Legislation Amendments (Education Regulation) Bill 2021, cl 150, s 10C.
- 616 Refer to Review of Education Regulation Steering Committee, *Review of Education Regulation – Steering Committee Report* (Report, December 2020) 42, Recommendation 18.

- 617 Teachers Registration Board, *Education Regulation Review – Draft Legislation: Response from the Board of the TRB, its Registrar and Staff* (Web Page, undated) 10 <<https://publicdocumentcentre.education.tas.gov.au/library/Shared Documents/Submission-7-Teachers-Registration-Board.pdf>>.
- 618 Statement of Ann Moxham, 10 June 2022, 11 [13].
- 619 Transcript of Timothy Bullard, 13 May 2022, 1091 [26–43].
- 620 Tasmania, *Parliamentary Debates*, House of Assembly, 14 November 2000, 40 (Paula Wriedt, Minister for Education).
- 621 Review of Education Regulation Steering Committee, *Review of Education Regulation – Steering Committee Report* (Report, December 2020) 48, Recommendation 24.