

# Victorian Government Annual Report 2018

Royal Commission into Institutional  
Responses to Child Sexual Abuse

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## Introduction

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The Royal Commission into Institutional Responses to Child Sexual Abuse exposed horrific abuse of children by adults who were entrusted with their care. The Royal Commission shone a light on this abuse and its devastating consequences.

The Victorian Government pays tribute to those survivors who shared their experiences with the Royal Commission, showing extraordinary strength and courage in telling their stories through their testimony and submissions.

The Victorian Government welcomed the release of the Royal Commission's Final Report in December 2017. The [Victorian Government response](#) to all the recommendations of the Royal Commission was published on 11 July 2018.

Victorian Government action to implement recommendations of the Royal Commission builds on the five-year program of reform to implement recommendations of the landmark Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations, *Betrayal of Trust* (2013).

The Victorian Government has now implemented all 15 of the recommendations of [Betrayal of Trust](#), including the introduction of new

criminal offences, measures to create child safe organisations and civil law reforms to provide better access to justice for survivors of institutional child abuse.

The Victorian Government committed to reporting annually on its response to the recommendations of the Royal Commission for five years, until 2022. This is the Victorian Government's first annual report. It describes the action that the Victorian Government has taken to prevent and respond to child sexual abuse, further work that is in progress and work that is planned for the future to build on these reforms.

The Victorian Government is continuing to work with the Australian Government and state and territory governments to progress recommendations that require national action. Further information about the cooperative work between governments that is underway is available in the [Australian Government's Annual Progress Report 2018](#).

Victoria has taken strong action to prevent and respond to child sexual abuse, and the recommendations of the Royal Commission will be instrumental in guiding further reforms to better protect children from abuse.

## Final Report of the Royal Commission (2017)

### Making institutions child safe

Volume 6 of the Final Report contains 24 recommendations for improving institutional safety for children. The Victorian Government accepted 16 recommendations, either in full or in principle, and noted eight recommendations.

#### Child Safe Standards

The Royal Commission identified ten child safe standards to guide institutions to achieve best practice in keeping children safe.

Victoria has already implemented the Child Safe Standards following the Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations, *Betrayal of Trust* (2013). Victoria's Child Safe Standards, and their implementation and oversight, align broadly with the recommendations of the Royal Commission but cover all forms of child abuse, not just sexual abuse.

Victoria has seven Child Safe Standards that require organisations to place child safety at the forefront of organisational thinking and embed child safety in everyday practice. Victoria's Child Safe Standards are underpinned by three principles that require organisations to

consider the safety needs of Aboriginal children, children from culturally and linguistically diverse backgrounds, and children with disability.

Victoria's Child Safe Standards were introduced in 2016, and have been in full effect since 1 January 2017. Victoria's Child Safe Standards currently apply to approximately 40,000 organisations across Victoria that provide services or facilities to children. The Commission for Children and Young People (CCYP) provides independent oversight of Victoria's Child Safe Standards and is empowered to enforce compliance. The CCYP also provides a range of activities and resources to assist organisations to implement and comply with Victoria's Child Safe Standards.

To help ensure their effectiveness, a review of Victoria's Child Safe Standards and the regulatory framework that supports compliance has started and will finish in 2019. Adjustments to better align with the Royal Commission's recommendations are being considered during the review. The review is considering the implementation and operation of Victoria's Child Safe Standards and regulatory framework in their initial period of operation, including how the roles, functions and powers of the CCYP and relevant authorities have enabled effective and coordinated oversight.

**Table 1. Victoria's Child Safe Standards**

THE CHILD SAFE STANDARDS		
Standard 1:	Strategies to embed an organisational culture of child safety, including through effective leadership arrangements	
Standard 2:	A child safe policy or statement of commitment to child safety	
Standard 3:	A code of conduct that establishes clear expectations for appropriate behaviour with children	
Standard 4:	Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel	
Standard 5:	Processes for responding to and reporting suspected child abuse	
Standard 6:	Strategies to identify and reduce or remove risks of child abuse	
Standard 7:	Strategies to promote the participation and empowerment of children	
UNDERPINNING PRINCIPLES		
Promoting the cultural safety of Aboriginal children	Promoting the cultural safety of children from culturally and linguistically diverse backgrounds	Promoting the safety of children with disability

## Online Safety

The Royal Commission highlighted the need for a nationally consistent approach to support the online safety of children, as well as more comprehensive and relevant online safety education.

The Victorian Government is working closely with the Australian Government and other states and territories to establish a national strategy to prevent child sexual abuse.

Victoria is developing new resources to better support online safety in the schools context, which will build on existing resources including the [Bully Stoppers online toolkit](#), the [PROTECT website](#), and eSmart which promotes a holistic approach to cyber safety.

The Victorian Government works with the Office of the eSafety Commissioner to provide webinars to schools and students to help prevent online bullying.

## Improving institutional responding and reporting

Volume 7 of the Final Report contains 12 recommendations relating to mandatory reporting, how government and non-government institutions should handle complaints, and the need for independent oversight of reporting and complaint handling and reporting by institutions. The Victorian Government accepted 11 recommendations, either in full or in principle, and is giving further consideration to one recommendation.

### Reporting child abuse

To achieve consistency across jurisdictions, the Royal Commission identified specific groups of people that all states and territories should include as mandatory reporters. In line with the Royal Commission's recommendation, the Victorian mandatory reporter categories will be expanded from March 2019 to include out-of-home care workers, youth justice workers, early childhood workers and registered psychologists. School counsellors will be included from January 2020.

In Victoria, mandatory reporters and individuals who report child safety concerns in good faith to Child Protection services are protected from liability.

### Failure to disclose child sexual abuse

Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 has an obligation to report that information to police. Failure to disclose the information to police is a criminal offence.

Religious confessions are currently exempt from the 'failure to disclose' offence if information about the abuse is revealed under confession. The Victorian Government has committed to removing this exemption.

### Institutional reporting and complaint handling

The Royal Commission found that reportable conduct schemes can help protect children in institutional settings. The reportable conduct scheme model outlined by the Royal Commission obliges heads of institutions to report allegations of child abuse or misconduct by organisational employees or volunteers to an independent oversight authority.

Victoria's [Reportable Conduct Scheme](#), which is overseen by the CCYP, requires organisations that exercise close care, supervision or authority over children to respond to allegations of child related misconduct made against their workers and volunteers. Victoria was one of the first Australian jurisdictions to implement a Reportable Conduct Scheme, which commenced in phases from 2017. Organisations must put systems in place to prevent misconduct and enable notifications of

alleged misconduct to be made to the head of the organisation and the CCYP. Heads of organisations must also investigate allegations of misconduct and notify the CCYP of any outcomes. If there is a police investigation into the matter, it takes precedence over an organisation's investigation. People who give information about reportable conduct to the CCYP are protected from liability.

The Reportable Conduct Scheme applies to all institutions listed in Table 2 from 2019.

The *Child Wellbeing and Safety Act 2005* requires the Scheme to be reviewed by mid-2023. The review will consider whether the Scheme's application should be expanded to other organisations.

**Table 2. Implementation timeline of Victoria's Reportable Conduct Scheme**

PHASE 1 1 July 2017	PHASE 2 1 January 2018	PHASE 3 1 January 2019
<ul style="list-style-type: none"> <li>Schools and other education organisations (excluding early years providers)</li> <li>Residential disability service providers for children</li> <li>Youth mental health service providers with in-patient beds</li> <li>Youth drug or alcohol services with in-patient beds</li> <li>Youth housing or homelessness services with overnight beds</li> <li>Child protection and out-of-home care services</li> <li>Government departments</li> </ul>	<ul style="list-style-type: none"> <li>Religious organisations</li> <li>Residential facilities of boarding schools</li> <li>Some overnight camps for children</li> <li>Public, denominational and private hospitals</li> <li>Public health services</li> <li>Other disability service providers that provide services for children</li> </ul>	<ul style="list-style-type: none"> <li>Approved education and care services (e.g. kindergartens, after hours care services)</li> <li>Children's services (e.g. occasional care providers)</li> <li>Statutory bodies that have responsibility for children, such as public museums and galleries</li> </ul>

## Recordkeeping and information sharing

Volume 8 of the Final Report contains 23 recommendations relating to recordkeeping and information sharing between institutions in order to improve the identification, prevention and response to incidents and risks of child sexual abuse. The Victorian Government accepted all 23 recommendations, either in full or in principle.

### Retention of records by institutions

The Royal Commission recommended that institutions engaged in child-related work should retain records relating to child sexual abuse for at least 45 years. The Public Record Office Victoria (PROV) has identified over 100 Records and Disposal Authorities which may relate to child sexual abuse records and is reviewing them to ensure they comply with this recommendation. In addition, PROV will develop a General Disposal Authority for records relating to child sexual abuse that has occurred or is alleged to have occurred.

### Guidance for institutions on recordkeeping

The Royal Commission recommended that state and territory records authorities provide guidance to government and non-government institutions on identification, retention and disposal of records that may become relevant to child sexual abuse. PROV has published a guideline to assist Victorian government institutions to identify, create, manage and retain records of child sexual abuse that might become relevant to actual or alleged child sexual abuse.

The Council of Australasian Archives and Records Authorities has agreed to jointly develop guidance and resources for government and non-government institutions on recordkeeping. These will be published online, communicated via recordkeeping newsletters and promoted at conferences and events.

## Supporting institutions to adopt and implement the principles for records and recordkeeping

The Royal Commission recommended that all institutions that engage in child-related work should implement five principles for records and recordkeeping. The Recordkeeping Standards and Specifications set by PROV are consistent with these principles. PROV will work with national and state and territory records authorities to promote and communicate the principles.

## Improving information sharing across sectors

The Royal Commission highlighted that the proactive sharing of information between institutions is essential in identifying, preventing and responding to instances of child sexual abuse.

The Victorian Government's Child Information Sharing Scheme commenced on 27 September 2018 and enables authorised professionals working in prescribed organisations (known as 'information sharing entities') who work with children, young people and their families to share information with each other to promote children's wellbeing or safety. Examples of information sharing entities include Child Protection, registered community-based child and family services, Maternal and Child Health Services, and Victoria Police.

The Victorian Government is also a party to a number of child protection protocols and operating procedures to facilitate information sharing between interstate departments responsible for child protection. Victoria continues to work with other states and territories to facilitate effective information sharing to support responses to institutional abuse.

## Sharing information about teachers and students

The Royal Commission found that a lack of information sharing between teacher registration authorities, non-teaching staff and employers can enable alleged perpetrators to move between schools and jurisdictions.

In September 2018, the Council of Australian Governments (COAG) Education Council noted the recommendations in a report of a National Review of Teacher Registration, including recommendations about sharing information between teacher regulatory authorities. The Australian Institute for Teaching and School Leadership is currently working with jurisdictions to develop an implementation strategy for the recommendations of the National Review of Teacher Registration.

The Department of Education and Training and the Department of Justice and Community Safety are working together to identify the types of information that need to be shared with schools to assist safety planning relating to the young person and the broader school community. This is occurring in a number of contexts including under the Education Justice Initiative, a program that supports young people appearing before the Children's Court to reconnect with educational pathways.

## Carer registers

The Royal Commission noted that inadequate information sharing about carer suitability can place children in care at risk. It considered that better informed decisions about carer suitability and placement safety could be achieved through carer registers, which could assist agencies in assessing, authorising and supervising carers.

The Victorian Government maintains the Victorian Carer Register, which contains information about approved foster carers, residential facility carers, and other providers of services to children in out-of-home care residential facilities. The Victorian Government is working with other states and territories to consider a national approach to the sharing of carer information.



## Advocacy, support and therapeutic treatment services

Volume 9 of the Final Report contains nine recommendations about improving service systems for all victims and survivors of child sexual abuse. The Victorian Government accepted seven recommendations in principle, and noted two recommendations.

### Enhancing services for victims and survivors of child sexual abuse

The Royal Commission considered the complex needs of victims and survivors of child sexual abuse and the barriers encountered when seeking assistance from services. The Royal Commission supported the development of service models that include advocacy and case management, in addition to counselling.

The Victorian Government boosted [funding for Sexual Assault Support Services](#) in response to an increased demand for services. This funding will provide additional sexual assault support services including crisis care, short, medium and long term counselling, case management, advocacy and group work. It will also support the [Sexual](#)

[Assault Crisis Line Victoria](#), a state-wide, after-hours, confidential telephone crisis counselling service for people who have experienced sexual assault. Investment in these services is expected to help almost 4,000 victims and survivors of sexual assault in Victoria over the next four years, and significantly improve the response time for after-hours support. This brings the Victorian Government's support for sexual assault services to more than \$28 million in 2018-19, an increase of 32 per cent since 2014.

Practitioners at [Sexual Assault Support Services](#) work with people of all ages who have experienced sexual abuse at any point in their life, including people who experienced child sexual abuse in institutional settings. [Sexual Assault Support Services](#) are client focused, trauma-, gender- and evidence- informed, and are available state-wide to all people. The Victorian Government is working with the Aboriginal community in the design of a Sexual Assault Support Service for Aboriginal victims and survivors that promotes self-determination.

## Children with harmful sexual behaviours

Volume 10 of the Final Report contains seven recommendations for improving responses to children with problem or abusive sexual behaviours. The Victorian Government accepted all seven recommendations, either in full or in principle. You can read the Victorian Government's response to Volume 10 [here](#).

### A framework for improving responses to problem or abusive sexual behaviours

The Royal Commission highlighted the issues of problem and abusive sexual behaviours in children and the need to better recognise, prevent and appropriately respond to these behaviours.

Dealing with children's problem or abusive sexual behaviours through primary and secondary prevention strategies, and tertiary interventions,

is a national priority for the states, territories and the Australian Government.

Victoria will collaborate with other states and territories to develop a national strategy to prevent child sexual abuse that includes prevention and intervention strategies dealing with children's problem or abusive sexual behaviours.

Victoria has a number of primary and secondary prevention strategies and tertiary interventions that align closely with those recommended by the Royal Commission. For example, Victoria recognises that sexual health, sexuality and protective behaviours education is a primary prevention strategy that can safeguard against sexual abuse. [Sexuality education](#) is included in the Victorian curriculum at both primary and secondary school level. [Respectful Relationships](#) education is also included in the curriculum and

supported by implementation of a whole school approach in more than 1000 schools in line with a recommendation of Victoria's Royal Commission into Family Violence. Both programs help children and young people identify their personal rights and responsibilities, teach positive behaviours, and build the knowledge and skills necessary for respectful decision-making.

### **Assessment and intervention for children with problem or harmful sexual behaviours**

The Royal Commission found that problem or abusive sexual behaviours can be reduced or eliminated by applying a tailored therapeutic response.

Victoria funds a comprehensive response for children who have engaged in problem or abusive sexual behaviour designed to prevent children and young people from continuing the behaviours and causing further harm.

Sexually abusive behaviours treatment services are located at various sites across Victoria. These services provide assessment of, and therapeutic intervention for up to 24 months for, children from birth to 17 who display problem or abusive sexual behaviours. The services encourage parents to connect children to treatment in a voluntary capacity and avoid exposing children to any court process. A key principle of the services is to acknowledge the historic, individual and systemic issues that led to these behaviours. Interventions include collaboration with a child's family, school and community. Since 2017, following the Royal Commission into Family Violence, all sexually abusive behaviour treatment services are funded to provide therapeutic treatment to children aged 15 to 17. Prior to this, only three services were funded for this age group.

The Victorian Government will soon start work with the Aboriginal community to design a sexually abusive behaviour treatment service for Aboriginal children and young people that promotes self-determination.

If Child Protection services assess that a child, aged 10 to 14 who has displayed problem or abusive sexual behaviours, is in need of therapeutic treatment but unlikely to access it voluntarily, Child Protection services can apply for a Therapeutic Treatment Order (TTO). A TTO requires the child and their family to attend a sexually abusive behaviour treatment service. These orders involve Child Protection applying to the Family Division of the Children's Court. A finding of guilt is not required for the child to be made subject to a TTO. In 2019, the maximum age of children eligible for an order will be raised from 14 to 17 years.

When a child has been found guilty of a sexual offence and receives a Youth Justice supervised sentence, the court will include a condition to attend the Male Adolescent Program for Positive Sexuality (MAPPS). MAPPS is an intensive group treatment program for adolescents, based on cognitive-behavioural models. It requires participants to understand and accept responsibility for their offending behaviour, develop social skills and empathy for their victims, and aims to prevent reoffending.

### **Strengthening the workforce**

The Royal Commission identified a number of best practice principles for dealing with problem or abusive sexual behaviours.

All practitioners in sexually abusive behaviour treatment services have qualifications in psychology, social work or another relevant discipline and extensive therapeutic experience with children and families. All practitioners work to the Human Services Standards and the CEASE standards of practice. These standards align with those the Royal Commission recommended.

In Victoria, specific training and professional development is provided to workers, including residential carers, disability workers, and child protection practitioners, who deliver services to children with abusive sexual behaviours.

## Contemporary out-of-home care

Volume 12 of the Final Report contains 22 recommendations relating to preventing child sexual abuse in out-of-home care, and providing effective responses if it does occur. The Victorian Government accepted 21 recommendations, either in full or in principle, and is giving further consideration to one recommendation.

### Data collection and reporting

The Royal Commission recommended that using consistent definitions relating to child abuse and child protection systems would provide more reliable identification and reporting of child abuse.

Victoria is working closely with other governments, and the Australian Institute of Health and Welfare, to develop agreed definitions of 'child sexual abuse' and 'child sexual exploitation'. Work is also underway to enhance Victoria's ability to report placement, safety and wellbeing outcomes of children who enter the child protection system.

### Registration of out-of-home care providers and carers

The Royal Commission recognised the value of out-of-home care providers and carers meeting minimum eligibility requirements for registration.

Victorian foster and residential carers must attend training and complete safety screening processes to be eligible for registration. Safety screening includes criminal record checks, Working with Children Checks and Disqualified Carer Checks. Criminal record checks are also conducted for adults living in foster homes. Comprehensive checks are also undertaken for kinship and prospective permanent carers including National Police Checks and Working with Children Checks.

Organisations that provide out-of-home care services must comply with Victoria's Child Safe Standards. The Victorian Government also audits residential care facilities to observe practice, review record keeping and documentation, and speak with staff and clients.

### Improving the workforce

The Royal Commission noted the importance of out-of-home carers developing appropriate skills through training.

In Victoria, residential and foster carers are required to undertake learning and development to be eligible for registration. Since 2018, residential carers must hold a minimum of a Certificate IV in a relevant discipline. Foster carers must also complete minimum training. All prospective foster carers must be accredited by the Foster Care Accreditation Panel. Prospective foster carers must complete the *Shared Stories*, *Shared Lives* pre-assessment training, or *Our Carers for Our Kids*, used by Aboriginal organisations to train potential foster carers for Aboriginal children. Prospective foster carers must also meet the requirements of the *Step by Step Victoria* or *Step by Step Aboriginal* competency-based assessment packages.

The Victorian Government funds voluntary training for foster and kinship carers. Training about the impacts of family violence, cyber safety awareness, sexual abuse, and dealing with problem or abusive sexual behaviours is available through Carer KaFÉ.

### Supporting children in care

The Royal Commission heard that children in out-of-home care often need support to recognise abuse and safely disclose what is happening to them.

Victoria recognises the protective benefits of equipping children with strategies to exercise their right to be and feel safe. The Victorian Government provides resources to support children in out-of-home care to make a complaint about the care they receive.

The Victorian Government's Keeping Children Safe from Sexual Exploitation Strategy includes an enhanced response model, which is a collaboration between specialist sexual exploitation child protection practitioners and Victoria Police to prevent, identify and disrupt the sexual exploitation of children known to child protection. The Victorian Government is committed to providing children in out-of-home care with the support they need to thrive and reach their full potential.

In 2016, the Victorian Government launched LOOKOUT Education Support Centres to work with and build the capacity of schools, carers, child protection practitioners and out-of-home care services to understand the unique

experiences of children and young people in out-of-home care, including the impact of abuse and trauma on their development and mental health.

Each LOOKOUT Centre is led by a school principal and staffed by a team of education specialists, allied health professionals and Koori cultural advisors who work in partnership with schools to support enrolment, monitor educational progress, and improve engagement and achievement. LOOKOUT teams work closely with schools to ensure that each young person is supported through regular Student Support Groups, and that each young person has access to a trusted adult in the school who acts as their Learning Mentor.

By enabling stronger supports to exist around children and young people in care, LOOKOUT helps to facilitate opportunities for students to disclose incidents of abuse. LOOKOUT Centres also provide professional development for school staff to ensure all schools create safe, supportive and engaging learning environments for children in out-of-home care.

## Safe and stable placements

The Royal Commission recommended ways to make out-of-home care placements safe and stable.

The Victorian Government committed \$33.5 million over two years to implement a new model of kinship care. The new model is designed to support safe and stable placements by identifying the needs of both carers and children and linking them to appropriate supports. Flexible supports are provided through community service organisations and Aboriginal Community Controlled Organisations. Dedicated kinship workers help find kinship networks and provide support to kinship carers.

The Royal Commission highlighted that therapeutic models of residential care provide children with better outcomes. Approximately one third of all Victorian residential care homes now use a therapeutic model, where assessments and tailored interventions are used in accordance with the needs and abilities of the child.

## Aboriginal and Torres Strait Islander children

The Royal Commission stressed the importance of preserving Aboriginal and Torres Strait Islander children's connection to family, community and culture.

The Victorian Government committed \$47.3 million over four years to continue expanding the transfer of Aboriginal child protection and out-of-home care services to the Aboriginal community. The Victorian Government's Aboriginal Children in Aboriginal Care Program is an Australian-first initiative that gives approved Aboriginal agencies responsibility for the care planning and case management of Aboriginal children who are subject to protection orders. Children receive culturally sensitive planning and case management from an Aboriginal Community Controlled Organisation that understands their needs.

## Supporting young people leaving care

The Royal Commission observed a need to increase supports for young people transitioning from care.

Victoria's Leaving Care and Post Care Services assist young people aged 16 to 21 to transition from out-of-home care to independent living. Services include a Leaving Care Hotline, casework support, mentoring and access to financial supports to facilitate transition. The Springboard program supports young people who are in, or have recently left, residential care, to engage or re-engage with education, training and employment.

Victoria is trialling Better Futures, a new way of supporting young care leavers, in a number of sites across the state. Better Futures workers engage early with young people up to age 21, and provide flexible supports depending on individual need and circumstance.

The Victorian Government recognises that a gradual and supported transition from out-of-home care can lead to better life outcomes for young people. Home Stretch will begin in early 2019 and will support 250 young people over five years. Home Stretch will provide young people and their kinship or foster carers with the option of having the young person remain with their carer up to the age of 21. Young people leaving residential care will be eligible to receive an accommodation allowance. Better Futures and, from early 2019, Home Stretch will include tailored case work support and brokerage which can be used to assist young people who have been sexually abused in care to access specialised sexual assault counselling and redress.

## Schools

Volume 13 of the Final Report contains eight recommendations to prevent child sexual abuse from occurring in schools and, where it does occur, to help ensure effective responses. The Victorian Government accepted in principle seven recommendations in Volume 13 and noted one recommendation.

The Victorian Government is working closely with other governments on measures to prevent child sexual abuse in schools, including providing support to other states and territories to implement the Royal Commission's Child Safe Standards.

From 1 August 2016, all Victorian schools were required to comply with the Victorian Child Safe Standards. To support schools to implement the Victorian Child Safe Standards, the Department of Education and Training provides detailed guidance, templates, tools and resources on the PROTECT website. This guidance was developed in consultation with the government and non-government school sectors, and the Victorian Registration and Qualifications Authority which monitors and enforces the Victorian Child Safe Standards in schools. The Department of Education and Training also provides a dedicated email inbox for schools to seek advice in relation to implementing the Child Safe Standards.

### Teacher registration

The Royal Commission found inconsistencies between teacher registration requirements across states and territories. The COAG Education Council is considering measures to improve national consistency, including recording and making available consistent types of information on teacher registers.

In September 2018, the COAG Education Council noted the recommendations of a National Review of Teacher Registration. The review considered how the current registration framework is operating, including in relation to implementation, consistency, best practice, and challenges and barriers. The Australian Institute for Teaching and School Leadership is working with jurisdictions to develop an implementation strategy for the recommendations of the National Review of Teacher Registration.

### Boarding schools

The Royal Commission identified that opportunities for abuse and vulnerability of children to abuse resulted in a higher risk to children in boarding schools than day schools.

The Victorian Government is currently considering the extent to which the existing powers of the Victorian Registration and Qualifications Authority enable it to monitor the compliance of boarding schools and other providers of student accommodation with Victoria's Child Safe Standards.

## Sport, recreation, arts, culture, community and hobby groups

Volume 14 of the Final Report contains four recommendations to enhance child safety in sport, recreation, arts, culture, community and hobby groups. The Victorian Government accepted two recommendations, either in full or in principle, and noted two recommendations.

### Enhancing child safety

The Royal Commission identified the need for sport and recreation organisations to have strategies to keep children safe.

Victoria's Child Safe Standards apply to all organisations providing services or facilities for children, including sport and recreation organisations. The Victorian Government has also funded the development of targeted resources for implementing Victoria's Child Safe Standards in sports clubs, leagues and associations. The CCYP also offers a number of online resources in various languages, delivers information sessions, and keeps organisations informed of relevant developments via email and social media.

## Contemporary detention environments

Volume 15 of the Final Report contains 15 recommendations to prevent child sexual abuse from occurring in detention environments and, where it does occur, to help ensure effective responses. The Victorian Government accepted five recommendations in Volume 15, accepted in principle five recommendations, and noted five recommendations that are matters for the Australian Government.

### Safe Placement Procedures and Risk Assessments

The Royal Commission recommended that a review of the building and design features of youth detention was essential to address elements that may place children at risk. It also noted that appropriate and safe placement of children in youth detention, including a risk assessment, would help identify if a child may be vulnerable to child sexual abuse or whether a child is displaying harmful sexual behaviours.

The Victorian Government has worked to repair and strengthen the Parkville and Malmsbury Youth Justice centres to provide safer and more secure custodial environments. Technology plays an important role in providing additional safeguards and monitoring. The Victorian Government has implemented an extensive network of CCTV technology in youth justice facilities in order to monitor behaviour, deter unacceptable behaviour and enable real time monitoring or post incident review. The introduction of body-worn cameras by precinct-based incident response teams provides an additional layer of transparency and accountability during incident response.

A custodial Classification and Placement Unit has been established to coordinate and facilitate the assessment, classification and placement of children and young people in custody to ensure effective case management and safe placement.

A new Room Share Suitability Framework and tool has also been introduced in order to provide tighter scrutiny over the room sharing process, clear guidance about the steps required to determine a young person's suitability to share a bedroom, and a framework for determining the level of risk and vulnerability.

Consideration of the safety of children and young people has been included in the design of the new \$288 million Cherry Creek youth justice precinct, which is based on smaller communities of young people and more therapeutic spaces to encourage rehabilitation and reduce reoffending.

### Cultural safety for Aboriginal and Torres Strait Islander children

The Royal Commission recommended that government consider further strategies that provide for the cultural safety of Aboriginal and Torres Strait Islander children in youth detention.

The cultural needs of Aboriginal young people and the importance of maintaining connection to family, community and culture is considered, where appropriate, during the development of procedures and practice.

As part of the 2018-19 State Budget, \$10.8 million was provided for the ongoing expansion of custodial and community Koori Youth Justice programs, and to increase the number of Aboriginal workers. Funding was also provided for professional development and networking opportunities for the Koori Youth Justice workforce and to support an Aboriginal Graduate Program. All new staff in custodial services are required to complete cultural awareness training as part of their induction, which is delivered by the Koori Heritage Trust.

The Aboriginal Youth Justice Strategy, which will establish a stronger response to over-representation of Aboriginal young people in the Youth Justice system, is being developed in partnership with the Aboriginal Justice Forum and Aboriginal Justice Caucus, under the umbrella of Burra Lotjpa Dunguludja, Aboriginal Justice Agreement Phase 4.

Parkville College delivers education programs at Youth Justice Centres. The College supports the cultural safety of Aboriginal and Torres Strait Islander students through a variety of strategies. These include Aboriginal representation on its school council and a relationship with the Archie Roach Foundation to provide guidance on employment, community involvement and connecting the school with key Aboriginal Elders. This relationship, and those with visiting Aboriginal Elders, ensures students have access to cultural support and mentoring.



A senior Aboriginal Elder provides guidance to College staff on classroom content, ensuring all curriculum units effectively incorporate Aboriginal perspective. The college runs an Aboriginal education program that brings together Aboriginal students to discuss and explore Aboriginal ancestry and history. The college's Aboriginal teaching team also develops individual cultural education plans for students and supports their transition process.

The College has also developed the cultural understanding and practices of all staff. By the end of 2018, every staff member had engaged in two full days of training which includes a day of cultural safety training, and a day on culturally responsive practice.

### **Strengthening of Training and Practice in Youth Justice Centres**

The Royal Commission recommended that all staff in youth detention institutions receive appropriate training and noted that survivors of child sexual abuse who are in youth detention should be afforded improved access to therapeutic treatment. The Royal Commission also concluded that youth detention institutions should implement the Child Safe Standards identified by the Royal Commission.

The Victorian Government currently provides pre-service training for all new youth justice workers. Staff receive training on a range of topics, which consider the impact of trauma on young people and the response required to meet and address needs. A training module on the Child Safe Standards also now forms part of the curriculum.

Pre-service training is being strengthened through a review of targeted learning outcomes, identification of priorities and content gaps. This will ensure that content is current, relevant and comprehensive. As part of this, further consideration is being given to the training and development needs of staff in order that they receive the appropriate support to work effectively with young people that have been exposed to or suffered sexual abuse.

The Victorian Government is also strengthening the support, assessment and therapeutic treatment provided to young people while in custody. Children and young people have an

overarching Youth Justice case management plan and a young person in custody receives a health screen and mental health assessment within 24 hours of admission to a youth justice precinct. A comprehensive health assessment is conducted by a general practitioner within 72 hours. The primary health and primary mental health care service provider refers children and young people in need of specialist health care to community based secondary and tertiary health services.

In early 2019, the new Custodial Forensic Youth Mental Health Service (Custodial FYMHS) will commence in Youth Justice centres. Custodial FYMHS will provide specialist youth mental health assessments, treatment interventions and treatment plans. It will assist young people experiencing a mental illness or mental health condition that are appropriately referred by the service provider.

### **Oversight and Complaints**

The Royal Commission identified the need to review the current internal and external complaints handling systems concerning youth detention and recommended that an independent body should provide oversight of youth detention.

The CCYP provides independent scrutiny and oversight of services for children and young people, particularly those in Youth Justice; advocates for best-practice policy, program and service responses; and supports and regulates organisations that work with children and young people to prevent abuse and ensure implementation of child-safe practices. The CCYP operates a volunteer Independent Visitor Program across the two Youth Justice Precincts. Independent visitors attend the precincts on a monthly basis, and meet with young people and staff, allowing for independent scrutiny of the system.

The Victorian Ombudsman also has statutory investigation powers that enable access to places of detention, information and detainees. Staff from the Ombudsman's office visit the youth justice centres regularly and young people have access to unrestricted phone calls to contact the Ombudsman.

## Beyond the Royal Commission

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Volume 17 of the Final Report contains six recommendations about monitoring and reporting on the implementation of the Royal Commission's recommendations. The Victorian Government accepted the two recommendations relating to issuing a formal response to the final report and reporting annually on implementation, and noted four recommendations that are matters for the Australian Government or institutions.

The Victorian Government response to the recommendations of the Royal Commission was published on 11 July 2018. This is the Victorian Government's first annual report on implementation of the Royal Commission's recommendations.

## Working with Children Checks Report (2015)

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The Royal Commission recommended that the Australian Government facilitate and manage a national model for Working with Children Checks (WWCCs), and that jurisdictions amend their WWCC laws to implement common minimum standards. The WWCCs Report contains 36 recommendations.

The Victorian Government accepted 14 recommendations, which are already implemented. A number of these were implemented through amendments to the *Working with Children Act 2005*, including:

- expanding the definition of direct contact to ensure WWCCs are required where child-related work involves oral, written and electronic communication, as well as face-to-face and physical contact with a child;
- removing references to supervision, to ensure WWCCs are required regardless of whether the child-related work is supervised or not;
- requiring kinship carers (family members or other people of significance to a child placed in their custody as part of an out-of-home care arrangement) to obtain a WWCC;
- ensuring non-conviction charges (charges that have been finally dealt with other than by a conviction or finding of guilt) for serious sexual, violent or drug offences are considered as part of a WWCC assessment or re-assessment; and

- new powers to compel applicants to produce further information if they are suspected of committing an offence against the *Working with Children Act 2005*.

The other recommendations in the WWCCs Report require coordinated national action. Victoria is working with the Australian Government and state and territory governments to progress these recommendations, the majority of which will be the subject of national standards. The Victorian Government accepted in principle 16 of those recommendations, and is giving further consideration to five recommendations, including restricting appeal rights for individuals convicted of the most serious offences under the *Working with Children Act 2005*.

The Victorian Government is working with the Australian Government and other states and territories to develop national standards which will give effect to the minimum standards recommended by the Royal Commission.



## Redress and Civil Litigation Report (2015)

The Redress and Civil Litigation Report contains 84 recommendations about redress for survivors of institutional child sexual abuse, and a further fifteen recommendations to reform civil litigation.

### Redress

On 9 March 2018, the Victorian Government and the New South Wales Government were the first states in Australia to opt in to the National Redress Scheme, responding to a key recommendation from the Royal Commission and the Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Organisations, *Betrayal of Trust* report.

On 13 June 2018 the Victorian Parliament referred powers to the Commonwealth Parliament to allow Victorian institutions, including the State of Victoria, to participate in the National Redress Scheme.

The Victorian Government has participated in the Scheme since it commenced on 1 July 2018.

The Scheme is operated by the Australian Government and is governed by a framework for determining applicants' eligibility for redress, and which institution is responsible for payment. Applicants may receive access to counselling, a redress payment, and a direct personal response from the institution responsible for the abuse (for example, an apology).

All applications for redress are determined by independent decision makers. The Victorian Government is responsible for paying redress to a person if a Victorian Government institution is found reasonably likely to be responsible for a person's abuse.

The Victorian Government provides counselling to all applicants who receive an offer of redress under the Scheme residing in Victoria. A person is offered a choice of counselling service provider, and a range of delivery options and services in rural, regional and remote areas. Specific services accommodate culturally appropriate counselling for Aboriginal and Torres Strait Islander people, and consider the needs of applicants related to disability, gender, sexuality and language.

### Civil Litigation

Fifteen recommendations in the Redress and Civil Litigation Report relate to reforms to civil litigation. The Victorian Government has implemented all of these recommendations, through a suite of reforms introduced to remove a range of hurdles faced by child abuse survivors seeking compensation from organisations associated with their abuse.

In 2014, the Victorian Government adopted Common Guiding Principles to provide guidance on how departments should ordinarily respond to civil claims involving allegations of child sexual abuse. The Common Guiding Principles are policy guidelines that complement the Model Litigant Guidelines. The Common Guiding Principles inform the response of departments to civil claims involving allegations of child sexual abuse in connection with state institutions. They state that departments should be mindful of the potential for litigation to be a traumatic experience for claimants who have suffered sexual abuse, and that departments should consider facilitating an early settlement and should generally be willing to enter into negotiations to achieve this.

In 2015, Victoria became the first jurisdiction in Australia to completely remove the statute of limitations for civil claims founded on child abuse. Amendments to the *Limitation of Actions Act 1958* removed the limitation period for all relevant child abuse claims regardless of the time or context of the alleged abuse. Before this reform, time limitations were one of the major barriers faced by victims of child abuse who wished to pursue legal action.

Limitation periods often discouraged victims from bringing their claims in court, and the expiration of a limitation period was commonly used against victims in negotiations – often to reduce the settlement amount offered. This reform implemented a key recommendation of *Betrayal of Trust* and the Royal Commission.

In 2017, the Victorian Government introduced an Australian-first duty of care for organisations exercising care, supervision or authority over children. Amendments to the *Wrongs Act 1958* created a new duty of care to hold an organisation responsible for child abuse that occurred in their

organisation, unless the organisation proves that it took reasonable precautions to prevent the abuse. This reform commenced on 1 July 2017, and implemented another key recommendation from *Betrayal of Trust* and recommendations of the Royal Commission.

In 2018, the Victorian Government introduced new laws to close an unfair legal loophole preventing child abuse survivors from suing some organisations responsible for their abuse. The *Legal Identity of Defendants (Organisational Child Abuse) Act 2018* commenced on 1 July 2018. The reform prevents unincorporated organisations from relying upon a legal technicality – known as the ‘Ellis defence’ – to avoid being sued. The Ellis defence resulted from a 2007 New South Wales Court of Appeal decision that found unincorporated organisations using trusts to conduct their activities did not legally exist and could not be sued in their own right. The reform enables an institutional child

abuse plaintiff to pursue damages against an unincorporated non-government organisation that controls one or more associated trusts, either by the non-government organisation nominating an entity to be sued or by the court appointing the non-government organisation’s associated trusts to be responsible for any liability. This reform implements recommendations of both *Betrayal of Trust* and the Royal Commission.

The Victorian Government will also introduce a complementary reform, requiring Victorian government agencies to ensure that non-government organisations receiving government funding to provide services to children are incorporated and insured against child abuse. This will mean that such organisations are capable of being identified and held financially responsible where they are responsible for child abuse, and will improve access to justice for survivors.

## Criminal Justice Report (2017)

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The *Criminal Justice Report* contained 85 recommendations that deal with a broad range of issues, including the reporting, investigation and prosecution of child sexual abuse offences, and criminal and evidence law.

The recommendations made by the Royal Commission will be instrumental as the Victorian Government continues to reshape the criminal justice system to support victims of crime and strengthen laws to better protect children from abuse.

The Victorian Government accepted 30 recommendations in the *Criminal Justice Report*, accepted in principle 29 recommendations, is giving further consideration to 16 recommendations, and has noted 10 recommendations that are directed at states other than Victoria, institutions or survivor advocacy groups, or are otherwise not relevant to Victoria.

The Victorian Government will also implement recommendations of the Royal Commission relating to child abuse disclosed during religious confession. The Victorian Government has committed to make it mandatory to report information about child abuse or harm which is disclosed during confession to child protection authorities in the Department of Health and Human Services. The Victorian Government will

also ensure that information about child abuse disclosed in the context of a religious confession is no longer exempt from disclosure for the purposes of the Crimes Act offence.

### Reforms to improve policing

Over the last decade Victoria Police has undergone significant reforms to improve its practice in the investigation of sexual offences. The recommendations of the Royal Commission will inform Victoria Police’s ongoing work to improve victim-centric policing responses.

#### **Policing Harm, Upholding the Right: Victoria Police Strategy for Family Violence, Sexual Offences and Child Abuse 2018-2023**

In December 2017 Victoria Police launched its new organisational strategy, *Policing Harm, Upholding the Right: Victoria Police Strategy for Family Violence, Sexual Offences and Child Abuse 2018-2023*. The strategy provides an integrated focus on family violence, sexual offences and child abuse to recognise that these crime themes are often linked or co-occurring.

The strategy sets out a range of initiatives in four strategic priority areas: victim safety, offence and offender management, child safety, and a safe and capable workforce.

### **SANO Task Force**

The SANO Task Force was established to investigate historic and new allegations that have come to light from the *Betrayal of Trust* report. The Task Force was expanded during the Royal Commission to include cases emerging as a result of the inquiry.

The SANO Task Force is based in Victoria Police's Crime Command and comprises specialist sexual offences detectives. SANO investigators identify links between offenders and offences through the use of modern, specialist investigation methods. Since its establishment SANO has received more than 1537 reports.

### **Prosecution and witness reforms**

The Royal Commission recognised the significant impact that interactions with prosecution services can have on how victims and witnesses experience the criminal justice system.

In Victoria, the *Victims' Charter Act 2006* (Victims' Charter) sets out principles that govern how investigatory agencies, prosecuting agencies and victim service agencies should respond to victims of crime. The objects of the Victims' Charter are to:

- recognise the impact of crime on victims (as well as victims' families, witnesses and the broader community);
- recognise that victims should be treated with respect, and assisted to access services to help with their recovery; and
- help reduce the likelihood of secondary victimisation by the criminal justice system.

The Victorian Government amended the Victims' Charter to recognise that a victim of crime has an inherent interest in the response by the criminal justice system to that crime.

### **Dedicated victims services**

The Royal Commission recommended developing material to better inform complainants or other witnesses about the process of giving evidence. In September 2017, the Office of Public Prosecutions (OPP) launched its dedicated *Victims and Witnesses website*, designed to help victims, witnesses and bereaved family members navigate the Victorian criminal justice system. This complements material available through State-wide Victims Assistance Programs and the Child Witness Service.

The Royal Commission's guiding principles for prosecution responses to child sexual abuse included providing funding for Witness Assistance Services. The Victorian Government announced a \$28.5 million 'Victims Package' as part of the 2017-18 State Budget, aimed at boosting frontline staff and support services for victims and witnesses.

The package included funding for the OPP to recruit more social workers to support victims, and for the Department of Justice and Community Safety Victims Support Agency to enhance online resources for victims of crime. The Victorian Government provided further funding in the 2018-19 State Budget, including \$72 million to enhance support services for victims of crime.

The State-wide Victims Assistance Programs provide practical support, and a range of therapeutic interventions for eligible victims of crime via a flexible case management model. The OPP Victims and Witness Assistance Service (VWAS) provides support and assistance to victims and witnesses who are required to attend court for indictable matters. The VWAS prioritises matters involving sexual assault, family violence and death. The OPP is committed to developing innovative ways to embed the VWAS in its legal practice and expand the assistance the VWAS offers to as many witnesses as possible across a variety of cases.

The Royal Commission suggested considering specialist services for child witnesses. The Child Witness Service is a specialist agency within the Department of Justice and Community Safety that works with children who are required to give evidence in court. It maintains a website that provides information such as the process of giving evidence and the support services that are available to young people who are going to court. The 2018-19 State Budget included \$6.9 million to enhance the capacity of the Child Witness Service.

### **Workforce development**

The Royal Commission identified staff training as critical to improving prosecution responses to child sexual abuse. The OPP conducts professional legal education sessions on working with victims of abuse, trauma and family violence, and people experiencing mental illness or substance abuse. These aim to ensure that lawyers understand the nature of sexual abuse in a family or institutional setting.

## Prosecution decision making and communication with victims

The Royal Commission recommended that the OPP:

- have comprehensive policies for consulting with victims;
- provide a right for victims to seek written reasons; and
- establish a robust and effective formalised complaints mechanism.

OPP lawyers work with the VWAS to provide victims and witnesses with assistance, support and opportunities for consultation throughout the prosecution process.

The OPP legal practice guide emphasises the importance of consulting with victims and police. The Victorian Director of Public Prosecution Policy provides:

- general principles for how the prosecution should communicate with victims;
- information that an OPP solicitor must provide to victims;
- matters that an OPP solicitor must seek the victim's views about; and
- that a person with a legitimate interest in a prosecutorial decision (which includes a victim) may be given reasons for a discretionary prosecutorial decision.

In September 2018, the OPP began trialling a Discontinuance Review Framework, which provides an additional opportunity to seek a victim's views before decisions are made to discontinue a prosecution. Before the DPP makes a final decision about whether or not to discontinue a matter, the victim is asked if they would like anything further taken into account in the review process.

The OPP has also developed a framework for receiving and resolving victim complaints, modelled on the best practice model identified by the Victorian Ombudsman.

The Victorian Government amended the Victims' Charter and *Victims of Crime Commissioner Act 2015* to:

- require better communication with victims before, during and after criminal proceedings, including seeking victims views before deciding to (among other things) substantially modify charges, discontinue a prosecution, or accept a plea of guilty to a lesser charge;

- require the DPP to give victims reasons for such decisions, either orally or in writing;
- require agencies to establish improved complaints handling systems; and
- establish a new complaints oversight role for the independent Victims of Crime Commissioner.

These amendments are scheduled to commence in November 2019.

The Royal Commission recommended that information provided to victims should better prepare victims for making a victim impact statement, and give them a better understanding of the role of a victim impact statement in the sentencing process. Amendments to the Victims' Charter will require prosecutors to provide better information to victims about victim impact statements.

The Royal Commission recommended that prosecution charging and plea decisions in prosecutions for child sexual abuse offences should be guided by certain principles. These principles include recognising the importance of laying, or confirming, the correct charges as early as possible. In October 2018, the Victorian Government asked the Victorian Law Reform Commission (VLRC) to review and report on Victoria's committal system by March 2020. Under the terms of reference, the VLRC will consider best practices for supporting victims in the committal system, and identify opportunities for reform that improve early disclosure processes and encourage early appropriate guilty pleas.

## Protections for giving evidence

Giving evidence can be a particularly distressing experience for some witnesses because of the nature of the criminal proceedings, such as where they relate to sexual or violent offending. This may result in unnecessary trauma to the witness, discourage the witness from giving evidence, and can affect the quality of the evidence.

The Royal Commission made 14 recommendations relating to protections for witnesses giving evidence in child sexual abuse prosecutions. These include ensuring that necessary legislative provisions as well as physical resources are in place to allow for evidence to be pre-recorded, and establishing an Intermediaries Scheme to assist in communication with vulnerable witnesses.

## Recorded evidence and alternative arrangements

Alternative arrangements may be necessary to assist particular witnesses, such as children or witnesses with a cognitive impairment, to give accurate evidence and participate in the court process.

Victoria has a number of protections which apply in criminal proceedings to the evidence of certain classes of witness. These are in Part 8.2 of the *Criminal Procedure Act 2009*, and include:

- allowing the court to use alternative arrangements for giving evidence by witnesses in sexual offence or family violence matters (including permitting evidence to be given by CCTV, the use of screens, the presence of an emotional support person and by requiring only specified persons be present while a witness gives evidence);
- allowing the evidence-in-chief of children and cognitively impaired witnesses to be pre-recorded in sexual offence and assault matters;
- taking the evidence of a child or a person with a cognitive impairment in sexual offence matters during a recorded 'special hearing'; and
- allowing previously recorded evidence of a complainant in sexual offence trials to be re-used in specified related proceedings, including re-trials and appeals.

A series of upgrades to audio-visual facilities in the Supreme Court, County Court and Magistrates' Courts have occurred, or are scheduled to occur in coming years, to ensure that vulnerable witnesses are able to give their evidence-in-chief by video and audio recording of evidence, and generally only have to be cross-examined in court once. This includes the funding of:

- \$10.9 million over four years in the 2017-18 State Budget to the Supreme Court, to upgrade audio-visual technology in all Supreme Court courtrooms. This project is forecast to be completed in January 2020; and
- \$14.6 million over four years in the 2015-16 State Budget to Victorian courts for the provision of 148 video conferencing units, which separate vulnerable witnesses from accused persons when those witnesses give evidence.

The OPP has established a Victim Support Dog program, where a professionally trained therapy dog is available to accompany victims and witnesses as they give evidence from a remote witness room. This program has been utilised in a number of matters involving victims of child sexual abuse.

The terms of reference for the VLRC review of Victoria's committal system include examining if, and in what circumstances witnesses or classes of witnesses should be examined prior to trial, including consideration of how to minimise the need for victims and other vulnerable witnesses to give evidence multiple times.

## Intermediaries Scheme

The Victorian Government has introduced an Intermediaries Scheme which will enable communication specialists to assist children and vulnerable people to provide evidence to police and in court. It is designed to increase access to justice for vulnerable witnesses, produce the best quality evidence, and decrease the trauma experienced by victims and other vulnerable people giving evidence.

The Victorian Government allocated \$2.6 million in the 2017-18 State Budget to establish the Scheme. This initial funding was supplemented by an additional \$2.5 million in the 2018-19 State Budget. This included funding for the Judicial College to provide training to judicial officers about the Scheme, focussing on the impact of violence and trauma on child witnesses.

All members from the Victoria Police Melbourne Prosecutions Unit Sexual Offences Team have received initial training and will begin using intermediaries in sexual offence prosecutions.

The Victorian Government also introduced Ground Rules Hearings, a pre-trial process that aims to bring to the attention of lawyers and judicial officers the comprehension abilities and communication needs of the particular witness.

Victoria Police Sexual Offences and Child Abuse Investigation Team sites in Geelong, Frankston, Box Hill, and Fawkner, are also piloting access to intermediary support for police interviews.



## Reforms to Criminal Law

The Royal Commission suggested a broad range of criminal law reforms to improve responses to institutional child sexual abuse. Its recommendations covered reforms to introduce or amend particular offences, amend aspects of evidence law, remove limitation periods and immunities, introduce mandatory reporting and codify jury directions.

### Child sexual abuse offences

In recent years, the Victorian Government has made a number of legislative amendments to strengthen child sexual abuse offences, which the Royal Commission recognised in its report.

Reforms to Victoria's sexual offences include:

- the introduction of a course of conduct charge in relation to certain sexual offences and removed any immunity from prosecution arising from the time limits on commencing prosecutions of certain sexual offences committed before 1991;
- introduction of new offences of failing to disclose a sexual offence committed against a child under the age of 16 and failing to protect a child under the age of 16 who is under the care, supervision or authority of an organisation; and
- legislative amendments to modernise existing offences such as persistent sexual abuse of a child under 16 and grooming; introduction of age-based offence classifications for sexual offences against a child aged under 16 and sexual offences against a child aged 16 or 17 and under care, supervision or authority, and amendments to make consent irrelevant to exception or defence to those offences.

The Royal Commission recommended that a failure to report offence should not exempt religious confessions. The Victorian Government will amend the law to ensure that, under the failure to disclose offence in section 327 of the *Crimes Act 1958* information disclosed in the context of a religious confession is not excluded from the reporting obligation. It will also ensure that religious officials are mandatory reporters for the purpose of the mandatory reporting scheme, and that there is no exemption or defence from reporting for information gained in the context of religious confession.

The Council of Attorneys-General has commissioned further work to develop a nationally consistent approach to the religious confessions evidentiary privilege in the Uniform Evidence Law.

### Jury directions

The Victorian Government has introduced significant reforms in respect of jury directions. The Royal Commission referred to Victoria's jury directions reforms as establishing a precedent for other jurisdictions to develop reforms.

Jury directions reform in Victoria has focused on dealing with or neutralising misconceptions that can affect how jurors assess a witness's evidence. For example, specific directions on delay and credibility prohibit the trial judge and parties from making certain generalisations about sexual offence complainants as a class of witnesses, and require the trial judge to deal with common misconceptions about those complainants. Directions on differences in a complainant's account reflect research that shows that gaps and inconsistencies (both within and between accounts) are common. Complainants may describe an offence differently because of how they retain and recall memories, the context of the disclosure, stress or embarrassment.

The Victorian Government also introduced a new direction on the language and cognitive skills of child witnesses. This new direction aims to neutralise misconceptions that may unfairly affect the assessment of child witnesses and is based on extensive empirical research on children's abilities as witnesses in criminal proceedings.

### Review of costs

Consistently with the Royal Commission's recommendation, the Victorian Government will review the current operation of section 401 of the *Criminal Procedure Act 2009* regarding the award of costs in summary jurisdiction.

### Tendency and coincidence evidence

The Royal Commission made several recommendations relating to the admissibility of tendency and coincidence evidence. At its December 2017 meeting, the Council of Attorneys General agreed to refer the test for admissibility of tendency and coincidence evidence in the Uniform Evidence Law to a working group including representatives from uniform evidence jurisdictions and led by NSW. The working group has developed several proposals for consideration, and will undertake further consultation with stakeholders and report back to the Council of Attorneys General at its first meeting in 2019. Victoria will continue to actively participate in the working group.

## Reducing delay

The Royal Commission recommended that governments work to ensure that delays are reduced and kept to a minimum in prosecutions for child sexual abuse. The Victorian Government has implemented reform to reduce delays in prosecutions of child sexual abuse.

The Children's Court, Magistrates' Court and County Court each manage sexual offence cases in Victoria through specialist sexual offences lists, serviced by specialist sexual offence prosecutors.

A range of statutory and court case management requirements are in place to encourage early guilty pleas. Existing measures include a sentence indication scheme in the higher courts that allow the court to indicate whether it would or would not be likely to impose a sentence of imprisonment. Other statutory mechanisms that encourage early guilty pleas include statutory recognition of an early plea as a factor that mitigates sentence length and the requirement for courts to announce the sentence that would have been imposed but for a plea of guilty having been entered.

The *Criminal Procedure Act 2009* imposes a range of requirements on parties to disclose evidence, consider and narrow issues and be prepared to engage in structured discussions in both summary and indictable stream cases. This includes provisions about:

- initial and ongoing disclosure of the prosecution case, including mechanisms for an accused person to seek, and the court to order, further disclosure;
- disclosure of the case of the accused, including a written response to the prosecution opening in indictable stream cases that identifies the acts, facts, matters and circumstances with which issue is taken and the basis on which issue is taken;
- out of court discussions; and
- express case management powers.

The VLRC may identify further opportunities to reduce delay during its review of Victoria's committal system. In particular, the VLRC will examine opportunities for reform that facilitate efficient use of court time and encourage proper preparation for trial.

## Improving professional responses

The Royal Commission recommended that the judiciary and the legal profession receive regular training and education programs in relation to understanding child sexual abuse and current social science research in relation to child sexual abuse.

Material and training is available to legal professionals in relation to child sexual abuse offences. This includes the various jury directions reports prepared by the Department of Justice and Community Safety, as well as the Victorian Criminal Charge Book and the Sexual Assault Manual, which are published by the [Judicial College of Victoria](#).

The OPP conducts training designed to ensure staff who have contact with victims of child sexual abuse understand the nature and impact of child sexual abuse and how it can affect people who are involved in a prosecution process. Additionally, a multi-disciplinary team of solicitors and social workers has also been established to ensure that these services work more closely together to support victims and witnesses.

The Department of Justice and Community Safety has also produced the *Charter of Advocacy – Prosecuting or Defending Sexual Offence Cases*, which provides a guide for prosecutors and defence practitioners about good conduct in relation to court proceedings for sexual offences. It is a symbol of a shared commitment by justice agencies to minimising the trauma experienced by victims of sexual assault in the justice system while ensuring that people accused of sexual offences receive a fair trial.

