

# **NSW Annual Report on Progress**

Royal Commission into Institutional  
Responses to Child Sexual Abuse

December 2018



The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) provided a confronting and devastating insight into the nature and magnitude of child abuse in institutions. It revealed that child sexual abuse has a lifelong impact on survivors, their families and communities.

The NSW Government is determined to prevent the kind of institutional abuse disclosed during the Royal Commission and provide better support to survivors.

NSW continues to lead the nation in its response to the Royal Commission, pursuing extensive reforms to prevent child sexual abuse, improve responses to reports of abuse, and ensure survivors receive appropriate support and the justice they deserve.

These reforms are backed by significant financial investment. To date, the NSW Government has invested more than \$570 million in reforms stemming from the Royal Commission's findings.

On 18 October 2018 the NSW Government announced a comprehensive \$127 million funding package to further implement the recommendations from the Royal Commission.

The investment includes:

- \$37.7 million for early intervention, child specialist therapeutic services and resources for the community
- \$28.3 million to deliver the Child Sexual Offence Evidence Program
- \$14.8 million to expand sexual assault outreach for Aboriginal people and people from culturally and linguistically diverse communities
- \$14.3 million for an integrated specialist therapeutic service for adult survivors;
- \$6.9 million for strengthened out-of-home care carer checks
- \$5.9 million for improved safety of children in juvenile detention
- \$4.1 million to expand Local Court capacity
- \$2.7 million for resources for NGO caseworkers to respond to children with complex needs
- \$2.1 million for a worker register to better protect children in intensive therapeutic care.

This significant package will ensure greater access to assessment, treatment and support services for children and adults impacted by child sexual abuse.

It provides additional resources for Local and District Courts to enable child sexual offence matters to be finalised as quickly as possible, reducing the burden of delay on victims and survivors of sexual abuse.

The new funding also enables NSW to commence consultation with affected sectors to support the implementation of Child Safe Standards and to develop a scheme for the regulation of Child Safe Standards in organisations. Adopting Child Safe Standards within government and non-government institutions in NSW is a crucial step to prevent child sexual abuse.

This report outlines the actions taken by NSW since June 2018 and the initiatives that are planned to make NSW safer for all children.

## **NSW has made significant progress since June 2018**

### **NSW will invest \$127.2 million to implement responses to the Royal Commission's recommendations**

This new investment will support initiatives focused on preventing child sexual abuse, improving treatment and support for victims and survivors, and strengthening the criminal justice response to child sexual abuse.

### **Intensive Therapeutic Care commenced on 1 July**

Intensive Therapeutic Care replaces residential out-of-home care for children and young people over 12 years who have experienced trauma and require intensive therapy. The system focuses on recovery from trauma and places children and young people in the least intensive placement types possible. Intensive Therapeutic Care is currently being delivered in eight locations across NSW. Full transition to Intensive Therapeutic Care will occur over one to two years.

### **National Redress Scheme commenced on 1 July**

NSW was one of the first two states to opt in to the National Redress Scheme. In May, NSW was the first state to pass legislation referring powers to the Commonwealth to establish the National Redress Scheme.

The Scheme will run for 10 years and includes a monetary payment of up to \$150,000, access to counselling and psychological support and a direct personal response from the participating institution or institutions responsible.

### **'My Forever Family NSW' program commenced on 2 July**

This program provides recruitment, support, advocacy and training for foster carers, guardians, adoptive parents and other carers. The training focuses on strengthening carers' parenting skills to help children deal with the effects of trauma and provide protective strategies for children.

### **Tough new child sexual abuse laws commenced on 31 August**

NSW has introduced new offences for concealing information relating to child abuse and failing to reduce or remove the risk of a child being abused. Further criminal justice reforms, including a maximum life imprisonment for "persistent child sexual abuse" commenced on 1 December.

### **Changes to civil litigation laws will make it easier for survivors to seek justice**

NSW has passed legislation to allow all child abuse survivors to sue the organisations in which they were abused, even if the organisations do not have legal personality. The legislation also creates two clear statutory pathways for future survivors of child abuse to sue organisations responsible for child abuse.

### **NSW established the Child Safety Standing Committee for Survivor and Faith Based Groups**

The Committee includes representatives from seven survivor groups, 20 faith-based groups and the NSW Government. The first roundtable meeting was held at NSW Parliament House on 12 September 2018 to discuss priorities, strategies and challenges in implementing the recommendations of the Royal Commission.

## **NSW Government delivered an apology to survivors of institutional child sexual abuse**

NSW held an official ceremony at the Sydney Opera House on 22 October 2018 to telecast the National Apology to Victims and Survivors of Child Sexual Abuse as it was delivered at Parliament House in Canberra. Prior to screening the National Apology, the Premier Gladys Berejiklian, the Attorney General Mark Speakman and the Minister for Family and Community Services Pru Goward delivered an apology to survivors of institutional child sexual abuse on behalf of the NSW Government. The apology paid tribute to survivors, and thanked those who bravely shared their experiences through the Royal Commission.

NSW also supported several community-based support organisations to host local screenings of the National Apology for survivors, their families and supporters.

## **NSW is taking action to prevent child sexual abuse**

Creating a culture of safety and awareness in our institutions is one of the first steps towards preventing child sexual abuse. The NSW Government is committed to meeting and championing the Child Safe Standards set out by the Royal Commission for all child-related services that it delivers, funds and regulates across the state.

NSW is also making significant investment in efforts to reduce and respond to children's problematic and harmful sexual behaviours. This includes initiatives aimed at prevention, early identification and intervention, specialist services, and resources for clinical professionals and the community.

### **Child Safe Standards in NSW**

NSW is investing **\$3.8 million** to resource the NSW Office of the Children's Guardian (OCG) to consult with affected sectors on implementing Child Safe Standards and to develop a scheme for the regulation of Child Safe Standards in organisations. The OCG will continue to provide training, resources and support to institutions to implement child safe policies and practices. The new funding will provide additional training to ensure that more organisations comply with Child Safe Standards, and additional resources to educate parents and help them to determine whether an organisation is "child safe". Approximately 72,000 additional workers and volunteers, including those involved with the NSW Active Kids and Creative Kids programs, will receive face-to-face training to help them identify and prevent abuse in organisations.

### **National Standards for Working with Children Checks**

The Working with Children Check is an important tool that jurisdictions use to minimise the risk of abuse in child-related work. NSW has worked closely with the Commonwealth and other states and territories to develop a set of new National Standards for Working with Children Checks. The NSW scheme is well established and closely aligned with the proposed national standards, providing an even higher standard of protection in some areas.

### **Preventing and responding to children's harmful sexual behaviours**

The safety and wellbeing of all children can be improved through addressing children's harmful sexual behaviours. It is important that we work across government and community to support all children and families affected by these behaviours. Evidence demonstrates that early intervention can help prevent children's problematic behaviours escalating to the point of causing harm to others. Specialist treatment helps children to cease these harmful behaviours and improves the wellbeing of affected children and families.

The NSW Government will invest **\$37.7 million** to reduce problematic and harmful sexual behaviours in children, with a focus on prevention, early intervention initiatives and improving access to specialist treatment services.

In response to the Royal Commission, NSW is already establishing New Street services in Wagga Wagga and Lismore. New Street is a leading specialist service for children and young people aged 10-17 years who display harmful sexual behaviours. NSW will further expand the availability of New Street services across NSW and will improve access to specialist support for children aged less than 10 years with problematic sexual behaviours.

### **Improving protection for children in out-of-home care**

NSW is investing **\$2.1 million** to fund the development of a register for residential care workers to better protect children in residential care. The register will simplify the exchange of information between residential care providers regarding the suitability of care workers.

A further **\$6.9 million** will be invested to strengthen background checks for carers in the out-of-home care system. The enhanced Community Services Checks for carers and household members, who were authorised before 2015 and who are still caring for children, will minimise risks for children in care.

### **Strengthening protections for children in detention**

A new Juvenile Justice plan (JJ 2022) sets targets to reduce the number of children and young people held in custody on short-stay remand (less than 24 hours), as well as the number of young people returning to custody due to reoffending.

Juvenile Justice NSW is also focused on reducing the overrepresentation of Aboriginal young people in custody through the Aboriginal Strategic Plan 2018-22 to build on existing Aboriginal engagement initiatives.

New regulatory changes have come into effect providing explicit direction as to the process for conducting partially clothed body searches of children and young people in detention. These changes strengthen safeguards already in place and reduce the frequency of routine searches. A supporting policy has also been introduced which incorporates trauma-informed practice.

In collaboration with Victims Services, Juvenile Justice has commenced a pilot to deliver counselling to young people in three detention centres who have been victims of sexual abuse prior to entering custody.

NSW will also invest a further **\$5.9 million** to upgrade Closed Circuit Television to strengthen security in all Juvenile Justice Centres.

### **Improving protection for children in school and early childhood education environments**

NSW is committed to ensuring that all children are provided with safe environments in which to learn, from early childhood education through to secondary school. The NSW Department of Education and NSW Educational Standards Authority have commenced work, both internally and closely with other agencies, jurisdictions, and the non-government school and early childhood education sectors, to further improve the safety and wellbeing of children in educational environments.

The improvements will occur through new initiatives, including nationally consistent teacher accreditation legislation and information sharing practices between jurisdictions, which will enable

greater visibility of those working in our schools and reduce the opportunity for abuse to occur. Additional resources will also be provided for teachers and principals to reduce the prevalence of, and better respond to, incidents of abuse.

### **NSW is listening to the voices of children**

The Royal Commission highlighted the importance of listening to children and valuing their views.

*Their Futures Matter* is a landmark reform in NSW which sets a long-term strategy for out-of-home care and improving the outcomes for children, young people and their families. The design of programs and services to be delivered under *Their Futures Matters* will be directly informed by the perspectives of children and young people.

The NSW Advocate for Children and Young People (the Advocate) has continued to facilitate and promote the participation of children and young people in decisions that affect them, including children and young people in detention. Each year, 12 young people are recruited to join the NSW Youth Advisory Council to advise the NSW Government on issues of importance to young people.

The Advocate has recently undertaken extensive consultation and developed a report focusing on the experiences and perspectives of over 3,000 vulnerable children and young people in NSW. In addition, the Advocate is developing interactive training modules on child rights to be rolled out in government and non-government organisations.

### **Improving treatment and support for victims and survivors**

NSW currently delivers and funds a range of services that provide support and treatment for victims and survivors of child sexual abuse. NSW is further enhancing what is delivered. NSW will continue to engage with victims and survivors in the roll out of the following reforms to ensure their needs are met.

#### **Reforms to community-based support services**

NSW will prepare a report which analyses options and makes recommendations for the design of a service system to deliver a coordinated, cross-government approach to funding community-based support services for victims and survivors of child sexual abuse.

A commissioning approach will be delivered through an open and competitive tender process focused on services delivering evidence-based best practice that meets the needs of victims and survivors in NSW. This approach will shift service delivery in line with the recommendations of the Royal Commission.

NSW is also delivering a short term funding increase of **\$2.5 million** to community-based support services currently funded by the NSW Government over two years. This will enable services to meet increasing demand arising from the Royal Commission.

#### **Improving specialist sexual assault services**

NSW is investing **\$29.1 million** to improve access to specialist services for people affected by sexual abuse.

NSW will pilot a new integrated, specialist treatment service targeted for adult survivors with complex needs. This pilot aims to improve care through specialist sexual assault trauma counselling and integrated case management with mental health and drug and alcohol services.

NSW is also improving access to sexual assault services through clinical outreach and community development activities. This will focus on groups which may be disproportionately impacted by sexual abuse and who may require tailored responses.

NSW invested an additional **\$10 million per annum** from 2017-18 to strengthen NSW Health services for victims of sexual assault, child abuse and neglect, and domestic and family violence. A redesigned NSW Health framework will guide system reform and service improvements to build an integrated health system response. Implementation has commenced, including local service redesign and recruitment of permanent clinical staff.

### **Improving the leaving care experience**

Several initiatives are underway in NSW to help young people who are leaving care to transition successfully and develop independent living skills. NSW is improving training resources for those who work with care leavers under 25 years to help them meet their housing, employment and other needs.

### **Support to detect and respond to signs of abuse**

NSW is investing **\$2.7 million** in additional resources for carers and caseworkers in the non-government out-of-home care sector to respond to children with complex needs. This includes specialised and in-depth training for carers and caseworkers to respond to harmful sexual behaviours.

NSW has previously developed the 'See Understand and Respond to Child Sexual Abuse' kit. The kit will continue to be used as a resource for child protection practitioners about how to safely plan and talk to children in situations where sexual abuse is suspected.

### **Strengthening the justice system response to child sexual abuse**

NSW has delivered major reforms to improve the capacity of the NSW justice system to respond to child sexual abuse. These reforms strengthen and extend the law in NSW to hold perpetrators and institutions to account and to better meet the needs of survivors.

### **Stronger protection for vulnerable witnesses**

NSW has allocated **\$28.3 million** to fund the Child Sexual Offence Evidence Program (the Program) at Sydney and Newcastle District Courts to June 2022. The Program is trialing prerecording and the use of witness intermediaries who act as officers of the court to facilitate communication for vulnerable child complainants and witnesses with specific communication needs or disabilities.

The objectives of the Program are to reduce stress on child complainants and witnesses, reduce the duration of court proceedings, and reduce the risk of trials being terminated as a result of insufficient evidence in chief being provided by child complainants and witnesses. Protections designed to make testifying in criminal proceedings less stressful and traumatic are also being extended to other vulnerable witnesses.

The Program also seeks to increase the number of cases proceeding to court that involve younger children, children of Aboriginal and Torres Strait Islander background and children or young persons with a cognitive impairment.

### **Expanding the capacity of the courts to respond to child sexual abuse**

To ensure timely access to justice for survivors of child sexual abuse, NSW is providing funding to the Local and District Courts. The NSW Government recently announced a \$148 million funding

package for the District Court to appoint seven new judges to reduce trial delays. Two of these judges will be appointed to respond to the expected increase in demand on the District Court from the Royal Commission. The District Court funding package is in addition to the \$127.2 million in new funding announced in October 2018 for the implementation of responses to the Royal Commission. Across the two funding packages, total funding for the courts in response to the Royal Commission is:

- **\$4.1 million** to expand the capacity of the Local Court to respond to child sexual offence matters arising from the Royal Commission over two years.
- **\$35 million** to appoint two new District Court judges and address the associated costs incurred by justice agencies.

Over the next four years, it is estimated that the increase in child sexual assault cases ensuing from the Royal Commission will result in over 550 hearings and committals to the Local Court, over 120 District Court trials and over 150 District Court sentence hearings. The resourcing package for the Local and District Courts will ensure that cases are finalised as quickly as possible to reduce the burden of delay on victims and survivors of sexual abuse.

### **Introducing tough new child sexual abuse laws**

NSW has implemented several of the key recommendations made in the Royal Commission's Criminal Justice Report of August 2017. Two new offences of failure to report child abuse and failure to reduce or remove a threat of child abuse commenced on 31 August 2018. Courts sentencing a person convicted for child sexual abuse (including in historical matters) are now also required to take into account current sentencing standards and community understanding of the lifelong impacts of trauma and abuse.

The remainder of the criminal justice reforms commenced on 1 December 2018, introducing:

- a maximum life sentence for the offence of persistent child sexual abuse
- a new offence of grooming an adult to access a child
- strengthened offence of grooming a child, to include providing a child with gifts or money
- procedural changes to remove the statutory limitation period that had prevented some survivors from accessing justice for crimes committed against them in their past.

### **Better access to justice for child abuse survivors**

The Royal Commission made several recommendations to remove the barriers survivors face in pursuing civil claims against institutions for child abuse.

In 2016, NSW removed limitation periods for civil compensation claims for child abuse. Guiding principles were also introduced to ensure that government agencies take a compassionate and consistent approach in responding to civil claims for child abuse.

In 2018, NSW passed legislation that will enable the Royal Commission's civil litigation recommendations to be implemented in full. The new "proper defendant" reform will commence in 2019 and allow all child abuse survivors to sue the organisations in which they were abused, even if the organisations do not have corporate status or legal personality. Those organisations must appoint a "proper defendant" with sufficient assets to satisfy a child abuse claim. This overcomes the "Ellis defence" that was used to defeat claims against some types of organisations, including churches. This will apply to past and future child abuse claims.

The legislation also established two clear pathways for survivors of child abuse in the future to sue organisations in which they were abused. These reforms commenced on assent of the Bill and will

encourage institutions to do everything they can to prevent the abuse from happening in the first place. The laws:

- Impose a statutory duty on organisations to prevent child abuse, where organisations will need to demonstrate that reasonable steps were taken to avoid the abuse. This makes it easier for survivors to succeed in proving that organisations are liable.
- Increase the scope of vicarious liability laws, so that organisations can be accountable for abuse committed by employees and people who are 'akin to employees', such as volunteers and clergy.

## Monitoring future progress

NSW will continue to deliver on its commitment to ensuring that children are protected and supported by the institutions entrusted to care for them.

The next report on the progress in response to the recommendations of the Royal Commission will be tabled in the NSW Parliament by December 2019. Throughout 2019 NSW will introduce several legislative amendments to enable the implementation of key recommendations, including changes to mandatory reporting and the reportable conduct scheme, regulating child safe standards, and improving record-keeping and information sharing practices. NSW will also work with the Commonwealth and other states and territories to progress recommendations requiring intergovernmental action.

The 2019 report will provide greater detail on the developments in relation to mandatory reporting, regulating child safe standards in institutions, national priority actions and other priority areas identified by the Royal Commission.

All future progress will be guided by the commitment to ensuring that all children, now and in the future, can live free from harm.