

NSW Government response
to the Royal Commission into
Institutional Responses to
Child Sexual Abuse

JUNE 2018



Contents

01	Overview	1
02	Final report NSW Government response	4
03	Criminal justice report NSW Government response	47
04	Redress and civil litigation report NSW Government response	67
05	Working with Children Checks report NSW Government response	83

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Overview

01

The Royal Commission into Institutional Responses to Child Sexual Abuse heard evidence of the shocking and appalling abuse of children by the very people who were supposed to care for and value them. Many trusted institutions failed to protect children in their care. This included NSW Government institutions, as well as many non-government institutions in NSW.

The NSW Government acknowledges the survivors of institutional abuse, their hurt, and the impact of past failures of governments to protect them

We are deeply sorry for the hurt and suffering this abuse has caused and continues to cause.

Over five years, the Royal Commission exposed the failures of governments and non-government institutions and the hurt endured by survivors. The Royal Commission found that child sexual abuse has occurred across a wide range of institutions and has affected tens, if not hundreds, of thousands of people over many years.

We are grateful to all those who participated in the Royal Commission. The Royal Commission heard from more than 8000 people who shared their stories in a private session with a Commissioner, as well as with their family members, carers and supporters, and other people who were in the same institutions as children.

Many of those who came forward were Aboriginal and Torres Strait Islander people. We acknowledge the particular trauma of child sexual abuse in institutional settings on Aboriginal people. The Royal Commission acknowledged that this trauma was often bound up with the trauma of being separated from family and culture.

The final report is testament to the courage of those who shared their accounts. It is now everyone's responsibility to act on the Royal Commission's recommendations and prevent abuse of this scale from ever being repeated. This is the responsibility of governments, non-government organisations, religious institutions, parents and individuals.

NSW has already made a number of changes over the past five years in response to the Royal Commission

NSW acknowledges and supports victims and survivors of past abuse. We will continue to strive to make sure conditions are in place for every child in our state to be listened to and supported.

- NSW was one of the first states to opt into the National Redress Scheme.
- NSW is the only jurisdiction with independent oversight of the out-of-home care system.
- NSW has the most robust Working With Children Check Scheme in the country.
- NSW has the most extensive reportable conduct scheme, which the Royal Commission recommended for national adoption.
- NSW has led significant reform for children in out-of-home care to improve permanency and stability. [Their Futures Matter](#) takes a whole-of-government approach to ensure that effort and investment across government is focused on improving the long-term outcomes for children and families at the earliest opportunity.
- NSW has a leading service model for specialist therapeutic interventions for children with harmful sexual behaviour (NSW Health New Street).
- NSW has introduced extensive criminal law reforms to ensure survivors can find justice and perpetrators of abuse are held to account. This includes sentences that better reflect community understanding of child sexual abuse and the harm it causes.

National action is important

The NSW Government is committed to working with the Australian Government and other states and territories to keep children safe.

In February, Council of Australian Governments (COAG) leaders met and committed to respond to the Royal Commission in June 2018. They agreed to sharing lessons learnt and best practice to improve outcomes for those who interact with the child protection system.

Since the February COAG meeting, we are pleased to have agreed national priorities with all jurisdictions as recommended by the Royal Commission.

These national priorities are:

- making institutions child safe
- improving cross-border information sharing about children's welfare
- preventing and responding to children with harmful sexual behaviours
- reporting annually on progress.

NSW will continue to play a leadership role in promoting these national priorities. We will also continue to progress the wide range of recommendations the Royal Commission made for national consistency and collaboration.

NSW has learnt from the past

NSW recognises the importance of prevention, accountability for institutions, and support for survivors and those currently in our systems.

In response to the Royal Commission's recommendations, the NSW Government will make changes over time. Some of these changes can be made straight away, while some will require more work to consult and collaborate with members of the public, affected sectors and other governments. The NSW Government has prepared a response to

every recommendation of the Royal Commission ([see sections 2 to 5](#) of this document). This response sets out which recommendations we accept now, and the ones where we need to do some further work. The NSW Government is committed to providing an update in December 2018, and yearly progress updates for five years. It is the responsibility of all of us to keep the Royal Commission's legacy alive. We will hold ourselves accountable for the commitments we make.

The changes the NSW Government is committed to are designed to better prevent child sexual abuse, improve responses to reports of abuse, and ensure survivors receive appropriate support and the justice they deserve. We hope these changes will help survivors and better protect generations to come.

NSW will act to prevent abuse

The NSW Government is committed to action to prevent abuse occurring in the first place. We are committed to making institutions child safe and accept the Royal Commission's Child Safe Standards. The Office of the Children's Guardian will consult with child-related organisations, including sporting clubs, community groups and schools, to identify the best way to make organisations child safe in NSW. To make organisations child safe and minimise the risk of abuse, it is vital to create organisational cultures that place the safety and wellbeing of children at the centre of all that they do.

The NSW Government is proud of the work of the Office of the Children's Guardian in promoting child safety, and is committed to continuing the capacity building of a range of non-government providers that work with children. We want to work with schools, after-school care services, early childhood care providers, sport and recreation groups, and other organisations where children live, work and play.

The NSW Government will work with all states and territories to prevent abuse occurring. This will include better support for parents and professionals who work with children to detect and respond to child sexual abuse.

NSW has a strong system of oversight in out-of-home care

NSW already has strong, independent oversight of the out-of-home care system. A particular strength of the NSW out-of-home care system is the requirement that both the government and non-government providers meet the same standards of care. NSW is the only jurisdiction with independent oversight of government and non-government out-of-home care services.

The Royal Commission recognised the leadership NSW has shown in setting a common standard in out-of-home care for government and non-government organisations, and to continually improve the quality of services for children.

The NSW Government is improving how out-of-home care is provided, with an even greater focus on the needs and long-term wellbeing of children and young people in care. A number of important reforms have been delivered or are well underway.

- The Permanency Support Program aims to give every child and young person a loving home for life, whether that be with parents, extended family or kin, or through open adoption or guardianship. It focuses on achieving safety, wellbeing and positive life outcomes for children and young people in the child protection and out-of-home care system. It also aims to improve support for those who care for children, by providing them with better guidance and training.
- Their Futures Matter takes a whole-of-government approach to ensure that effort and investment is focused on improving long-term outcomes for children and families at the earliest opportunity. This includes moving towards supporting children in out-of-home care based on their individual needs.
- The NSW Therapeutic Care Framework guides workers and carers in providing the best possible individualised therapeutic care to vulnerable children. The framework underpins a new system of Intensive Therapeutic Care, which focuses on young people's recovery from trauma. The new system will enable clear pathways to permanency so that young people spend less time in out-of-home care.

Redress for institutional child sexual abuse survivors

NSW was one of the first two states to opt into the National Redress Scheme and the first state to pass legislation referring powers to the Australian Government to establish the National Redress Scheme. The NSW Government believes a single national scheme is the best way to ensure consistent, accessible justice for survivors regardless of where the abuse occurred.

The National Redress Scheme will acknowledge the hurt and harm suffered, and ensure that institutions take responsibility for the abuse that occurred on their watch.

Redress is an important part of recognising the lifelong impact of child abuse. The process is about healing and moving forward while accepting the system failed every single person who suffered sexual abuse in an institution that was meant to protect them.

Support and treatment for people who have experienced sexual abuse

It is important that survivors of abuse have access to additional support beyond the National Redress Scheme.

The NSW Government delivers and funds support and treatment for children and adults who have experienced sexual abuse. A range of work is also underway to improve support and treatment responses, including:

- identifying opportunities to improve NSW Health violence, abuse and neglect service delivery and community-based support services
- continuing a dialogue with Aboriginal people and communities to deepen understanding on how agencies can operate, engage and deliver services in a way that supports healing under the NSW Government Aboriginal Affairs policy, OCHRE.

The NSW Government acknowledges that Aboriginal and Torres Strait Islander healing approaches provide an important foundation for working with Aboriginal people and communities to build trust and respect. In addition, Aboriginal and Torres Strait Islander people who have experienced sexual abuse should be able to access culturally safe support and treatment services.

The Australian Government also has a role in funding support and treatment, including Aboriginal healing approaches and support services for people with disability. We are working with the Australian Government to support this as an opportunity to improve its own services.

The NSW Government will also expand therapeutic services for children and young people who display problematic or harmful sexual behaviour, by opening an additional New Street service. New Street is a leading therapeutic service model for children with harmful sexual behaviours.

Tough new child sex abuse laws in NSW

The NSW Government was the first jurisdiction to respond to the Royal Commission's *Criminal justice report*. The NSW Government is introducing:

- a maximum life sentence for the offence of persistent child sexual abuse, which has also been strengthened
- new offences for failure to report and failure to protect against child abuse
- a new offence of grooming an adult to access a child, and a strengthened grooming offence to include providing a child with gifts or money
- a new rule that courts sentencing a person for child sexual abuse (including in historical matters) must take into account modern sentencing standards and our current understanding of the lifelong impacts and trauma of abuse
- procedural changes to remove an old limitation period that was preventing some survivors from accessing justice today.

We are also making changes to our criminal justice system so the law works better to deter and punish perpetrators of child sexual abuse and helps survivors find justice.

Better access to justice for child abuse survivors in NSW

The NSW Government will introduce legislation to make it easier for survivors to sue institutions responsible for child abuse by enacting:

- a retrospective proper defendant law, so that survivors can access a proper defendant with sufficient assets to satisfy a child abuse claim. This is to overcome the previous obstacle for survivors where many churches and the trusts that hold their assets did not have 'legal personality' and could not be sued
- two new forms of institutional liability for child abuse, to codify and extend vicarious liability of institutions for child abuse and to impose a new statutory duty on institutions to prevent child abuse.

The NSW Government has already responded to a number of recommendations in the Royal Commission's *Redress and civil litigation report*. The NSW Government has introduced:

- guiding principles for civil child abuse claims made against NSW Government agencies, to make litigation a less traumatic experience for victims and ensure a compassionate and consistent approach. In June 2016, the government issued a Premier's Memorandum on the Model Litigant Policy for Civil Litigation, which had the effect of incorporating the Guiding Principles into the Model Litigant Policy
- amendments to the *Limitation Act 1969* to remove limitation periods in civil claims so that survivors of child abuse can claim for damages, regardless of the date of the alleged abuse.

Every child should be heard and feel safe

Every child deserves to be heard, listened to and believed. Every child deserves to go to school, a sports club or a community group and feel safe.

There is a lot government can do to make organisations safer for children, but it is a shared responsibility.

Organisations need to be accountable for the environments, people and systems that support children, to enable children to feel safe as they learn and play. Organisations of all sizes need to give children and the community confidence that if they raise concerns, they will be taken seriously.

Parents play an important role in choosing the activities, places and people involved in their kids' lives. To do this, parents need the right information to make those choices and to ask questions if something doesn't seem right.

We have already made significant progress in NSW, but there is more work to do. The NSW Government will use this opportunity to provide a better future for generations to come.

Final report NSW Government response

The *Final report* was released in December 2017.

It includes 189 recommendations.

The recommendations cover:

- understanding child sexual abuse in institutional contexts
- child safe institutions
- support and treatment
- beyond the Royal Commission.



02

#	Royal Commission recommendation	NSW Government response	Comment
Volume 2, Nature and cause			
Measuring extent in the future			
2.1	The Australian Government should conduct and publish a nationally representative prevalence study on a regular basis to establish the extent of child maltreatment in institutional and non-institutional contexts in Australia.	Accepted in principle. This is a matter for the Australian Government	NSW welcomes the Australian Government conducting a nationally representative prevalence study of this nature.
Volume 6, Making institutions child safe			
Creating child safe communities through prevention			
6.1	The Australian Government should establish a mechanism to oversee the development and implementation of a national strategy to prevent child sexual abuse. This work should be undertaken by the proposed National Office for Child Safety (see Recommendations 6.16 and 6.17) and be included in the National Framework for Child Safety (see Recommendation 6.15).	Accepted. This is a matter for the Australian Government (National priority)	<p>The NSW Government agrees to prioritise collaboration with other jurisdictions to progress a new National Framework for Child Safety. The new framework will focus on prevention, education, evaluation and cultural change.</p> <p>A national strategy will reinforce the commitment of the Australian Government to prioritising prevention and ensuring that the experiences of victims and survivors are honoured.</p> <p>A national mechanism to support the oversight of a national strategy to prevent child sexual abuse will be important for a coordinated approach to developing child safe organisations. Consideration should be given to using the existing arrangements under the <i>National Framework for Protecting Australia's Children 2009–2020</i> to progress a national strategy to prevent child sexual abuse.</p>
6.2	<p>The national strategy to prevent child sexual abuse should encompass the following complementary initiatives:</p> <ol style="list-style-type: none"> social marketing campaigns to raise general community awareness and increase knowledge of child sexual abuse, to change problematic attitudes and behaviour relating to such abuse, and to promote and direct people to related prevention initiatives, information and help-seeking services prevention education delivered through preschool, school and other community institutional settings that aims to increase children's knowledge of child sexual abuse and build practical skills to assist in strengthening self-protective skills and strategies. The education should be integrated into existing school curricula and link with related areas such as respectful relationships education and sexuality education. It should be mandatory for all preschools and schools prevention education for parents delivered through day care, preschool, school, sport and recreational settings, and other institutional and community settings. The education should aim to increase knowledge of child sexual abuse and its impacts, and build skills to help reduce the risks of child sexual abuse online safety education for children, delivered via schools. Ministers for education, through the Council of Australian Governments, should establish a nationally consistent curriculum for online safety education in schools. The Office of the eSafety Commissioner should be consulted on the design of the curriculum and contribute to the development of course content and approaches to delivery (see Recommendation 6.19) online safety education for parents and other community members to better support children's safety online. Building on their current work, the Office of the eSafety Commissioner should oversee the delivery of this education nationally (see Recommendation 6.20) prevention education for tertiary students studying university, technical and further education, and vocational education and training courses before entering child related occupations. This should aim to increase awareness and understanding of the 	Accepted. This is a matter for the Australian Government	<p>The NSW Government welcomes the opportunity to work with the Australian Government and other jurisdictions on the development of the initiatives.</p> <p>The NSW Government has a range of initiatives to prevent abuse and raise awareness:</p> <ul style="list-style-type: none"> Education about sexual abuse, assault, respectful relationships and protective behaviours is delivered through the school curriculum, and support materials and resources are available to assist teachers in this area. The NSW Government awarded \$4 million over four years to YWCA NSW to deliver programs that strengthen existing child protection education measures in schools for students from Kindergarten to Year 10. The NSW Office of the Children's Guardian has developed the SAFE book series on protective behaviour messages for children aged 2 to 6 years. The books are designed for services providing early childhood education and are accompanied by SAFE series training for workers to assist them to implement the protective behaviours program. The YWCA Y-PEP Child Protection Education Program is available to both government and non-government schools around NSW. Child protection education content delivered by YWCA NSW directly aligns with NSW syllabus requirements and complements work already undertaken in classrooms. An external evaluation of the program is currently underway. The Department of Education is developing communication and awareness information for NSW school communities to address high risk-taking behaviour. The focus is on risks young people face, behaviour indicators to be aware of, and support services available internal and external to the department. This will include information on child sexual abuse. This includes information for students primarily planned for transition years and all secondary students on all high risk-taking behaviour. The Department of Education is updating its Digital Citizenship Resource (available at www.digitalcitizenship.nsw.edu.au) to provide contemporary information for parents, curriculum-linked support materials for teachers and online safety activities for students. Phase 1 of the project will be released by 1 July 2018. The Advocate for Children and Young People is an independent statutory office reporting to the NSW Parliament. A key function of the Advocate for Children and Young People is to undertake activities to promote the participation of children and young people in the decisions that affect them. This function is carried out through a range of activities to support the participation of children and young people in decision-making.

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	<p>prevention of child sexual abuse and potentially harmful sexual behaviours in children</p> <p>g. information and help-seeking services to support people who are concerned they may be at risk of sexually abusing children. The design of these services should be informed by the Stop It Now! model implemented in Ireland and the United Kingdom</p> <p>h. information and help seeking services for parents and other members of the community concerned that:</p> <p>i. an adult they know may be at risk of perpetrating child sexual abuse</p> <p>ii. a child or young person they know may be at risk of sexual abuse or harm</p> <p>iii. a child they know may be displaying harmful sexual behaviours.</p>		NSW would welcome the opportunity to engage with the eSafety Commissioner.
6.3	<p>The design and implementation of these initiatives should consider:</p> <p>a. aligning with and linking to national strategies for preventing violence against adults and children, and strategies for addressing other forms of child maltreatment</p> <p>b. tailoring and targeting initiatives to reach, engage and provide access to all communities, including children, Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse communities, people with disability, and regional and remote communities</p> <p>c. involving children and young people in the strategic development, design, implementation and evaluation of initiatives</p> <p>d. using research and evaluation to:</p> <p>i. build the evidence base for using best practices to prevent child sexual abuse and harmful sexual behaviours in children</p> <p>ii. guide the development and refinement of interventions, including the piloting and testing of initiatives before they are implemented.</p>	Accepted. This is a matter for the Australian Government	<p>The initiatives should be linked to existing NSW initiatives and national strategies. This will reinforce links between child abuse and violence more generally, and the need to raise the status of women and children in the Australian community.</p> <p>The Department of Education represents the public, catholic and independent sectors on the Australian Safe and Supportive School Communities Working Group of the Council of Australian Government Education Council. The group provides a national forum for states and territories to work together to support schools to implement workable solutions to bullying, harassment and violence.</p> <p>Actions to achieve this include creating the ‘Bullying. No Way!’ website (available at www.bullyingnoway.gov.au) and developing and promoting quality resources to support schools to counter bullying and violence. This group also supports the Education Council’s work in the areas of student wellbeing and parental engagement in learning.</p> <p>The NSW Anti-bullying Strategy includes many of the child safe principles. It also includes:</p> <ul style="list-style-type: none"> • a website that brings together evidence-based resources and information for schools, parents and carers, and students • a range of professional development initiatives including professional learning to build the capacity of teachers and other school staff to prevent and respond to bullying behaviours • an expansion of the Youth Aware of Mental Health Program – an evidence-based wellbeing, mental health and suicide prevention program for young people aged 14 to 16. <p>The Advocate for Children and Young People is responsible for the whole-of-government Strategic Plan for Children and Young People. The advocate’s functions include promoting children and young people’s participation in activities and decision-making about issues that affect their lives. The strategic plan includes a commitment to embedding the participation of children and young people in NSW.</p>
6.4	<p>All institutions should uphold the rights of the child. Consistent with Article 3 of the United Nations Convention on the Rights of the Child, all institutions should act with the best interests of the child as a primary consideration. In order to achieve this, institutions should implement the Child Safe Standards identified by the Royal Commission.</p>	Accepted	<p>Australia ratified the Convention on the Rights of the Child in 1990. The NSW Government is committed to upholding the rights of the child. All institutions which deliver services to children should uphold children’s rights and implement the child safe standards.</p> <p>The Office of the Children’s Guardian (OCG) was established under the <i>Children and Young Persons (Care and Protection) Act 1998</i> to promote the interests and rights of children and young people living in out-of-home care.</p> <p>The functions of the Children’s Guardian include promoting the best interests of all children and young persons in out-of-home care; and ensuring that the rights of all children and young persons in out-of-home care are safeguarded and promoted.</p> <p>In 2013, legislative changes expanded the role of the OCG to be an independent government agency that works to protect children by promoting and regulating quality, child safe organisations and services.</p> <p>Child safe principles are currently implemented in NSW by the OCG through:</p> <ul style="list-style-type: none"> • accreditation and monitoring of statutory out-of-home care and adoption service providers • regulation of children’s employment in the entertainment industry • the OCG’s Child Safe Organisations program, which is aligned with child-related work sectors relevant to the scope of the Working with Children Check scheme.

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			<p>The Advocate for Children and Young People (ACYP) is an independent statutory office reporting to the NSW Parliament. The ACYP is developing resources for front-line workers about the United Nations Convention on the Rights of the Child, and working with the Children’s Guardian on Child Safe Standards.</p> <p>This includes training materials in child rights and child rights programming, and participation resources to assist government and non-government organisations to conduct meaningful participation with children and young people within their own organisations</p> <p>The following principles govern the work of the NSW ACYP:</p> <ul style="list-style-type: none"> • The safety, welfare and wellbeing of children and young people are the paramount considerations. • The views of children and young people are to be given serious consideration and taken into account. • A cooperative relationship between children and young people, and their families and communities is important for the safety, welfare and wellbeing of children and young people. <p>The NSW Government accepts the Royal Commission’s Child Safe Standards at 6.5. The Child Safe Standards are consistent with the approach to child safe organisations operating in NSW.</p>
<p>6.5</p>	<p>The Child Safe Standards are:</p> <ol style="list-style-type: none"> 1. Child safety is embedded in institutional leadership, governance and culture 2. Children participate in decisions affecting them and are taken seriously 3. Families and communities are informed and involved 4. Equity is upheld and diverse needs are taken into account 5. People working with children are suitable and supported 6. Processes to respond to complaints of child sexual abuse are child focused 7. Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training 8. Physical and online environments minimise the opportunity for abuse to occur 9. Implementation of the Child Safe Standards is continuously reviewed and improved 10. Policies and procedures document how the institution is child safe. 	<p>Accepted (National priority)</p>	<p>The NSW Government accepts the Royal Commission’s Child Safe Standards. Jurisdictions have agreed to continue to work together to provide leadership on Child Safe Standards.</p> <p>NSW has an established program that requires organisations providing out-of-home care and domestic adoption services to be accredited against the NSW Child Safe Standards for Permanent Care. These standards are aligned with the Royal Commission’s Child Safe Standards and regulated by the Children’s Guardian. The Child Safe Standards are consistent with the approach to child safe organisations operating in NSW.</p> <p>The Office of the Children’s Guardian (OCG) works with organisations across NSW to encourage the adoption of child-safe practices and help organisations to develop their capacity to be safe for children. The OCG delivers face-to-face and online training across NSW, and produces relevant resources. Through its work, it assists organisations to develop effective and practical child-safe policies.</p> <p>The Child Safe Organisations program provides free, high-quality training and resources for organisations to help them make sure that the people they engage to work or volunteer are safe and suitable to work with children and young people. The child-safe training includes:</p> <ul style="list-style-type: none"> • managing risk and preventing unsafe situations • creating a child-centred organisational culture • staff recruitment and professional development • managing complaints and allegations • understanding the Working with Children Check • encouraging children to speak up if they feel unsafe, worried or scared.
<p>6.6</p>	<p>Institutions should be guided by the following core components when implementing the Child Safe Standards:</p> <p>Standard 1: Child safety is embedded in institutional leadership, governance and culture</p> <ol style="list-style-type: none"> a. The institution publicly commits to child safety and leaders champion a child safe culture. b. Child safety is a shared responsibility at all levels of the institution. c. Risk management strategies focus on preventing, identifying and mitigating risks to children. d. Staff and volunteers comply with a code of conduct that sets clear behavioural standards towards children. e. Staff and volunteers understand their obligations on information sharing and recordkeeping. <p>Standard 2: Children participate in decisions affecting them and are taken seriously</p> <ol style="list-style-type: none"> a. Children are able to express their views and are provided opportunities to participate in decisions that affect their lives. 	<p>Accepted (National priority)</p>	<p>In 2016–17 the Child Safe Organisations team conducted 167 training sessions for 4564 people, representing 1387 organisations.</p> <p>To improve access to child safe training, a Child Safe eLearning package was developed and released in April 2017. Response to the eLearning was significant, with 268 participants completing all eight modules by the end of the financial year – only 10 weeks after the release of the eLearning package. The Child Safe Organisations training resources can be found at: www.kidsguardian.nsw.gov.au/child-safe-organisations.</p>

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	<p>b. The importance of friendships is recognised and support from peers is encouraged, helping children feel safe and be less isolated.</p> <p>c. Children can access sexual abuse prevention programs and information.</p> <p>d. Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to communicate and raise their concerns.</p> <p>Standard 3: Families and communities are informed and involved</p> <p>a. Families have the primary responsibility for the upbringing and development of their child and participate in decisions affecting</p> <p>b. The institution engages in open, two-way communication with families and communities about its child safety approach and relevant information is accessible.</p> <p>c. Families and communities have a say in the institution’s policies and practices.</p> <p>d. Families and communities are informed about the institution’s operations and governance.</p> <p>Standard 4: Equity is upheld and diverse needs are taken into account</p> <p>a. The institution actively anticipates children’s diverse circumstances and responds effectively to those with additional vulnerabilities.</p> <p>b. All children have access to information, support and complaints processes.</p> <p>c. The institution pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds.</p> <p>Standard 5: People working with children are suitable and supported</p> <p>a. Recruitment, including advertising and screening, emphasises child safety.</p> <p>b. Relevant staff and volunteers have Working with Children Checks.</p> <p>c. All staff and volunteers receive an appropriate induction and are aware of their child safety responsibilities, including reporting obligations.</p> <p>d. Supervision and people management have a child safety focus.</p> <p>Standard 6: Processes to respond to complaints of child sexual abuse are child focused</p> <p>a. The institution has a child-focused complaint handling system that is understood by children, staff, volunteers and families.</p> <p>b. The institution has an effective complaint handling policy and procedure which clearly outline roles and responsibilities, approaches to dealing with different types of complaints and obligations to act and report.</p> <p>c. Complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met.</p> <p>Standard 7: Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training</p> <p>a. Relevant staff and volunteers receive training on the nature and indicators of child maltreatment, particularly institutional child sexual abuse.</p> <p>b. Staff and volunteers receive training on the institution’s child safe practices and child protection.</p> <p>c. Relevant staff and volunteers are supported to develop practical skills in protecting children and responding to disclosures.</p> <p>Standard 8: Physical and online environments minimise the opportunity for abuse to occur</p>		

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	<p>a. Risks in the online and physical environments are identified and mitigated without compromising a child's right to privacy and healthy development.</p> <p>b. The online environment is used in accordance with the institution's code of conduct and relevant policies.</p> <p>Standard 9: Implementation of the Child Safe Standards is continuously reviewed and improved</p> <p>a. The institution regularly reviews and improves child safe practices.</p> <p>b. The institution analyses complaints to identify causes and systemic failures to inform continuous improvement.</p> <p>Standard 10: Policies and procedures document how the institution is child safe</p> <p>a. Policies and procedures address all Child Safe Standards.</p> <p>b. Policies and procedures are accessible and easy to understand.</p> <p>c. Best practice models and stakeholder consultation inform the development of policies and procedures.</p> <p>d. Leaders champion and model compliance with policies and procedures.</p> <p>e. Staff understand and implement the policies and procedures.</p>		
Improving child safe approaches			
Council of Australian Governments			
6.7	The national Child Safe Standards developed by the Royal Commission and listed at Recommendation 6.5 should be adopted as part of the new National Statement of Principles for Child Safe Organisations described by the Community Services Ministers' Meeting in November 2016. The National Statement of Principles for Child Safe Organisations should be endorsed by the Council of Australian Governments.	Accepted (National priority)	<p>The NSW Government accepts the Royal Commission's Child Safe Standards. All jurisdictions will be asked to endorse the National Statement of Principles for Child Safe Organisations, which incorporates the Royal Commission's Child Safe Standards.</p> <p>The NSW Government supports these aspirational principles as the architecture for the National Framework for Child Safety.</p> <p>The NSW Government has worked with the Australian Government and other states and territories on the development of the National Statement of Principles for Child Safe Organisations.</p> <p>The Child Safe Standards developed by the Royal Commission and listed at Recommendation 6.5 (<i>Final report</i>) should be adopted as part of the new National Statement of Principles for Child Safe Organisations described by the Community Services Ministers' Meeting in November 2016. The National Statement of Principles for Child Safe Organisations should be endorsed by the Council of Australian Governments.</p>
State and territory governments			
6.8	State and territory governments should require all institutions in their jurisdictions that engage in child-related work to meet the Child Safe Standards identified by the Royal Commission at Recommendation 6.5.	Accepted in principle	<p>The Child Safe Standards are consistent with the approach to child safe organisations currently operating in NSW.</p> <p>NSW has amended legislation to create penalties for employers in child-related sectors for non-verification of Working with Children Checks. Employers who fail to verify could be fined, and will be subject to compliance activity including an expectation to participate in child safe education and training.</p> <p>All organisations subject to the requirements of the <i>Child Protection (Working with Children) Act 2012</i> will be encouraged to adopt child safe standards and practices. The Children's Guardian's Child Safe Organisations program will continue to build the capacity of organisations in NSW to be safe for children.</p> <p>NSW will undertake further work and consultation to consider the best way to ensure child-related organisations meet the Child Safe Standards identified by the Royal Commission.</p>

#	Royal Commission recommendation	NSW Government response	Comment
6.9	<p>Legislative requirements to comply with the Child Safe Standards should cover institutions that provide:</p> <ol style="list-style-type: none"> accommodation and residential services for children, including overnight excursions or stays activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children childcare or childminding services child protection services, including out-of-home care activities or services where clubs and associations have a significant membership of, or involvement by, children coaching or tuition services for children commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions services for children with disability education services for children health services for children justice and detention services for children, including immigration detention facilities transport services for children, including school crossing services. 	Accepted in principle	<p>All organisations subject to the requirements of the <i>Child Protection (Working with Children) Act 2012</i> will be encouraged to adopt child safe standards and practices.</p> <p>The Children’s Guardian’s Child Safe Organisations program will continue to build the capacity of organisations in NSW to be safe for children.</p> <p>NSW will undertake further work and consultation to consider how best to comply with this recommendation.</p>
6.10	<p>State and territory governments should ensure that:</p> <ol style="list-style-type: none"> an independent oversight body in each state and territory is responsible for monitoring and enforcing the Child Safe Standards. Where appropriate, this should be an existing body. the independent oversight body is able to delegate responsibility for monitoring and enforcing the Child Safe Standards to another state or territory government body, such as a sector regulator. regulators take a responsive and risk-based approach when monitoring compliance with the Child Safe Standards and, where possible, utilise existing regulatory frameworks to monitor and enforce the Child Safe Standards. 	Accepted in principle	<p>The Royal Commission has recognised the strengths of oversight in NSW including in:</p> <ul style="list-style-type: none"> out-of-home care NSW Working with Children Check (WWCC) NSW’s comprehensive Child Safe Organisations program. <p>In NSW, the Child Safe Organisations program has been an integral part of the response to protecting children since 2003. It is a function of the Children’s Guardian in building public awareness and capacity in regard to child safety and wellbeing. Through this function, and the WWCC, the Office of the Children’s Guardian (OCG) has established significant knowledge and relationships with the child-related sectors. A particular focus has been on sector-based education and training, and the delivery of a risk-based approach for each sector.</p> <p>The OCG is an experienced regulator of child-related services, and the mandatory accreditation scheme in relation to out-of-home care providers is well-established in NSW.</p> <p>NSW is committed to implementing Child Safe Standards with independent oversight by the OCG. The Children’s Guardian will consult with child-related organisations, including sporting clubs, community groups and schools, to identify the best way to make organisations child safe in NSW. Creating organisational cultures that place the safety and wellbeing of children at the centre of all that they do is vital to creating child safe organisations and minimising the risk of abuse. An update on progress will be provided in December 2018.</p>
6.11	<p>Each independent state and territory oversight body should have the following additional functions:</p> <ol style="list-style-type: none"> provide advice and information on the Child Safe Standards to institutions and the community collect, analyse and publish data on the child safe approach in that jurisdiction and provide that data to the proposed National Office for Child Safety partner with peak bodies, professional standards bodies and/or sector leaders to work with institutions to enhance the safety of children provide, promote or support education and training on the Child Safe Standards to build the capacity of institutions to be child safe coordinate ongoing information exchange between oversight bodies relating to institutions’ compliance with the Child Safe Standards. 	Accepted in principle	<p>The Office of the Children’s Guardian (OCG) is an experienced regulator of child-related services. The functions of the Children’s Guardian include encouraging organisations to be safe for children.</p> <p>The NSW Child Safe Organisations program has been operating since 2003 and is delivered by the OCG. The Child Safe Organisations training program includes a comprehensive suite of face-to-face workshops, eLearning modules, a resilience-building program for young children and a disability-specific child safe training program. The program has been well-utilised by child-related organisations.</p> <p>NSW will undertake further work and consultation to consider how best to comply with this recommendation, based on the preferred approach to implementing child safe standards. An update on progress will be provided in December 2018.</p>

#	Royal Commission recommendation	NSW Government response	Comment
Local government			
6.12	<p>With support from governments at the national, state and territory levels, local governments should designate child safety officer positions from existing staff profiles to carry out the following functions:</p> <ol style="list-style-type: none"> developing child safe messages in local government venues, grounds and facilities assisting local institutions to access online child safe resources providing child safety information and support to local institutions on a needs basis supporting local institutions to work collaboratively with key services to ensure child safe approaches are culturally safe, disability aware and appropriate for children from diverse backgrounds. 	Accepted in principle	<p>Local councils provide environments and facilities for local groups that provide services for children. Increasing engagement with local government in its role as service provider and steward of community facilities will form part of the NSW response to making institutions child safe.</p> <p>The Office of the Children's Guardian (OCG) is well placed to engage with local child safety officers as part of the enhanced Child Safe Organisations program. The Office of Local Government will support the OCG in undertaking this work. It is noted that the needs of and capacity for individual councils to implement this recommendation will vary across NSW.</p>
Australian Government			
6.13	The Australian Government should require all institutions that engage in child-related work for the Australian Government, including Commonwealth agencies, to meet the Child Safe Standards identified by the Royal Commission at Recommendation 6.5.	Accepted. This is a matter for the Australian Government	The NSW Government welcomes national leadership on the implementation of the Royal Commission's Child Safe Standards. Jurisdictions have agreed to continue to work together to ensure national consistency on Child Safe Standards.
6.14	<p>The Australian Government should be responsible for the following functions:</p> <ol style="list-style-type: none"> evaluate, publicly report on, and drive the continuous improvement of the implementation of the Child Safe Standards and their outcomes coordinate the direct input of children and young people into the evaluation and continuous improvement of the Child Safe Standards coordinate national capacity building and support initiatives and opportunities for collaboration between jurisdictions and institutions develop and promote national strategies to raise awareness and drive cultural change in institutions and the community to support child safety. 	Accepted. This is a matter for the Australian Government	<p>The NSW Government welcomes national leadership on the implementation of the Royal Commission's Child Safe Standards.</p> <p>National leadership will support consistency and state approaches.</p>
National Framework for Child Safety			
6.15	<p>The Australian Government should develop a new National Framework for Child Safety in collaboration with state and territory governments. The Framework should:</p> <ol style="list-style-type: none"> commit governments to improving the safety of all children by implementing long-term child safety initiatives, with appropriate resources, and holding them to account be endorsed by the Council of Australian Governments and overseen by a joint ministerial body commence after the expiration of the current National Framework for Protecting Australia's Children, no later than 2020 cover broader child safety issues, as well as specific initiatives to better prevent and respond to institutional child sexual abuse including initiatives recommended by the Royal Commission include links to other related policy frameworks. 	Accepted. This is a matter for the Australian Government (National priority)	<p>The NSW Government agrees to prioritise collaboration with other jurisdictions to progress a new National Framework on Child Safety. The new framework will focus on prevention, education, evaluation and cultural change.</p> <p>There are existing national frameworks that will have some intersection with a new National Framework for Child Safety. It is important to identify these frameworks and potential overlaps. For example, the National Safe Schools Framework also addresses cyber safety and online safety. It is currently in the final stages of review.</p>
National Office for Child Safety			
6.16	The Australian Government should establish a National Office for Child Safety in the Department of the Prime Minister and Cabinet, to provide a response to the implementation of the Child Safe Standards nationally, and to develop and lead the proposed National Framework for Child Safety. The Australian Government should transition the National Office for Child Safety into an Australian Government statutory body within 18	Accepted	<p>The NSW Government welcomes the involvement of the Australian Government in improving prevention responses and capacity building initiatives for Child Safe Standards.</p> <p>Implementing Child Safe Standards is a shared responsibility for governments. The NSW Government has supported in principle the Royal Commission recommendations that state and territory</p>

#	Royal Commission recommendation	NSW Government response	Comment
	months of this Royal Commission's Final Report being tabled in the Australian Parliament.		governments lead the implementation of Child Safe Standards in jurisdictions (recommendations 6.8-6.11 – <i>Final report</i>).
6.17	The National Office for Child Safety should report to Parliament and have the following functions: a. develop and lead the coordination of the proposed National Framework for Child Safety, including national coordination of the Child Safe Standards b. collaborate with state and territory governments to lead capacity building and continuous improvement of child safe initiatives through resource development, best practice material and evaluation c. promote the participation and empowerment of children and young people in the National Framework and child safe initiatives d. perform the Australian Government's Child Safe Standards functions as set out at Recommendation 6.15 e. lead the community prevention initiatives as set out in Recommendation 6.2.	Accepted	The recommendation to establish a National Office for Child Safety is welcomed, and NSW will work with the Australian Government, and state and territory governments to support this initiative. Any national framework should orient child safety within a broader frame of child wellbeing, and the evidence-based factors that contribute to the wellbeing of children overall.
6.18	The Australian Government should create a ministerial portfolio with responsibility for children's policy issues, including the National Framework for Child Safety.	Accepted. This is a matter for the Australian Government	The NSW Government supports national leadership on children's policy issues, including child safety.
Preventing and responding to online child sexual abuse in institutions			
6.19	Ministers for education, through the Council of Australian Governments, should establish a nationally consistent curriculum for online safety education in schools. The Office of the eSafety Commissioner should be consulted on the design of the curriculum and contribute to the development of course content and approaches to delivery. The curriculum should: a. be appropriately staged from Foundation year to Year 12 and be linked with related content areas to build behavioural skills as well as technical knowledge to support a positive and safe online culture b. involve children and young people in the design, delivery and piloting of new online safety education, and update content annually to reflect evolving technologies, online behaviours and evidence of international best practice approaches c. be tailored and delivered in ways that allow all Australian children and young people to reach, access and engage with online safety education, including vulnerable groups that may not access or engage with the school system.	Accepted in principle	The Council of Australian Governments (COAG) Education Council has created a special-purpose working party to develop shared responses to education-related recommendations arising from the Royal Commission's <i>Final report</i> , to provide advice to the Education Council and COAG over the next 12 months. The NSW Government is committed to online safety education in schools. Some key initiatives in NSW are: <ul style="list-style-type: none"> The NSW Personal Development, Health and Physical Education syllabuses take a staged approach to online safety issues. Schools are responsible for developing and delivering teaching and learning activities in accordance with the NSW Education Standards Authority syllabuses. The Australian Curriculum: Health and Physical Education already has content relating to online safety.
6.20	Building on its current work, the Office of the eSafety Commissioner should oversee the delivery of national online safety education aimed at parents and other community members to better support children's safety online. These communications should aim to: a. keep the community up to date on emerging risks and opportunities for safeguarding children online b. build community understanding of responsibilities, legalities and the ethics of children's interactions online c. encourage proactive responses from the community to make it 'everybody's business' to intervene early, provide support or report issues when concerns for children's safety online are raised d. increase public awareness of how to access advice and support when online incidents occur.	Accepted. This is a matter for the Australian Government	The NSW Government welcomes the opportunity to engage with the Office of the eSafety Commissioner on the delivery of national online safety education.

#	Royal Commission recommendation	NSW Government response	Comment
6.21	<p>Pre-service education and in-service staff training should be provided to support child-related institutions in creating safe online environments. The Office of the eSafety Commissioner should advise on and contribute to program design and content. These programs should be aimed at:</p> <ol style="list-style-type: none"> tertiary students studying university, technical and further education, and vocational education and training courses, before entering child-related occupations; and could be provided as a component of a broader program of child sexual abuse prevention education (see Recommendation 6.2) staff and volunteers in schools and other child-related organisations, and could build on the existing web-based learning programs of the Office of the eSafety Commissioner. 	Accepted. This is a matter for the Australian Government	The NSW Government welcomes the opportunity to engage with the Office of the eSafety Commissioner to implement this recommendation. Existing programs in NSW could support its implementation – for example, the initial teacher education accreditation program.
6.22	<p>In partnership with the proposed National Office of Child Safety (see Recommendations 6.16 and 6.17), the Office of the eSafety Commissioner should oversee the development of an online safety framework and resources to support all schools in creating child safe online environments. This work should build on existing school-based e-safety frameworks and guidelines, drawing on Australian and international models.</p> <p>The school-based online safety framework and resources should be designed to:</p> <ol style="list-style-type: none"> support schools in developing, implementing and reviewing their online codes of conduct, policies and procedures to help create an online culture that is safe for children guide schools in their response to specific online incidents, in coordination with other agencies. This should include guidance in complaint handling, understanding reporting requirements, supporting victims to minimise further harm, and preserving digital evidence to support criminal justice processes. 	Accepted. This is a matter for the Australian Government	The NSW Government is committed to creating child safe online environments. The NSW Government will work with the Australian Government and non-government school sectors to implement this recommendation. Work is well progressed in this area for the NSW public education system. For example, the \$6.1 million Anti-Bullying Strategy provides resources to schools, parents, carers and students. It also includes a range of professional development initiatives for both government and non-government schools.
6.23	<p>State and territory education departments should consider introducing centralised mechanisms to support government and non-government schools when online incidents occur. This should result in appropriate levels of escalation and effective engagement with all relevant entities, such as the Office of the eSafety Commissioner, technical service providers and law enforcement. Consideration should be given to:</p> <ol style="list-style-type: none"> adopting the promising model of the Queensland Department of Education and Training’s Cyber Safety and Reputation Management Unit, which provides advice and a centralised coordination function for schools, working in partnership with relevant entities to remove offensive online content and address other issues strengthening or re-establishing multi-stakeholder forums and case-management for effective joint responses involving all relevant agencies, such as police, education, health and child protection. 	Accepted in principle	The NSW Government is committed to supporting schools to respond to online safety issues. The NSW Government will assess how all schools can be most effectively supported to respond to online incidents. This will occur in consultation with the non-government school sectors in NSW.
6.24	<p>In consultation with the eSafety Commissioner, police commissioners from states and territories and the Australian Federal Police should continue to ensure national capability for coordinated, best practice responses by law enforcement agencies to online child sexual abuse. This could include through:</p> <ol style="list-style-type: none"> establishing regular meetings of the heads of cybersafety units in all Australian police departments to ensure a consistent capacity to respond to emerging incidents and share best practice approaches, tools and resources convening regular forums and conferences to bring together law enforcement, government, the technology industry, the community sector and other relevant stakeholders to discuss emerging issues, 	Accepted	<p>The NSW Police Force’s Child Exploitation Internet Unit (CEIU) within the Child Abuse and Sex Crimes Squad has and continues to work closely with all jurisdictions, including the Australian Federal Police (AFP) and the eSafety Commissioner’s office, to share information, promote best practice and collaborate on cross-jurisdictional investigations.</p> <p>The NSW Police Force actively promotes the training of officers and participation at relevant training opportunities. The premier training event occurs annually in Queensland, hosted by Task Force Argos, where worldwide contemporary issues involving online child abuse are discussed and investigations are presented to an audience of police, public prosecutors, psychologists and members of the judiciary.</p> <p>The current cyber-safety programs delivered by the NSW Police Force are supported by the ‘Think U Know’ Program, led by the AFP. The NSW Police Force School Liaison Police are trained in the cyber-safety AFP awareness packages and these are promoted across NSW.</p>

#	Royal Commission recommendation	NSW Government response	Comment
	<p>set agendas and identify solutions to online child sexual abuse and exploitation</p> <p>c. building capability across police departments, through in-service training for:</p> <p>i. frontline police officers to respond to public complaints relating to issues of online child sexual abuse or harmful sexual behaviours</p> <p>ii. police officers who liaise with young people in school and community settings.</p>		<p>The NSW Police Force takes cyberbullying, threats and harassment seriously. While the techniques used by modern cyberbullies, stalkers and trolls to contact and harass victims may have evolved, NSW Police continue to be trained in attending to the victims' welfare and preserving all evidence available. Police have cybercrime toolkits available to assist them to investigate these types of crimes (which include the procedure they should follow in these types of situations, the relevant offences, and victim support). There is also a dedicated Cybercrime Squad, where investigations can be escalated to when required.</p> <p>On 6 February 2018, the Youth and Crime Prevention Command, and Police Citizens Youth Clubs NSW (PCYC) Ltd worked with the eSafety Commissioner to promote Safer Internet Day across NSW. On this day, NSW Police Force officers and PCYC staff delivered 64 cyber safety presentations in PCYCs in NSW.</p>
Volume 7, Improving institutional responding and reporting			
Reporting institutional child sexual abuse			
7.1	State and territory governments that do not have a mandatory reporter guide should introduce one and require its use by mandatory reporters.	Accepted in principle	The NSW Government already has a Mandatory Reporter Guide, which is available online for mandatory and non-mandatory reporters to use. Mandatory reporters are provided with training and resources in relation to the use of the Mandatory Reporter Guide.
7.2	Institutions and state and territory governments should provide mandatory reporters with access to experts who can provide timely advice on child sexual abuse reporting obligations.	Accepted in principle	<p>In addition to the Mandatory Reporter Guide, which provides mandatory reporters with advice on their reporting obligations, the NSW Government already provides some mandatory reporters with access to experts, through Child Wellbeing Units. Child Wellbeing Units provide reporters with advice and an alternative reporting pathway. There are Child Wellbeing Units within NSW Health, the Department of Education and NSW Police.</p> <p>Further to Child Wellbeing Units, the Child Protection Helpline provides all mandatory reporters with feedback letters advising them of the Helpline's initial assessment outcome.</p> <p>The 'See, Understand and Respond to Child Sexual Abuse – a practical kit' (the kit) was developed by the Department of Family and Community Services (FACS). The kit provides practitioners with tools and resources to use with children where sexual abuse is suspected. It also contains conversation ideas to support caseworkers to talk to children of different ages, parents, and the community about child sexual abuse, as well as specific resources for children including story books and conversation prompts. The kit has been rolled out to all caseworkers with accompanying mandatory training, and was also provided to the non-government sector along with training material to enable capacity building. The kit is publicly available through the FACS website.</p>
7.3	State and territory governments should amend laws concerning mandatory reporting to child protection authorities to achieve national consistency in reporter groups. At a minimum, state and territory governments should also include the following groups of individuals as mandatory reporters in every jurisdiction:	Accepted in principle	The NSW Government supports national consistency in mandatory reporter groups. The mandatory reporter scheme in NSW already includes most of these groups, with the exception of people in religious ministry and registered psychologists. Registered psychologists who provide services to children are already mandatory reporters, but registered psychologists who do not provide services to children are not. NSW will consider including all registered psychologists and people in religious ministry in the mandatory reporter scheme.
7.4	Laws concerning mandatory reporting to child protection authorities should not exempt persons in religious ministry from being required to report knowledge or suspicions formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession.	Subject to further consideration	<p>There is no exemption in the Children and Young Persons (Care and Protection) Act 1998 for persons in religious ministry from reporting knowledge or suspicions formed, in whole or in part, on the information disclosed or in connection with a religious confession.</p> <p>Some persons in religious ministry are already captured by the NSW mandatory reporting scheme if they work with children in another capacity. For example, a priest who is also a teacher at a school would be mandatorily required to make a report if they had reasonable grounds to suspect that a child is at risk of significant harm and those grounds arose during the course of their work as a teacher.</p>

#	Royal Commission recommendation	NSW Government response	Comment
			This is a complex issue that the NSW Government will consider further along with its response to recommendation 35 of the Criminal Justice report which relates to the new failure to report offence applying to members of the clergy.
7.5	The Australian Government and state and territory governments should ensure that legislation provides comprehensive protection for individuals who make reports in good faith about child sexual abuse in institutional contexts. Such individuals should be protected from civil and criminal liability and from reprisals or other detrimental action as a result of making a complaint or report, including in relation to: <ul style="list-style-type: none"> a. mandatory and voluntary reports to child protection authorities under child protection legislation b. notifications concerning child abuse under the Health Practitioner Regulation National Law. 	Accepted	NSW already provides protections to people who make child protection reports. NSW will strengthen these protections to include specific protections for reporters against all civil liability, criminal liability, reprisals or other detrimental action. NSW will amend the legislation to ensure that the protections recommended by the Royal Commission are in the best interests of children and do not have any unintended consequences; for example, protections will not be provided to a person who is reporting their own criminal actions.
7.6	State and territory governments should amend child protection legislation to provide adequate protection for individuals who make complaints or reports in good faith to any institution engaging in child-related work about: <ul style="list-style-type: none"> a. child sexual abuse within that institution or b. the response of that institution to child sexual abuse. Such individuals should be protected from civil and criminal liability and from reprisals or other detrimental action as a result of making a complaint or report.	Accepted	NSW already provides protections for people who make reports to ‘a person who has the power or responsibility to protect a child or young person, or a class of children or young persons’. NSW will broaden this protection to cover reports made to ‘any institution engaging in child-related work’. NSW will extend these provisions to explicitly provide protections for reporters from all civil liability, criminal liability, reprisals or other detrimental action. This would encourage reports to be made to institutions, which may avoid over-reporting to the child welfare agency. NSW will amend the legislation to ensure that the protections recommended by the Royal Commission are in the best interests of children and do not have any unintended consequences; for example, protections will not be provided to a person who is reporting their own criminal actions.
Improving institutional responses to complaints			
7.7	Consistent with Child Safe Standard 6: Processes to respond to complaints of child sexual abuse are child focused, institutions should have a clear, accessible and child-focused complaint handling policy and procedure that sets out how the institution should respond to complaints of child sexual abuse. The complaint handling policy and procedure should cover: <ul style="list-style-type: none"> a. making a complaint b. responding to a complaint c. investigating a complaint d. providing support and assistance e. achieving systemic improvements following a complaint. 	Accepted in principle	NSW’s approach to child safe organisations is consistent with the recommendation. NSW out-of-home care providers are already required to have child-focused complaint handling processes in place, as a requirement of accreditation. NSW will undertake further work and consultation to consider the best way to ensure child-related organisations meet the Child Safe Standards identified by the Royal Commission.
7.8	Consistent with Child Safe Standard 1: Child safety is embedded in institutional leadership, governance and culture, institutions should have a clear code of conduct that: <ul style="list-style-type: none"> a. outlines behaviours towards children that the institution considers unacceptable, including concerning conduct, misconduct or criminal conduct b. includes a specific requirement to report any concerns, breaches or suspected breaches of the code to a person responsible for handling complaints in the institution or to an external authority when required by law and/or the institution’s complaint handling policy c. outlines the protections available to individuals who make complaints or reports in good faith to any institution engaging in child-related work (see Recommendation 7.6 on reporter protections). 	Accepted in principle	

#	Royal Commission recommendation	NSW Government response	Comment
Oversight of institutional complaint handling			
7.9	State and territory governments should establish nationally consistent legislative schemes (reportable conduct schemes), based on the approach adopted in New South Wales, which oblige heads of institutions to notify an oversight body of any reportable allegation, conduct or conviction involving any of the institution's employees.	Accepted	NSW is the national leader in its approach to the reportable conduct scheme. In April 2016, the Council of Australian Governments agreed in principle to harmonise reportable conduct schemes. NSW agrees with this and will work closely with other states and territories to implement and align their schemes.
7.10	Reportable conduct schemes should provide for: <ul style="list-style-type: none"> a. an independent oversight body b. obligatory reporting by heads of institutions c. a definition of reportable conduct that covers any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child d. a definition of reportable conduct that includes the historical conduct of a current employee e. a definition of employee that covers paid employees, volunteers and contractors f. protection for persons who make reports in good faith g. oversight body powers and functions that include: <ul style="list-style-type: none"> i. scrutinising institutional systems for preventing reportable conduct and for handling and responding to reportable allegations, or reportable convictions ii. monitoring the progress of investigations and the handling of complaints by institutions iii. conducting, on its own motion, investigations concerning any reportable conduct of which it has been notified or otherwise becomes aware iv. power to exempt any class or kind of conduct from being reportable conduct v. capacity building and practice development, through the provision of training, education and guidance to institutions vi. public reporting, including annual reporting on the operation of the scheme and trends in reports and investigations, and the power to make special reports to parliaments. 	Accepted in principle	NSW already complies with this recommendation in practice and will consider whether any legislative amendments are necessary.
7.11	State and territory governments should periodically review the operation of reportable conduct schemes, and in that review determine whether the schemes should cover additional institutions that exercise a high degree of responsibility for children and involve a heightened risk of child sexual abuse.	Accepted in principle	The NSW Government engages regularly with the NSW Ombudsman to ensure the scheme in NSW is operating efficiently to protect children. The NSW Government agrees that the scheme should be reviewed periodically.
7.12	Reportable conduct schemes should cover institutions that: <ul style="list-style-type: none"> • exercise a high degree of responsibility for children • engage in activities that involve a heightened risk of child sexual abuse, due to institutional characteristics, the nature of the activities involving children, or the additional vulnerability of the children the institution engages with. At a minimum, these should include institutions that provide: <ul style="list-style-type: none"> a. accommodation and residential services for children, including: <ul style="list-style-type: none"> i. housing or homelessness services that provide overnight beds for children and young people ii. providers of overnight camps b. activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children c. childcare services, including: <ul style="list-style-type: none"> i. approved education and care services under the Education and Care Services National Law ii. approved occasional care services 	Accepted in principle	<p>The NSW reportable conduct scheme already covers most of these providers.</p> <p>NSW will further consider expanding the reportable conduct scheme to explicitly include housing or homelessness services that provide overnight beds for children and young people; and activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children.</p> <p>The Royal Commission was clear within its report that it did not want to impose a disproportionate regulatory burden on clubs and associations that provide activities and services with a significant membership of, or involvement by, children. The NSW Government will work with the NSW Ombudsman's Office to consider options for expanding the reportable conduct scheme to include providers of overnight camps and to ensure that this expansion keeps children safe but does not impose a disproportionate regulatory burden on affected organisations.</p> <p>The NSW Government accepts the recommendation to include registered National Disability Insurance Scheme (NDIS) providers within a scheme that obliges heads of institutions to notify an oversight body of a reportable allegation, conduct or conviction involving any of the institution's employees.</p> <p>The National Disability Insurance Scheme (NDIS) Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017 will commence on 1 July 2018. It sets up a reportable incidents scheme that registered NDIS providers in all states and territories must comply with. The NDIS Quality and</p>

#	Royal Commission recommendation	NSW Government response	Comment
	<p>d. child protection services and out-of-home care, including:</p> <ul style="list-style-type: none"> i. child protection authorities and agencies ii. providers of foster care, kinship or relative care iii. providers of family group homes iv. providers of residential care <p>e. disability services and supports for children with disability, including:</p> <ul style="list-style-type: none"> i. disability service providers under state and territory legislation ii. registered providers of supports under the National Disability Insurance Scheme <p>f. education services for children, including:</p> <ul style="list-style-type: none"> i. government and non-government schools ii. TAFEs and other institutions registered to provide senior secondary education or training, courses for overseas students or student exchange programs <p>g. health services for children, including:</p> <ul style="list-style-type: none"> i. government health departments and agencies, and statutory corporations ii. public and private hospitals iii. providers of mental health and drug or alcohol treatment services that have inpatient beds for children and young people <p>h. justice and detention services for children, including:</p> <ul style="list-style-type: none"> i. youth detention centres ii. immigration detention facilities. 		<p>Safeguards Commissioner will oversee the scheme and will be able to exercise all the powers and functions recommended by the Royal Commission.</p> <p>The elements of the NDIS reportable incidents scheme are largely consistent with the reportable conduct scheme recommended by the Royal Commission. NSW will work with the Australian Government to further consider an approach to including registered providers of NDIS supports under the NDIS reportable incidents scheme and/or the NSW reportable conduct scheme.</p>
Volume 8, Record keeping and information sharing			
Records and recordkeeping			
Minimum retention periods			
8.1	To allow for delayed disclosure of abuse by victims and take account of limitation periods for civil actions for child sexual abuse, institutions that engage in child-related work should retain, for at least 45 years, records relating to child sexual abuse that has occurred or is alleged to have occurred.	Accepted in principle (National priority)	<p>The NSW Government supports a consistent approach across all Australian jurisdictions and will prioritise collaboration with other jurisdictions, led by archives and records authorities, to develop advice about records retention. Many NSW Government agencies already keep their records for at least 45 years. There are already standards in place for records and recordkeeping for the government sector, which were issued in 2015.</p> <p>The NSW Government will consider ways to ensure that all relevant government retention and disposal authorities maintain records for the recommended time period.</p> <p>The NSW State Archives and Records website already allows the public to access information about the NSW Government's approach to records management or the conduct of certain recordkeeping practices.</p> <p>NSW will encourage non-government institutions to comply with this record retention approach. Jurisdictions will consider whether it is necessary to introduce additional regulatory measures to bring about greater compliance.</p>
8.2	The National Archives of Australia and state and territory public records authorities should ensure that records disposal schedules require that records relating to child sexual abuse that has occurred or is alleged to have occurred be retained for at least 45 years.	Accepted	The NSW Government will ensure that all relevant government retention and disposal authorities reflect the recommended time period.
8.3	The National Archives of Australia and state and territory public records authorities should provide guidance to government and non-government institutions on identifying records which, it is reasonable to expect, may become relevant to an actual or alleged incident of child sexual abuse; and on the retention and disposal of such records.	Accepted	The NSW Government will work closely with the Council of Australasian Archives and Records Authorities and NSW-based regulation and accreditation bodies to ensure that appropriate guidance is provided to government and non-government institutions.

#	Royal Commission recommendation	NSW Government response	Comment
Records and recordkeeping principles			
8.4	<p>All institutions that engage in child-related work should implement the following principles for records and recordkeeping, to a level that responds to the risk of child sexual abuse occurring within the institution.</p> <p>Principle 1: Creating and keeping full and accurate records relevant to child safety and wellbeing, including child sexual abuse, is in the best interests of children and should be an integral part of institutional leadership, governance and culture.</p> <p>Institutions that care for or provide services to children must keep the best interests of the child uppermost in all aspects of their conduct, including recordkeeping. It is in the best interest of children that institutions foster a culture in which the creation and management of accurate records are integral parts of the institution's operations and governance.</p> <p>Principle 2: Full and accurate records should be created about all incidents, responses and decisions affecting child safety and wellbeing, including child sexual abuse.</p> <p>Institutions should ensure that records are created to document any identified incidents of grooming, inappropriate behaviour (including breaches of institutional codes of conduct) or child sexual abuse and all responses to such incidents. Records created by institutions should be clear, objective and thorough. They should be created at, or as close as possible to, the time the incidents occurred, and clearly show the author (whether individual or institutional) and the date created.</p> <p>Principle 3: Records relevant to child safety and wellbeing, including child sexual abuse, should be maintained appropriately.</p> <p>Records relevant to child safety and wellbeing, including child sexual abuse, should be maintained in an indexed, logical and secure manner. Associated records should be collocated or cross-referenced to ensure that people using those records are aware of all relevant information.</p> <p>Principle 4: Records relevant to child safety and wellbeing, including child sexual abuse, should only be disposed of in accordance with law or policy.</p> <p>Records relevant to child safety and wellbeing, including child sexual abuse, must only be destroyed in accordance with records disposal schedules or published institutional policies. Records relevant to child sexual abuse should be subject to minimum retention periods that allow for delayed disclosure of abuse by victims, and take account of limitation periods for civil actions for child sexual abuse.</p> <p>Principle 5: Individuals' existing rights to access, amend or annotate records about themselves should be recognised to the fullest extent.</p> <p>Individuals whose childhoods are documented in institutional records should have a right to access records made about them. Full access should be given unless contrary to law. Specific, not generic, explanations should be provided in any case where a record, or part of a record, is withheld or redacted. Individuals should be made aware of, and assisted to assert, their existing rights to request that records containing their personal information be amended or annotated, and to seek review or appeal of decisions refusing access, amendment or annotation.</p>	<p>Accepted in principle (National priority)</p>	<p>Governments will prioritise collaboration with relevant agencies and organisations to develop appropriate guidance on assessing risk and developing recordkeeping principles.</p> <p>There is already a standard in place for the government sector which largely meets this recommendation. The standard will be updated in 2018 to ensure these principles are reflected.</p> <p>NSW has also made progress on providing survivors of child sexual abuse with access to their records. Since 2014, NSW has substantially reduced the processing time for care leaver applications for records through increased resource allocation. The NSW Government also introduced <i>Guiding Principles for Government Agencies Responding to Civil Claims for Child Abuse</i> that require agencies to facilitate survivors accessing their records.</p>
Records of non-government schools			
8.5	<p>State and territory governments should ensure that non-government schools operating in the state or territory are required to comply, at a minimum, with standards applicable to government schools in relation</p>	<p>Accepted in principle</p>	<p>The NSW Government will work with non-government schools to identify how recordkeeping standards currently differ between school sectors.</p>

#	Royal Commission recommendation	NSW Government response	Comment
	to the creation, maintenance and disposal of records relevant to child safety and wellbeing, including child sexual abuse.		The NSW Government will then assess the need for a mechanism requiring that records are kept for the same period of time as in government schools.
Improving information sharing across sectors			
Elements of a national information exchange scheme			
8.6	The Australian Government and state and territory governments should make nationally consistent legislative and administrative arrangements, in each jurisdiction, for a specified range of bodies (prescribed bodies) to share information related to the safety and wellbeing of children, including information relevant to child sexual abuse in institutional contexts (relevant information). These arrangements should be made to establish an information exchange scheme to operate in and across Australian jurisdictions.	Accepted in principle (National priority)	<p>The NSW Government will prioritise collaboration with other jurisdictions to promote legislative and administrative arrangements for information sharing. NSW has a robust information-sharing regime which allows prescribed bodies within NSW to share information with each other. NSW is leading other jurisdictions in relation to information sharing. Prior to the Royal Commission's recommendation, NSW was already working closely with the other states and territories to implement an interjurisdictional information-sharing scheme through the following pieces of work:</p> <ul style="list-style-type: none"> • Guiding principles to promote consistency across jurisdictions: NSW has led work to develop a set of guiding principles to underpin information-sharing regimes across jurisdictions and promote consistent outcomes. This work has been done through the Child and Families Secretaries Forum (CAFS). The NSW Department of Family and Community Services (FACS) will review guiding principles for consistency with Recommendation 8.7 (<i>Final report</i>). • Protocol to share assessment information: Section 248B of the <i>Children and Young Persons (Care and Protection) Act 1998</i> allows FACS to share information about the suitability of a person to be an adoptive parent, authorised carer or guardian. A ministerial protocol to enable this sharing of information is currently being finalised. • National standards for Working with Children Checks (WWCCs): NSW is working with other states and territories to implement a national model for WWCCs, including a centralised WWCC database and consistent national standards to be applied by all state and territories. NSW is already compliant with the majority of national standards proposed, with only minor regulatory or legislative changes suggested, and NSW has already provided in principle support for the centralised database. • Reviewing Exchange of Criminal History Information for People Working with Children (ECHIPWC), and the exchange of criminal history information: NSW is party to an Intergovernmental Agreement on the Exchange of Criminal History Information for People Working with Children, and is the Chair of the ECHIPWC Steering Committee, which comprises representatives from the Commonwealth and each state and territory. In response to the recommendations 4(b) and 17 in the Royal Commission's report on WWCC, in July 2017, the ECHIPWC Steering Committee commenced a review of the information they exchange through the ECHIPWC agreement, and reviewed definitions of the key terms used to describe different types of criminal history records across state and territory jurisdictions. A preliminary analysis indicated that states and territories are consistent in the information they share. NSW is currently working with the states and territories to finalise this work.
8.7	In establishing the information exchange scheme, the Australian Government and state and territory governments should develop a minimum of nationally consistent provisions to: <ol style="list-style-type: none"> enable direct exchange of relevant information between a range of prescribed bodies, including service providers, government and non-government agencies, law enforcement agencies, and regulatory and oversight bodies, which have responsibilities related to children's safety and wellbeing permit prescribed bodies to provide relevant information to other prescribed bodies without a request, for purposes related to preventing, identifying and responding to child sexual abuse in institutional contexts require prescribed bodies to share relevant information on request from other prescribed bodies, for purposes related to preventing, identifying and responding to child sexual abuse in institutional contexts, subject to limited exceptions explicitly prioritise children's safety and wellbeing and override laws that might otherwise prohibit or restrict disclosure of information to 	Accepted in principle (National priority)	<p>The NSW Government will work with other jurisdictions to identify and remove barriers to information sharing and to develop methods to promote and enable information-sharing. Governments will seek to build on existing arrangements within jurisdictions and across jurisdictions in preparation for developing an agreed information sharing scheme.</p> <p>NSW's own information-sharing scheme, which is contained in Chapter 16A of the <i>Children and Young Persons (Care and Protection) Act 1998</i>, complies with most of the provisions recommended by the Royal Commission. NSW will work with other states and territories to ensure national consistency.</p> <p>The NSW information sharing scheme does not currently provide the opportunity for adversely affected persons to respond to untested or unsubstantiated allegations, as recommended at (f).</p>

#	Royal Commission recommendation	NSW Government response	Comment
	<p>prevent, identify and respond to child sexual abuse in institutional contexts</p> <p>e. provide safeguards and other measures for oversight and accountability to prevent unauthorised sharing and improper use of information obtained under the information exchange scheme</p> <p>f. require prescribed bodies to provide adversely affected persons with an opportunity to respond to untested or unsubstantiated allegations, where such information is received under the information exchange scheme, prior to taking adverse action against such persons, except where to do so could place another person at risk of harm.</p>		
Supporting implementation and operation			
8.8	<p>The Australian Government, state and territory governments and prescribed bodies should work together to ensure that the implementation of our recommended information exchange scheme is supported with education, training and guidelines. Education, training and guidelines should promote understanding of, and confidence in, appropriate information sharing to better prevent, identify and respond to child sexual abuse in institutional contexts, including by addressing:</p> <p>a. impediments to information sharing due to limited understanding of applicable laws</p> <p>b. unauthorised sharing and improper use of information.</p>	Accepted in principle (National priority)	<p>The NSW Government will continue to collaborate with other jurisdictions to provide awareness raising, education and training around information sharing obligations and requirements. Governments will work with relevant bodies and government agencies, such as the Office of the Australian Information Commissioner, children’s commissioners and advocates, and relevant or prescribed bodies.</p> <p>The NSW Government supports using training, education or guidelines to help develop a fuller understanding of presently applicable laws, such as privacy laws, in order to facilitate a greater awareness how information can be properly shared under present regimes.</p>
Improving information sharing in key sectors			
Sharing information about teachers and students			
8.9	<p>The Council of Australian Governments (COAG) Education Council should consider the need for nationally consistent state and territory legislative requirements about the types of information recorded on teacher registers. Types of information that the council should consider, with respect to a person’s registration and employment as a teacher, include:</p> <p>a. the person’s former names and aliases</p> <p>b. the details of former and current employers</p> <p>c. where relating to allegations or incidents of child sexual abuse:</p> <p>i. current and past disciplinary actions, such as conditions on, suspension of, and cancellation of registration</p> <p>ii. grounds for current and past disciplinary actions</p> <p>iii. pending investigations</p> <p>iv. findings or outcomes of investigations where allegations have been substantiated</p> <p>v. resignation or dismissal from employment.</p>	Accepted in principle	<p>The Council of Australian Governments (COAG) Education Council has created a special-purpose working party to develop shared responses to education-related recommendations arising from the Royal Commission’s <i>Final report</i>, to provide advice to the Education Council and COAG over the next 12 months.</p> <p>The NSW Government acknowledges the importance of schools, education authorities and regulatory authorities recording and sharing information about persons who are unsuitable to teach. This is critical to supporting the safety and wellbeing of children and young people in schools.</p>
8.10	<p>The COAG Education Council should consider the need for nationally consistent provisions in state and territory teacher registration laws providing that teacher registration authorities may, and/or must on request, make information on teacher registers available to:</p> <p>a. teacher registration authorities in other states and territories</p> <p>b. teachers’ employers.</p>	Accepted in principle	
8.11	<p>The COAG Education Council should consider the need for nationally consistent provisions</p> <p>a. in state and territory teacher registration laws or</p> <p>b. in administrative arrangements, based on legislative authorisation for information sharing under our recommended information exchange scheme</p>	Accepted in principle	

#	Royal Commission recommendation	NSW Government response	Comment
	<p>providing that teacher registration authorities may or must notify teacher registration authorities in other states and territories and teachers' employers of information they hold or receive about the following matters where they relate to allegations or incidents of child sexual abuse:</p> <ol style="list-style-type: none"> disciplinary actions, such as conditions or restrictions on, suspension of, and cancellation of registration, including with notification of grounds investigations into conduct, or into allegations or complaints findings or outcomes of investigations resignation or dismissal from employment. 		
8.12	<p>In considering improvements to teacher registers and information sharing by registration authorities, the COAG Education Council should also consider what safeguards are necessary to protect teachers' personal information.</p>	Accepted in principle	<p>The Council of Australian Governments (COAG) Education Council has created a special-purpose working party to develop shared responses to education-related recommendations arising from the Royal Commission's <i>Final report</i>, to provide advice to the Education Council and COAG over the next 12 months.</p> <p>The NSW Government acknowledges the critical importance of ensuring that teachers' personal information is protected, while ensuring that information which is relevant to child protection is recorded and shared with appropriate groups.</p>
8.13	<p>State and territory governments should ensure that policies provide for the exchange of a student's information when they move to another school, where:</p> <ol style="list-style-type: none"> the student may pose risks to other children due to their harmful sexual behaviours or may have educational or support needs due to their experiences of child sexual abuse and the new school needs this information to address the safety and wellbeing of the student or of other students at the school. <p>State and territory governments should give consideration to basing these policies on our recommended information exchange scheme (Recommendations 8.6 to 8.8).</p>	Accepted	<p>The NSW Government will work with stakeholders to build on existing systems to enhance exchange of relevant information about students within and between school systems.</p>
8.14	<p>State and territory governments should ensure that policies for the exchange of a student's information when they move to another school:</p> <ol style="list-style-type: none"> provide that the principal (or other authorised information sharer) at the student's previous school is required to share information with the new school in the circumstances described in Recommendation 8.13 and apply to schools in government and non-government systems. 	Accepted	
8.15	<p>State and territory governments should ensure that policies about the exchange of a Student's information (as in Recommendations 8.13 and 8.14) provide the following safeguards, in addition to any safeguards attached to our recommended information exchange scheme:</p> <ol style="list-style-type: none"> information provided to the new school should be proportionate to its need for that information to assist it in meeting the student's safety and wellbeing needs and those of other students at the school information should be exchanged between principals, or other authorised information sharers, and disseminated to other staff members on a need-to-know basis. 	Accepted	
8.16	<p>The COAG Education Council should review the Interstate Student Data Transfer Note and Protocol in the context of the implementation of our recommended information exchange scheme (Recommendations 8.6 to 8.8).</p>	Accepted	<p>The Council of Australian Governments (COAG) Education Council has created a special-purpose working party to develop shared responses to education-related recommendations arising from the Royal Commission's <i>Final report</i>, to provide advice to the Education Council and COAG over the next 12 months.</p> <p>Work on this recommendation will commence once the model for the information exchange scheme (recommendations 8.6 to 8.8 – <i>Final report</i>) has been developed.</p>

#	Royal Commission recommendation	NSW Government response	Comment
Carers registers			
8.17	<p>State and territory governments should introduce legislation to establish carers registers in their respective jurisdictions, with national consistency in relation to:</p> <ol style="list-style-type: none"> the inclusion of the following carer types on the carers register: <ol style="list-style-type: none"> foster carers relative/kinship carers residential care staff the types of information which, at a minimum, should be recorded on the register the types of information which, at a minimum, must be made available to agencies or bodies with responsibility for assessing, authorising or supervising carers, or other responsibilities related to carer suitability and safety of children in out-of-home care. 	Accepted	<p>The Office of the Children's Guardian maintains a register for carers. It was established in 2015 and includes persons who are authorised, or who apply for authorisation, to provide statutory or supported out-of-home care in NSW. This includes foster carers, and relative and kinship carers.</p> <p>The Office of the Children's Guardian also has a mechanism for gathering information on residential care staff. Work is underway to include residential care workers on a register. An update on progress will be provided in December 2018.</p>
8.18	Carers registers should be maintained by state and territory child protection agencies or bodies with regulatory or oversight responsibility for out-of-home care in that jurisdiction.	Accepted	<p>NSW already complies with this recommendation. The NSW carers register is maintained by the Office of the Children's Guardian, which is responsible for accrediting out-of-home care agencies in NSW.</p> <p>The carers register promotes the safety, welfare and wellbeing of children and young people in out-of-home care by supporting the appropriate authorisation of carers and providing a way for agencies to share information about carers and prospective carers.</p>
8.19	<p>State and territory governments should consider the need for carers registers to include, at a minimum, the following information (register information) about, or related to, applicant or authorised carers, and persons residing on the same property as applicant/ authorised home-based carers (household members):</p> <ol style="list-style-type: none"> lodgement or grant of applications for authorisation status of the minimum checks set out in Recommendation 12.6 as requirements for authorisation, indicating their outcomes as either satisfactory or unsatisfactory withdrawal or refusal of applications for authorisation in circumstances of concern (including in relation to child sexual abuse) cancellation or surrender of authorisation in circumstances of concern (including in relation to child sexual abuse) previous or current association with an out-of-home care agency, whether by application for authorisation, assessment, grant of authorisation, or supervision the date of reportable conduct allegations, and their status as either current, finalised with ongoing risk-related concerns, and/or requiring contact with the reportable conduct oversight body. 	Accepted	NSW already complies with this recommendation. These requirements are outlined in Division 6 and Schedule 2 of the Children and Young Persons (Care and Protection) Regulation 2012.
8.20	<p>State and territory governments should consider the need for legislative and administrative arrangements to require responsible agencies to:</p> <ol style="list-style-type: none"> record register information in minimal detail record register information as a mandatory part of carer authorisation update register information about authorised carers. 	Accepted	NSW already complies with this recommendation. These requirements are outlined in Division 6 of the Children and Young Persons (Care and Protection) Regulation 2012.
8.21	<p>State and territory governments should consider the need for legislative and administrative arrangements to require responsible agencies:</p> <ol style="list-style-type: none"> before they authorise or recommend authorisation of carers, to: <ol style="list-style-type: none"> undertake a check for relevant register information, and seek further relevant information from another out-of-home care agency where register information indicates applicant carers, or their household members (in the case of prospective home-based carers) have a prior or current association with that other agency 	Accepted	NSW already complies with this recommendation. These arrangements are provided for in Schedule 2 of the Children and Young Persons (Care and Protection) Regulation 2012.

#	Royal Commission recommendation	NSW Government response	Comment
	<p>i. in the course of their assessment, authorisation, or supervision of carers, to:</p> <p>i. seek further relevant information from other agencies or bodies, where register information indicates they hold, or may hold, additional information relevant to carer suitability, including reportable conduct information.</p> <p>State and territory governments should give consideration to enabling agencies to seek further information for these purposes under our recommended information exchange scheme (Recommendations 8.6 to 8.8).</p>		
8.22	<p>State and territory governments should consider the need for effective mechanisms to enable agencies and bodies to obtain relevant information from registers in any state or territory holding such information. Consideration should be given to legislative and administrative arrangements, and digital platforms, which will enable:</p> <p>a. agencies responsible for assessing, authorising or supervising carers</p> <p>b. other agencies, including jurisdictional child protection agencies and regulatory and oversight bodies, with responsibilities related to the suitability of persons to be carers and the safety of children in out-of-home care</p> <p>to obtain relevant information from their own and other jurisdictions' registers for the purpose of exercising their responsibilities and functions.</p>	Accepted	<p>Section 248B of the <i>Children and Young Persons (Care and Protection) Act 1998</i> allows NSW to share information about the suitability of a person to be an adoptive parent, authorised carer or guardian. A ministerial protocol to enable this sharing of information is currently being finalised.</p> <p>NSW will work with other states and territories to develop a system for obtaining information from registers in others states and territories.</p>
8.23	<p>In considering the legislative and administrative arrangements required for carers registers in their jurisdiction, state and territory governments should consider the need for guidelines and training to promote the proper use of carers registers for the protection of children in out-of-home care. Consideration should also be given to the need for specific safeguards to prevent inappropriate use of register information.</p>	Accepted	<p>NSW already complies with this recommendation. The Office of the Children's Guardian (OCG) has developed a <i>Carer Register User Guide</i>, a suite of fact sheets and training modules available on the OCG website.</p>
Volume 9, Advocacy, support and therapeutic treatment services			
Dedicated community support services for victims and survivors			
9.1	<p>The Australian Government and state and territory governments should fund dedicated community support services for victims and survivors in each jurisdiction, to provide an integrated model of advocacy and support and counselling to children and adults who experienced childhood sexual abuse in institutional contexts.</p> <p>Funding and related agreements should require and enable these services to:</p> <p>a. be trauma-informed and have an understanding of institutional child sexual abuse</p> <p>b. be collaborative, available, accessible, acceptable and high quality</p> <p>c. use case management and brokerage to coordinate and meet service needs</p> <p>d. support and supervise peer-led support models.</p>	Accepted in principle	<p>Recommendations 9.1, 9.2 and 9.3 refer to community-based approaches that offer practical support for children and adults who have experienced sexual abuse. This includes peer support, advocacy and counselling responses.</p> <p>The NSW Government currently delivers and funds a range of services that provide the components of support and treatment identified in recommendation 9.1 to 9.3, which includes:</p> <ul style="list-style-type: none"> • NSW Victims Support Scheme, including the Approved Counselling Service • NSW Health Sexual Assault Services • access to the National Redress Scheme, which the NSW Government has joined. The scheme offers eligible survivors a redress payment of up to \$150,000, access to counselling and psychological services, and a direct personal response from the responsible institution • funding for a range of non-government organisations to provide community-based support services for children and adults who have experience sexual abuse.
9.2	<p>The Australian Government and state and territory governments should fund Aboriginal and Torres Strait Islander healing approaches as an ongoing, integral part of advocacy and support and therapeutic treatment service system responses for victims and survivors of child sexual abuse. These approaches should be evaluated in accordance with culturally appropriate methodologies, to contribute to evidence of best practice.</p>	Accepted in principle	<p>The NSW Government will consider options to improve community-based support for victims and survivors of sexual abuse.</p> <p>The NSW Government acknowledges that support and treatment services should be appropriate for the diverse needs, experiences and contexts of victims and survivors of sexual abuse. Recommendations 9.2 and 9.3 specifically address the needs of Aboriginal and Torres Strait Islander people and people with disability who have experienced sexual abuse.</p> <p>Meeting the needs of Aboriginal and Torres Strait Islander people who experience sexual abuse</p>
9.3	<p>The Australian Government and state and territory governments should fund support services for people with disability who have experienced</p>	Accepted in principle	<p>Culturally safe service delivery to Aboriginal people will be considered in options to improve community-based support services, noting that healing approaches will be central to this. The review</p>

#	Royal Commission recommendation	NSW Government response	Comment
	sexual abuse in childhood as an ongoing, integral part of advocacy and support and therapeutic treatment service system responses for victims and survivors of child sexual abuse.		<p>of NSW Health violence abuse and neglect services will also consider the accessibility and appropriateness of services for Aboriginal people.</p> <p>This will be complemented by the work underway as part of Opportunity Choice Healing Responsibility Empowerment (OCHRE). Under OCHRE, the NSW Government is engaging in a dialogue with Aboriginal people and communities to develop a deeper understanding of how agencies can operate, engage and deliver services to Aboriginal people in a way that supports healing.</p> <p>Meeting the needs of people with disability who experience sexual abuse</p> <p>The NSW Government supports the rights of people with disability who have experienced sexual abuse to have equitable access to support and treatment services. Accessible and appropriate services for people with disability will be considered in options to improve community-based support services. Accessibility and appropriateness of the NSW Health Sexual Assault Services for people with disability will be further considered through the NSW Health Violence Abuse and Neglect Services Redesign and Planning Project.</p> <p>The Royal Commission also noted the importance of advocacy and the impact of the transition to the National Disability Insurance Scheme (NDIS) on supporting people with disability, including those who have experienced sexual abuse. By 30 June 2018, the NDIS will be available across NSW. NDIS-funded support will work alongside NSW Government services to support people with disability to access mainstream services, including services that provide support and treatment for victims and survivors of sexual assault. The NSW Government has provided a Transitional Advocacy Funding Supplement of \$26 million to provide advocacy services during the first two years following the transition to the NDIS.</p> <p>Leadership from the Australian Government</p> <p>The Australian Government currently has an important role in funding support services that assist children and adults to recover from sexual abuse. This includes support for Aboriginal healing, and responsibility for support services for people with disability through the NDIS. The NSW Government welcomes Australian Government leadership and continued investment in support for people who have experienced sexual abuse.</p>
National service to navigate legal processes			
9.4	<p>The Australian Government should establish and fund a legal advice and referral service for victims and survivors of institutional child sexual abuse. The service should provide advice about accessing, amending and annotating records from institutions, and options for initiating police, civil litigation or redress processes as required. Support should include advice, referrals to other legal services for representation and general assistance for people to navigate the legal service system. Funding and related agreements should require and enable these services to be:</p> <ol style="list-style-type: none"> trauma-informed and have an understanding of institutional child sexual abuse collaborative, available, accessible, acceptable and high quality. 	Accepted. This is a matter for the Australian Government	The NSW Government would welcome a national legal advice and referral service. This would be an important initiative, and would complement existing NSW Government activities.
National telephone helpline and website			
9.5	<p>The Australian Government should fund a national website and helpline as a gateway to accessible advice and information on childhood sexual abuse. This should provide information for victims and survivors, particularly victims and survivors of institutional child sexual abuse, the general public and practitioners about supporting children and adults who have experienced sexual abuse in childhood and available services. The gateway may be operated by an existing service with appropriate experience and should:</p> <ol style="list-style-type: none"> be trauma-informed and have an understanding of institutional child sexual abuse be collaborative, available, accessible, acceptable and high quality 	Accepted. This is a matter for the Australian Government	The establishment of a visible, centralised national website and helpline would support clearer pathways for victims, and would support access to existing treatment services in NSW.

#	Royal Commission recommendation	NSW Government response	Comment
	<ul style="list-style-type: none"> c. provide telephone and online information and initial support for victims and survivors, including independent legal information and information about reporting to police d. provide assisted referrals to advocacy and support and therapeutic treatment services. 		
Enhancing the capacity of specialist sexual assault services			
9.6	<p>The Australian Government and state and territory governments should address existing specialist sexual assault service gaps by increasing funding for adult and child sexual assault services in each jurisdiction, to provide advocacy and support and specialist therapeutic treatment for victims and survivors, particularly victims and survivors of institutional child sexual abuse. Funding agreements should require and enable services to:</p> <ul style="list-style-type: none"> a. be trauma-informed and have an understanding of institutional child sexual abuse b. be collaborative, available, accessible, acceptable and high quality c. use collaborative community development approaches d. provide staff with supervision and professional development. 	Subject to further consideration	NSW Health provides a 24-hour, seven-days-a-week frontline response for people who have experienced sexual assault, including child sexual assault. Crisis and ongoing services are provided through a network of specialist Sexual Assault Services delivered by local health districts across NSW. NSW Health continues to increase the number of doctors and nurses trained to deliver medical and forensic examinations as part of an integrated response for sexual assault victims.
9.7	Primary Health Networks, within their role to commission joined up local primary care services, should support sexual assault services to work collaboratively with key services such as disability-specific services, Aboriginal and Torres Strait Islander services, culturally and linguistically diverse services, youth justice, aged care and child and youth services to better meet the needs of victims and survivors.	Accepted. This is a matter for the Australian Government	The NSW Government acknowledges that within their existing role, Primary Health Networks aim to improve coordination of care and to support the efficiency and effectiveness of health services.
Responsive mainstream services			
9.8	The Australian Government and state and territory government agencies responsible for the delivery of human services should ensure relevant policy frameworks and strategies recognise the needs of victims and survivors and the benefits of implementing trauma-informed approaches.	Accepted	<p>The shift towards delivering trauma-informed approaches in NSW's human service agencies has already begun. NSW Government agencies are prioritising trauma-informed approaches in the development of key human services strategies and policies.</p> <p>The NSW Government will continue to work to support victims and survivors of sexual abuse and other trauma to experience safety, trustworthiness, choice, collaboration and empowerment in service delivery.</p> <p>To build the evidence-base for trauma-informed interventions, agencies will work closely to share expertise and collaborate on training delivery.</p>
National leadership to reduce stigma, promote help-seeking and support good practice			
9.9	<p>The Australian Government, in conjunction with state and territory governments, should establish and fund a national centre to raise awareness and understanding of the impacts of child sexual abuse, support help-seeking and guide best practice advocacy and support and therapeutic treatment. The national centre's functions should be to:</p> <ul style="list-style-type: none"> a. raise community awareness and promote destigmatising messages about the impacts of child sexual abuse b. increase practitioners' knowledge and competence in responding to child and adult victims and survivors by translating knowledge about the impacts of child sexual abuse and the evidence on effective responses into practice and policy. This should include activities to: <ul style="list-style-type: none"> i. identify, translate and promote research in easily available and accessible formats for advocacy and support and therapeutic treatment practitioners ii. produce national training materials and best practice clinical resources 	Accepted in principle	<p>The work of the Royal Commission has made a significant contribution to the community's understanding of the nature and prevalence of institutional child sexual abuse. All Australian governments must provide leadership to support an ongoing commitment to reducing stigma, and promote best practice to support victims and survivors of sexual abuse.</p> <p>The NSW Government will work with the Australian Government and other states and territories to further consider a national centre dedicated to stigma reduction and practice reform.</p>

#	Royal Commission recommendation	NSW Government response	Comment
	<p>iii. partner with training organisations to conduct training and workforce development programs</p> <p>iv. influence national tertiary curricula to incorporate child sexual abuse and trauma-informed care</p> <p>v. inform government policy making</p> <p>c. lead the development of better service models and interventions through coordinating a national research agenda and conducting high-quality program evaluation.</p> <p>The national centre should partner with survivors in all its work, valuing their knowledge and experience.</p>		
Volume 10, Children with harmful sexual behaviours			
A framework for improving responses			
10.1	<p>The Australian Government and state and territory governments should ensure the issue of children’s harmful sexual behaviours is included in the national strategy to prevent child sexual abuse that we have recommended (see Recommendations 6.1 to 6.3).</p> <p>Harmful sexual behaviours by children should be addressed through each of the following:</p> <p>a. primary prevention strategies to educate family, community members, carers and professionals (including mandatory reporters) about preventing harmful sexual behaviours</p> <p>b. secondary prevention strategies to ensure early intervention when harmful sexual behaviours are developing</p> <p>c. tertiary intervention strategies to address harmful sexual behaviours.</p>	Accepted in principle (National priority)	<p>The NSW Government will work with other jurisdictions to prioritise the inclusion of the complex issue of children’s harmful sexual behaviours in frameworks and strategies to support the wellbeing and safety of all children.</p> <p>Embedding this complex issue within a national strategy would create opportunities for national leadership in primary prevention and early intervention. A national approach could also promote coordination among primary prevention education and training programs.</p> <p>To support a consistent national approach, the Australian Government, and state and territory governments should work together to develop a suite of national services and resources that inform and advise parents and/or carers about children’s sexual behaviours.</p>
Improving assessment and therapeutic intervention			
10.2	<p>The Australian Government and state and territory governments should ensure timely expert assessment is available for individual children with problematic and harmful sexual behaviours, so they receive appropriate responses, including therapeutic interventions, which match their particular circumstances.</p>	Subject to further consideration	<p>All children and young people with problematic or harmful sexual behaviours should have access to an assessment that is commensurate to their level of need, and facilitates an appropriate and effective response.</p> <p>Expert assessments of children with problematic and harmful sexual behaviour are currently provided by qualified and skilled practitioners in specialist services in NSW Health, Juvenile Justice, Family and Community Services and within the private sector.</p> <p>While some children may require an expert assessment to determine the appropriate therapeutic or statutory intervention, many children with behaviours and circumstances that are less serious or complex will not require expert intervention and can be adequately supported by generalist services. Frontline human services all have an important role in preventing, identifying and responding to children’s problematic or harmful sexual behaviours.</p> <p>The NSW Department of Education has worked with other NSW Government agencies to develop resources to help schools identify and respond to children with problematic and harmful sexual behaviours. These include guidelines on how to identify relevant behaviours, suggested roles and responsibilities, and checklists of actions to consider when investigating and reporting the behaviours.</p> <p>To support responses to children in the child protection system, the Office of the Senior Practitioner within Family and Community Services has developed the ‘See, Understand and Respond to Child Sexual Abuse – a practical kit’ and related training. The kit was designed for Family and Community Services practitioners, however, it is publicly available. The kit includes:</p> <ul style="list-style-type: none"> • information to help identify factors that increase the risk of a child displaying harmful sexual behaviours • information to assess risk when working with children with harmful sexual behaviours • practical resources to use when working with children with harmful sexual behaviours. <p>Evaluation of the kit and related training has demonstrated an improvement in the confidence of practitioners working with children with harmful sexual behaviours.</p>

#	Royal Commission recommendation	NSW Government response	Comment
			<p>Existing initiatives support professionals in schools and the child protection system to identify and respond to children’s harmful sexual behaviours.</p> <p>The NSW Government recognises further work is required to support all professionals working with children, young people, parents, carers and the community to be able to identify and respond to children’s problematic or harmful sexual behaviours.</p>
10.3	<p>The Australian Government and state and territory governments should adequately fund therapeutic interventions to meet the needs of all children with harmful sexual behaviours.</p> <p>These should be delivered through a network of specialist and generalist therapeutic services. Specialist services should also be adequately resourced to provide expert support to generalist services.</p>	Subject to further consideration	<p>The NSW Government currently funds therapeutic interventions through a range of generalist and specialist services. The existing specialist therapeutic services in NSW are:</p> <ul style="list-style-type: none"> • NSW Health New Street services, which provide a specialised, early-intervention, community-based service to address harmful sexual behaviours displayed by young people (10 to 17 years old). New Street services are currently delivered from several metropolitan and regional sites across NSW, with an outreach service for remote locations • Juvenile Justice psychological services, which provides generalist support and offence-focused interventions. In collaboration with caseworkers, psychologists are responsible for the assessment and treatment of children and young people who sexually harm other children. Juvenile Justice psychologists identify and build on protective and supportive factors with the child, their family and community in a multi-systemic approach. <p>The NSW Government will expand therapeutic services for children and young people with harmful sexual behaviours by opening one additional NSW Health New Street service. The NSW Government will also consider options to build a stronger network of generalist and specialist therapeutic service providers.</p> <p>To reduce the risk of recidivism and support continuity of therapeutic treatment, NSW Health and Juvenile Justice will partner to develop support pathways for children and young people leaving the juvenile justice system. This will include support for children in detention and in the community through family engagement work, ‘in-reach handover’ prior to release from detention, and intensive engagement post release.</p>
10.4	<p>State and territory governments should ensure that there are clear referral pathways for children with harmful sexual behaviours to access expert assessment and therapeutic intervention, regardless of whether the child is engaging voluntarily, on the advice of an institution or through their involvement with the child protection or criminal justice systems.</p>	Accepted in principle	<p>Children with harmful sexual behaviours should have access to assessment and therapeutic intervention. Therapeutic interventions can help children to stop their problematic and harmful sexual behaviours and promote the safety and wellbeing of all children.</p> <p>Appropriate criminal justice responses are also required to provide justice for victims and survivors of sexual assault, and serve the interests of the community.</p> <p>The NSW Government will give careful consideration to options to implement clear referral pathways. This will include consideration of referral pathways through the child protection and criminal justice system, where participation in therapeutic treatment is required.</p>
10.5	<p>Therapeutic intervention for children with harmful sexual behaviours should be based on the following principles:</p> <ol style="list-style-type: none"> a contextual and systemic approach should be used family and carers should be involved safety should be established there should be accountability and responsibility for the harmful sexual behaviours there should be a focus on behaviour change developmentally and cognitively appropriate interventions should be used the care provided should be trauma-informed therapeutic services and interventions should be culturally safe therapeutic interventions should be accessible to all children with harmful sexual behaviours. 	Accepted	<p>The NSW Government accepts these principles as reflecting best-practice therapeutic intervention for children with harmful sexual behaviours.</p> <p>The NSW Government is committed to delivering high-quality, evidence-based services. Specialist therapeutic interventions provided by the NSW Government include NSW Health New Street services and Juvenile Justice psychologist services. These services largely comply with these best practice principles.</p> <p>In addition, the NSW Government will develop stronger collaboration across specialist therapeutic services to provide ongoing and interagency support for evidence-based and effective therapeutic interventions.</p>
Strengthening the workforce			
10.6	<p>The Australian Government and state and territory governments should ensure that all services funded to provide therapeutic intervention for children with harmful sexual behaviours provide professional training and clinical supervision for their staff.</p>	Accepted	<p>The NSW Government is committed to delivering high-quality services, including the ongoing development of the skills and competencies of the specialist and generalist therapeutic workforce.</p>

#	Royal Commission recommendation	NSW Government response	Comment
			<p>Specialist therapeutic interventions provided by the NSW Government include NSW Health New Street services and Juvenile Justice psychologist services. These services provide professional training and clinical supervision for their staff who deliver specialist therapeutic interventions for children with harmful sexual behaviour.</p> <p>The NSW Government will consider ways to promote interagency training and professional development opportunities for professionals working with children with problematic or harmful sexual behaviours.</p>
Improving evaluation			
10.7	The Australian Government and state and territory governments should fund and support evaluation of services providing therapeutic interventions for problematic and harmful sexual behaviours by children.	Accepted	<p>Evaluation of therapeutic services is important to understanding what works in supporting children with problematic or harmful sexual behaviours.</p> <p>Evaluations of NSW Health's New Street services have found that the services have achieved significant outcomes with young people and their families, with positive impacts for both individuals and the child protection system as a whole.</p>
Volume 12, Contemporary out-of-home care			
Data collection and reporting			
12.1	The Australian Government and state and territory governments should develop nationally agreed key terms and definitions in relation to child sexual abuse for the purpose of data collection and reporting by the Australian Institute of Health and Welfare (AIHW) and the Productivity Commission.	Accepted (National priority)	<p>The NSW Government accepts recommendations 12.1, 12.2 and 12.3, and will work with other jurisdictions to achieve nationally agreed key terms and definitions in relation to child sexual abuse through relevant agencies and portfolios.</p> <p>Governments will work together to agree research priorities and timeframes, noting the complexity and importance of establishing nationally agreed terms and definitions to provide a basis for further national research.</p> <p>NSW has recently improved its collection of 'safety in care' data in accordance with these recommendations, and will continue to progress improvements to data measures and quality in NSW through the progressive implementation of a new information technology system.</p>
12.2	<p>The Australian Government and state and territory governments should prioritise enhancements to the Child Protection National Minimum Data Set to include:</p> <ol style="list-style-type: none"> data identifying children with disability, children from culturally and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander children the number of children who were the subject of a substantiated report of sexual abuse while in out-of-home care the demographics of those children the type of out-of-home care placement in which the abuse occurred information about when the abuse occurred information about who perpetrated the abuse, including their age and their relationship to the victim, if known. 	Accepted (National priority)	<p>The NSW Government will work with the Australian Government, and state and territory governments to prioritise enhancements to the Child Protection National Minimum Data Set specified in Recommendation 12.2.</p> <p>More specifically, with regard to the implementation of Recommendation 12.2, all states/territories are committed to the following Child Protection National Minimum Dataset (CP NMDS) enhancements within two years:</p> <ul style="list-style-type: none"> improved identification of children with disability, through ensuring all jurisdictions report this data, and continuous quality improvement at the state/territory level continued capture and improved quality of data identifying Aboriginal and Torres Strait Islander children collection of data to facilitate reporting on the number of children who were the subject of a substantiated report of sexual abuse while in out-of-home care, including the demographics of those children. <p>States/territories are also committed to this enhanced information being published at the state/territory level as part of Child Protection Australia 2019–20 reporting, to be released in 2020–21. The enhanced information will also be included in subsequent annual reporting about child protection. Jurisdictions are already working with the Australian Institute of Health and Welfare to agree the initial two-year work plan needed to achieve the above enhancements.</p>
12.3	State and territory governments should agree on reporting definitions and data requirements to enable reporting in the <i>Report on government services</i> on outcome indicators for 'improved health and wellbeing of the child', 'safe return home' and 'permanent care'.	Accepted (National priority)	<p>The NSW Government will work with other jurisdictions to agree on out-of-home care reporting definitions and data requirements for the Report on the government services through relevant agencies and portfolios.</p> <p>See response to Recommendation 12.1 (<i>Final report</i>).</p>

#	Royal Commission recommendation	NSW Government response	Comment
Accreditation of out-of-home care service providers			
12.4	Each state and territory government should revise existing mandatory accreditation schemes to: <ol style="list-style-type: none"> incorporate compliance with the Child Safe Standards identified by the Royal Commission extend accreditation requirements to both government and non-government out-of-home care service providers. 	Accepted	The NSW Government already meets the intent of this recommendation. The NSW out-of-home care accreditation criteria (the NSW Child Safe Standards for Permanent Care) already meet and exceed the Royal Commission's recommendations regarding child safe standards. Both government and non-government out-of-home care providers must meet these standards in order to provide out-of-home care services in NSW. The NSW Children's Guardian provides independent oversight of the out-of-home care sector.
12.5	In each state and territory, an existing statutory body or office that is independent of the relevant child protection agency and out-of-home care service providers, for example a children's guardian, should have responsibility for: <ol style="list-style-type: none"> receiving, assessing and processing applications for accreditation of out-of-home care service providers conducting audits of accredited out-of-home care service providers to ensure ongoing compliance with accreditation standards and conditions. 	Accepted	NSW has a well-established accreditation and monitoring system for out-of-home care and adoption service providers. The accreditation scheme commenced in 2003 and has been regularly reviewed to reflect changes in research and practice regarding vulnerable children and young people, and to support important reforms to the child protection and out-of-home care systems. Independent oversight is provided by the Children's Guardian and both government and non-government providers must meet the same standards of care. See response to Recommendation 12.4 (<i>Final report</i>).
Carer authorisation			
12.6	In addition to a National Police Check, Working with Children Check and referee checks, authorisation of all foster and kinship/relative carers and all residential care staff should include: <ol style="list-style-type: none"> community services checks of the prospective carer and any adult household members of home-based carers documented risk management plans to address any risks identified through community services checks at least annual review of risk management plans as part of carer reviews and more frequently as required. 	Accepted	NSW has one of the most rigorous carer assessment and authorisation systems in Australia, which includes a range of background and probity checks and high minimum standards for carer assessments. A register of authorised carers was implemented in 2015 and is administered by the independent regulator, the Children's Guardian. The NSW Government will explore options to ensure that extensive background checks are conducted for carers and household members who were exempted under legislative amendments introduced in 2015 and who are currently caring for children. When reviews are completed, this will more comprehensively meet the intent of the Royal Commission's recommendations for carer assessments.
12.7	All out-of-home care service providers should conduct annual reviews of authorised carers that include interviews with all children in the placement with the carer under review, in the absence of the carer.	Accepted	In NSW, all accredited out-of-home care agencies are contractually required to conduct carer reviews at least annually. As part of their monitoring and review of compliance, the Office of the Children's Guardian looks at practice regarding caseworkers speaking with children independently of their carers. The NSW Government will explore options to revise policies and procedures to include explicit requirements for interviews with children in the absence of the carer. This will ensure the voices of children are considered with a more comprehensive approach to determining the ongoing suitability of a person to provide care. This further work will also consider exceptions to this requirement in situations where it is not in the best interests of the child.
12.8	Each state and territory government should adopt a model of assessment appropriately tailored for kinship/relative care. This type of assessment should be designed to: <ol style="list-style-type: none"> better identify the strengths as well as the support and training needs of kinship/relative carers ensure holistic approaches to supporting placements that are culturally safe include appropriately resourced support plans. 	Accepted	The NSW Government is committed to holistic and appropriate carer assessments. In NSW, all out-of-home care service providers are required to undertake thorough assessments of all prospective carers, guardians and adoptive parents using an evidence-informed and competency-based assessment format. See also response to Recommendation 12.6 (<i>Final report</i>).
Child sexual abuse education strategy			
12.9	All state and territory governments should collaborate in the development of a sexual abuse prevention education strategy, including online safety, for children in out-of-home care that includes: <ol style="list-style-type: none"> input from children in out-of-home care and care-leavers 	Accepted	The NSW Government supports national collaboration on the development of a prevention education strategy. The NSW Government will work with other state and territory governments to share existing resources and identify opportunities for greater consistency in delivering prevention education that is tailored for children in out-of-home care.

#	Royal Commission recommendation	NSW Government response	Comment
	<ul style="list-style-type: none"> b. comprehensive, age-appropriate and culture-appropriate education about sexuality and healthy relationships that is tailored to the needs of children in out-of-home care c. resources tailored for children in care, for foster and kinship/relative carers, for residential care staff and for caseworkers d. resources that can be adapted to the individual needs of children with disability and their carers. 		
Creating a culture that supports disclosure and identification of child sexual abuse			
12.10	<p>State and territory governments, in collaboration with out-of-home care service providers and peak bodies, should develop resources to assist service providers to:</p> <ul style="list-style-type: none"> a. provide appropriate support and mechanisms for children in out-of-home care to communicate, either verbally or through behaviour, their views, concerns and complaints b. provide appropriate training and support to carers and caseworkers to ensure they hear and respond to children in out-of-home care, including ensuring children are involved in decisions about their lives c. regularly consult with the children in their care as part of continuous improvement processes. 	Accepted in principle	<p>The NSW Government accepts in principle recommendations 12.10, 12.11 and 12.13. The NSW Government supports the Royal Commission’s recommendations for building the capabilities of people and professionals who care for and work with children in out-of-home care.</p> <p>In NSW, the Department of Family and Community Services (FACS) provides training, resources and advice to government practitioners and develops targeted training and resources to address gaps. FACS has developed a comprehensive resource and accompanying training to guide caseworkers in identifying and responding to sexual abuse, including harmful sexual behaviour. This resource is also available to non-government organisations.</p> <p>FACS funds a number of peak organisations to provide learning and development activities to the non-government sector.</p>
12.11	<p>State and territory governments and out-of-home care service providers should ensure that training for foster and relative/kinship carers, residential care staff and child protection workers includes an understanding of trauma and abuse, the impact on children and the principles of trauma-informed care to assist them to meet the needs of children in out-of-home care, including children with harmful sexual behaviours.</p>	Accepted in principle	<p>NSW is exploring options to provide further training, support and resources to improve the skill base of government and non-government workers and carers.</p>
Identifying, assessing and supporting children with harmful sexual behaviours			
12.12	<p>When placing a child in out-of-home care, state and territory governments and out-of-home care service providers should take the following measures to support children with harmful sexual behaviours:</p> <ul style="list-style-type: none"> a. undertake professional assessments of the child with harmful sexual behaviours, including identifying their needs and appropriate supports and interventions to ensure their safety b. establish case management and a package of support services c. undertake careful placement matching that includes: <ul style="list-style-type: none"> i. providing sufficient relevant information to the potential carer/s and residential care staff to ensure they are equipped to support the child, and additional training as necessary ii. rigorously assessing potential threats to the safety of other children, including the child’s siblings, in the placement. 	Accepted in principle	<p>In NSW, the Department of Family and Community Services (FACS) child protection staff provide non-clinical assessment and placement planning which focuses on safety and risk for both the child with harmful sexual behaviour, and children at risk of being harmed by that behaviour. When a child enters care, there are processes through which the needs of children with harmful sexual behaviour are identified and through which expert clinical assessments and appropriate placement matching can occur. These processes include the Out of Home Care Health Pathway Program and the NSW Child Assessment Tool (CAT).</p> <p>The CAT is used by FACS caseworkers to identify the appropriate level of care for a child or young person who has entered out-of-home care, where a placement has not been identified with relatives or kin. It assesses the child or young person’s behavioural, health and developmental needs to determine the most appropriate level of care. A CAT outcome can be reviewed if there is new information about behaviours, health or developmental needs.</p> <p>Under the cross-government reform Their Futures Matter, the NSW Government is delivering whole-of-system changes to better support vulnerable children and families. This includes moving towards needs-based support through wrap-around support packages for children who are in or at risk of entering out-of-home care.</p> <p>Children with harmful sexual behaviours who are in out-of-home care will benefit from supports provided under a range of other initiatives including the Permanency Support Program and Intensive Therapeutic Care.</p> <p>From July 2018, Intensive Therapeutic Care will replace residential care and will include a new ‘Therapeutic Specialist’ role.</p> <p>Therapeutic Specialists are clinicians (with a qualification in psychology, social work, occupational therapy or mental health nursing, plus at least five years’ work experience in a therapeutic care setting or clinical environment with children and young people in out-of-home care) and are responsible for acting as ‘therapeutic practice experts’.</p>

#	Royal Commission recommendation	NSW Government response	Comment
			<p>FACS has also developed the 'See, Understand and Respond to Child Sexual Abuse – a practical kit' and related training for the Department's practitioners. The kit includes information and resources to support practitioners to identify and respond to children with problematic or harmful sexual behaviour.</p> <p>The NSW Government has processes in place to help caseworkers to make placement decisions for a child and ensure that appropriate information about the child is shared. Further work is required to build capacity of child protection practitioners to assess, respond to and support children with harmful sexual behaviour. See response to recommendations 12.10, 12.11 and 12.13 (<i>Final report</i>).</p> <p>Specialist therapeutic services for children with harmful sexual behaviour are discussed at Recommendation 10.3 (<i>Final report</i>).</p>
12.13	State and territory governments and out-of-home care service providers should provide advice, guidelines and ongoing professional development for all foster and kinship/relative carers and residential care staff about preventing and responding to the harmful sexual behaviours of some children in out-of-home care.	Accepted in principle	See response to Recommendation 12.10 (<i>Final report</i>).
Preventing and responding to child sexual exploitation			
12.14	All state and territory governments should develop and implement coordinated and multi-disciplinary strategies to protect children in residential care by: <ul style="list-style-type: none"> a. identifying and disrupting activities that indicate risk of sexual exploitation b. supporting agencies to engage with children in ways that encourage them to assist in the investigation and prosecution of sexual exploitation offences. 	Accepted in principle	<p>The NSW Government accepts in principle the Royal Commission's recommendation for coordinated and multi-disciplinary strategies to identify and disrupt the sexual exploitation of children in residential care.</p> <p>The NSW Government is committed to the implementation of a multi-agency pilot aimed at preventing sexual exploitation of children in residential out-of-home care as a matter of priority.</p>
12.15	Child protection departments in all states and territories should adopt a nationally consistent definition for child sexual exploitation to enable the collection and reporting of data on sexual exploitation of children in out-of-home care as a form of child sexual abuse.	Accepted (National priority)	<p>The NSW Government will work with other jurisdictions to adopt a nationally consistent definition for child sexual exploitation through relevant agencies and portfolios.</p> <p>The NSW Government will consider the implementation and timing for the application of the new definition.</p> <p>In the interim, the Department of Family and Community Services will make further amendments to its new child protection and out-of-home care information technology system in order to enable the collection and reporting of data specifically on child sexual exploitation.</p>
Increasing the stability of placements			
12.16	All institutions that provide out-of-home care should develop strategies that increase the likelihood of safe and stable placements for children in care. Such strategies should include: <ul style="list-style-type: none"> a. improved processes for 'matching' children with carers and other children in a placement, including in residential care b. the provision of necessary information to carers about a child, prior to and during their placement, to enable carers to properly support the child c. support and training for carers to deal with the different developmental needs of children as well as managing difficult situations and challenging behaviour. 	Accepted	<p>The NSW Government complies with this recommendation and current reforms will continue to strengthen NSW systems and practice.</p> <p>The Permanency Support Program requires that all out-of-home care service providers include permanency planning in every new case plan. The Permanency Support Program also sets out review periods to ensure that case plan goals are on track.</p> <p>A major component of the Permanency Support Program is new statewide program for the recruitment, development and support of guardians, adoptive parents and other carers, aimed at supporting more children and young people to achieve placement permanency.</p> <p>The NSW Government has developed a joint protocol with key stakeholders including the Department of Family and Community Services and NSW Police to reduce the contact children in out-of-home care have with the criminal justice system. The joint protocol informs policy and practice to facilitate collaboration between NSW Police and out-of-home care providers, coordinate a trauma-informed approach, and divert young people from the criminal justice system; thereby improving placement stability.</p>
Supporting kinship/relative care placements			
12.17	Each state and territory government should ensure that:	Accepted	The NSW Government complies with this recommendation and current reforms will continue to strengthen NSW systems and practice.

#	Royal Commission recommendation	NSW Government response	Comment
	<ul style="list-style-type: none"> a. the financial support and training provided to kinship/relative carers is equivalent to that provided to foster carers b. the need for any additional supports are identified during kinship/relative carer assessments and are funded c. additional casework support is provided to maintain birth family relationships. 		A new statewide program will commence on 1 July 2018 to improve the recruitment of and support for guardians, adoptive parents and other carers. This includes setting a minimum amount for the carer allowance and providing a means-tested adoption allowance. The new program will also deliver high-quality support and meet the development needs of all carers.
Residential care			
12.18	The key focus of residential care for children should be based on an intensive therapeutic model of care framework designed to meet the complex needs of children with histories of abuse and trauma.	Accepted	<p>The NSW Government complies with this recommendation and current reforms will continue to strengthen NSW systems and practice.</p> <p>From July 2018, the NSW Government will introduce a new Intensive Therapeutic Care service system to replace residential care for children and young people over the age of 12 who have been assessed as requiring intensive therapy for recovery of trauma. Intensive Therapeutic Care focuses on recovery from trauma and is underpinned by the NSW Therapeutic Care Framework, which has been developed by the Department of Family and Community Services and out-of-home care sector peaks and service providers. The Therapeutic Care Framework guides best practice in trauma-informed care to support vulnerable children and families.</p>
12.19	All residential care staff should be provided with regular training and professional supervision by appropriately qualified clinicians.	Accepted in principle	<p>The NSW Government's current reforms to residential care will continue to strengthen NSW systems and practice.</p> <p>The Intensive Therapeutic Care model includes minimum qualification and training requirements as well as a commitment to learning and reflective practice for all Intensive Therapeutic Care staff.</p>
Aboriginal and Torres Strait Islander children			
12.20	<p>Each state and territory government, in consultation with appropriate Aboriginal and Torres Strait Islander organisations and community representatives, should develop and implement plans to:</p> <ul style="list-style-type: none"> a. fully implement the Aboriginal and Torres Strait Islander Child Placement Principle b. improve community and child protection sector understanding of the intent and scope of the principle c. develop outcome measures that allow quantification and reporting on the extent of the full application of the principle, and evaluation of its impact on child safety and the reunification of Aboriginal and Torres Strait Islander children with their families d. invest in community capacity building as a recognised part of kinship care, in addition to supporting individual carers, in recognition of the role of Aboriginal and Torres Strait Islander communities in bringing up children. 	Accepted in principle	<p>In NSW, the Aboriginal and Torres Strait Islander Child Placement Principles are legislated in Section 13 of the <i>Children and Young Persons (Care and Protection) Act 1998</i>. The Department of Family and Community Services has mandated adherence to these principles, and there are ongoing practice efforts in progress to meet this recommendation's intent. Compliance with the Aboriginal and Torres Strait Islander Child Placement Principles is also included in the NSW Child Safe Standards for Permanent Care and monitored by the Office of the Children's Guardian.</p> <p>The NSW Government has commissioned a comprehensive independent review of Aboriginal children in out-of-home care. The 'Family is Culture: Independent Review of Aboriginal Children and Young People in Out of Home Care in NSW' is exploring how the placement principles have been applied. It will investigate how systems, policies and practices in out-of-home care and child protection have contributed to the number of Indigenous children and young people in out-of-home care.</p> <p>The independent review's final report will provide recommendations on systemic policy and practice issues and is vital to informing further systemic improvements. It will form a critical basis for informing NSW Government responses around the placement principle and opportunities for reform.</p>
Children with disability			
12.21	<p>Each state and territory government should ensure:</p> <ul style="list-style-type: none"> a. the adequate assessment of all children with disability entering out-of-home care b. the availability and provision of therapeutic support c. support for disability-related needs d. the development and implementation of care plans that identify specific risk-management and safety strategies for individual children, including the identification of trusted and safe adults in the child's life. 	Accepted in principle	<p>Children with a significant and permanent disability and their carers are eligible to access a range of support services through the National Disability Insurance Scheme (NDIS). The NDIS is implemented by the Australian Government through the National Disability Insurance Agency (NDIA). It provides support to people with a disability to access mainstream and community services and supports, maintain informal support arrangements, and in some circumstances receive funded supports.</p> <p>The NDIA will provide NDIS plans to meet the needs of children and young people with disability, and respite/short-term accommodation. It will also provide care and support that is related to the child's disability where those supports are reasonable and necessary and where the child cannot be supported in their own home due to their family circumstances and disability needs.</p> <p>The NSW Government (Department of Family and Community Services) will be responsible for the supervision of providers providing care and supervision to children with disabilities living outside the family home, flexible support packages for family preservation and restoration to try to keep families together, as well as board and lodging for children under 16 years who are eligible for the NDIA and</p>

#	Royal Commission recommendation	NSW Government response	Comment
			<p>may need to live away from home. The NSW Government will continue to strengthen NSW systems and practice.</p> <p>The Permanency Support Program introduces new individualised service packages tailored to each child or young person's case plan goal and individual circumstances, including Child Needs Packages.</p>
Care-leavers			
12.22	<p>State and territory governments should ensure that the supports provided to assist all care-leavers to safely and successfully transition to independent living include:</p> <ol style="list-style-type: none"> strategies to assist care-leavers who disclose that they were sexually abused while in out-of-home care to access general post-care supports the development of targeted supports to address the specific needs of sexual abuse survivors, such as help in accessing therapeutic treatment to deal with impacts of abuse, and for these supports to be accessible until at least the age of 25. 	Accepted in principle	<p>In NSW, there are ongoing practice improvements in progress to meet the intent of this recommendation. All out-of-home care service providers must support every young person's plan for their future from 15 years of age. The Permanency Support Program also requires service providers to support young people up to the age of 25 years. From 1 July 2018, the Permanency Support Program will support service providers to develop 'leaving care' plans through payment of an annual leaving care funding package. This funds non-government practitioners to spend more time with young people to develop leaving care plans which support their long-term goals and transition into adulthood.</p> <p>Further to this, the Their Futures Matter reform will include aftercare services to ensure further improvements are considered by government.</p>
Volume 13, Schools			
Child Safe Standards			
13.1	All schools should implement the Child Safe Standards identified by the Royal Commission.	Accepted in principle	The Office of the Children's Guardian will engage with NSW Department of Education, non-government schools and the NSW Education Standards Authority regarding the implementation of child safe standards.
13.2	State and territory independent oversight authorities responsible for implementing the Child Safe Standards (see Recommendation 6.10) should delegate to school registration authorities the responsibility for monitoring and enforcing the Child Safe Standards in government and non-government schools.	Subject to further consideration	<p>The Office of the Children's Guardian (OCG) is an experienced regulator of child-related services. The functions of the Children's Guardian include encouraging organisations to be safe for children. The NSW Child Safe Organisations program has been operating since 2003 and is delivered by the OCG. The Child Safe Organisations training program includes a comprehensive suite of face-to-face workshops, eLearning modules, a resilience-building program for young children, and a disability-specific child safe training program. The program has been well-utilised by child-related organisations.</p> <p>The OCG will consult with existing regulators on the preferred approach to comply with this recommendation. An update on progress will be provided in December 2018.</p>
13.3	School registration authorities should place particular emphasis on monitoring government and non-government boarding schools to ensure they meet the Child Safe Standards. Policy guidance and practical support should be provided to all boarding schools to meet these standards, including advice on complaint handling.	Accepted	The Office of the Children's Guardian will engage with the NSW Education Standards Authority regarding the implementation of Child Safe Standards in government and non-government schools, including boarding schools.
Supporting boarding schools			
13.4	The Australian Government and state and territory governments should ensure that needs-based funding arrangements for Aboriginal and Torres Strait Islander boarding students are sufficient for schools and hostels to create child safe environments.	Accepted in principle	The Australian Government has a significant role in funding arrangements for Aboriginal and Torres Strait Islander boarding students. NSW will engage with the Australian Government on the implementation of this recommendation.
13.5	Boarding hostels for children and young people should implement the Child Safe Standards identified by the Royal Commission. State and territory independent oversight authorities should monitor and enforce the Child Safe Standards in these institutions.	Accepted in principle	The Office of the Children's Guardian will engage with boarding hostels regarding the implementation of Child Safe Standards in NSW.
Responding to complaints relating to children with harmful sexual behaviours			
13.6	Consistent with the Child Safe Standards, complaint handling policies for schools (see Recommendation 7.7) should include effective policies	Accepted	Guidelines supporting schools to respond to children with harmful sexual behaviours are being piloted in NSW Government schools. A new incident reporting protocol which streamlines the access of

#	Royal Commission recommendation	NSW Government response	Comment
	and procedures for managing complaints about children with harmful sexual behaviours.		government schools to expert advice when working with children with harmful sexual behaviours has been introduced. The NSW Government will consult with non-government schools on implementation of the Child Safe Standards.
Guidance for teachers and principals			
13.7	State and territory governments should provide nationally consistent and easily accessible guidance to teachers and principals on preventing and responding to child sexual abuse in all government and non-government schools.	Accepted	NSW has annual training modules which include training on child protection issues such as child sexual abuse, and which are compulsory for Department of Education staff and available to all other teachers. NSW also supports nationally consistent guidance for teachers and principals on preventing and responding to child sexual abuse.
Teacher registration			
13.8	The Council of Australian Governments (COAG) should consider strengthening teacher registration requirements to better protect children from sexual abuse in schools. In particular, COAG should review minimum national requirements for assessing the suitability of teachers and conducting disciplinary investigations.	Accepted in principle	The Council of Australian Governments (COAG) Education Council has created a special-purpose working party to develop shared responses to education-related recommendations arising from the Royal Commission's <i>Final report</i> . This working party will provide advice to the Education Council and COAG over the next 12 months. The NSW Government acknowledges the importance of schools, education authorities and regulatory authorities recording information about persons who are unsuitable to teach. These measures have a critical role in helping to protect children from sexual abuse and other forms of harm.
Volume 14, Sport, recreation, arts, culture, community and hobby groups			
Child Safe Standards			
14.1	All sport and recreation institutions, including arts, culture, community and hobby groups, that engage with or provide services to children should implement the Child Safe Standards identified by the Royal Commission.	Accepted in principle	The NSW Government supports all institutions that deliver services to children upholding children's rights and implementing the Child Safe Standards. The Child Safe Standards are consistent with the approach to child safe organisations currently operating in NSW. NSW will undertake further work and consultation to consider the best way to ensure child-related organisations meet the Child Safe Standards identified by the Royal Commission.
A representative voice for the sector			
14.2	The National Office for Child Safety should establish a child safety advisory committee for the sport and recreation sector with membership from government and non-government peak bodies to advise the national office on sector-specific child safety issues.	Accepted. This is a matter for the Australian Government	The NSW Government would welcome the establishment of an advisory committee for the sport and recreation sector.
Expanding Play by the Rules			
14.3	The education and information website known as Play by the Rules should be expanded and funded to develop resources – in partnership with the National Office for Child Safety – that are relevant to the broader sport and recreation sector.	Accepted in principle	The NSW Government supports the expansion of Play by the Rules. Play by the Rules is a joint collaboration between the Australian Government and state and territory Governments, as well as several other key agencies. Through the Office of Sport and Office of the Children's Guardian, the NSW Government will work with all Play by the Rules partners to explore options to expand the service.
Improving communication			
14.4	The independent state and territory oversight bodies that implement the Child Safe Standards should establish a free email subscription function for the sport and recreation sector so that all providers of these services to children can subscribe to receive relevant child safe information and links to resources.	Accepted	The Office of the Children's Guardian operates a free subscription list that provides an electronic bulletin with information on child safe organisations and resources. There are currently 17,000 subscribers to the list, including providers from the sport and recreation sectors. The Office of the Children's Guardian also provides free child safe training for the sports sector. Free seminars are delivered across NSW to assist sports clubs to understand Working with Children Check obligations and how to make clubs child safe.

#	Royal Commission recommendation	NSW Government response	Comment
Volume 15, Contemporary detention environments			
Contemporary detention environments			
15.1	All institutions engaged in child-related work, including detention institutions and those involving detention and detention-like practices, should implement the Child Safe Standards identified by the Royal Commission.	Accepted in principle	The Office of the Children’s Guardian will engage with services which involve detention-like practices and engage in child-related work, such as Juvenile Justice Centres and adolescent mental health facilities, to promote awareness and understanding about the Royal Commission’s Child Safe Standards. NSW will undertake further work and consultation to consider the best way to ensure child-related organisations meet the Child Safe Standards identified by the Royal Commission.
15.2	Given the Australian Government’s commitment to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the National Preventive Mechanism(s) should be provided with the expertise to consider and make recommendations relating to preventing and responding to child sexual abuse as part of regularly examining the treatment of persons deprived of their liberty in places of detention.	Accepted in principle	The NSW Government accepts this recommendation in principle, subject to intergovernmental agreement on OPCAT implementation and consideration of whether the National Preventive Mechanism is the appropriate mechanism to consider and make recommendations about child sexual abuse. NSW already: <ul style="list-style-type: none"> • has legislation, policy, procedural guidelines and oversight mechanisms in place to monitor places of detention • ensures protection of and respect for human rights • ensures compliance with OPCAT principles • provides protections for people in custody.
Youth detention			
Creating a safer physical environment			
15.3	Youth justice agencies in each state and territory should review the building and design features of youth detention to identify and address elements that may place children at risk. This should include consideration of how to most effectively use technology, such as closed-circuit television (CCTV) cameras and body-worn cameras, to capture interactions between children and between staff and children without unduly infringing children’s privacy.	Accepted in principle	The NSW Government adopts the Design Guidelines for Juvenile Justice Facilities in Australia and New Zealand, developed by the Victorian Department of Health and Community Services and the Australasian Juvenile Justice Administrators. The NSW Government is progressively upgrading existing CCTV infrastructure in Juvenile Justice Centres to enhance security features. NSW has considered a trial of body-worn cameras in juvenile detention centres and will monitor trials in other jurisdictions. The NSW Government commits to continuing reforms already underway to progressively enhance Juvenile Justice Centres, and ensure practices and infrastructure are child safe and rehabilitative. This approach to juvenile detention accompanies NSW’s existing initiatives in youth justice to reduce the number of children and young people in detention and complements the Their Futures Matter reform.
15.4	As part of efforts to mitigate risks of child sexual abuse in the physical environment of youth detention, state and territory governments should review legislation, policy and procedures to ensure: <ol style="list-style-type: none"> appropriate and safe placements of children in youth detention, including a risk assessment process before placement decisions that identifies if a child may be vulnerable to child sexual abuse or if a child is displaying harmful sexual behaviours children are not placed in adult prisons frameworks take into account the importance of children having access to trusted adults, including family, friends and community, in the prevention and disclosure of child sexual abuse and provide for maximum contact between children and trusted adults through visitation, and use of the telephone and audio-visual technology best practice processes are in place for strip searches and other authorised physical contact between staff and children, including sufficient safeguards to protect children such as: <ol style="list-style-type: none"> adequate communication between staff and the child before, during and after a search is conducted or other physical contact occurs 	Accepted	The NSW Government recognises the risks presented to children in detention. Current strategies to manage risks in juvenile detention which meet the recommendation: <ol style="list-style-type: none"> Children are risk assessed on admission to a Juvenile Justice Centre and routinely throughout their period in detention. Legislative provisions allow young people aged 16 years or above to be held in adult correctional facilities; however, this provision is only used in exceptional circumstances and with the authorisation of the Children’s Court. Young people can be detained in a Juvenile Justice Centre up to the age of 21 years if their offence was committed as a juvenile. Juvenile Justice promotes family and community engagement in policy, procedures and programs. Children and young people are supported in maintaining strong familial relationships through regular visits and contact while in custody. Juvenile Justice recently added the option of Audio Visual Link visits for families that may be geographically isolated and unable to visit a centre in person. See response to Recommendation 15.10 (Final report). Juvenile Justice staff are authorised to search children in secure environments in accordance with strict procedures and guidelines. Juvenile Justice does not conduct strip searches, but rather, partial body searches. A new searching procedure will be implemented in the second half of 2018 which enhances risk assessments and reduces the frequency of routine searches. Trauma-informed

#	Royal Commission recommendation	NSW Government response	Comment
	<p>ii. clear protocols detailing when such practices are permitted and how they should be performed. The key elements of these protocols should be provided to children in an accessible format</p> <p>iii. staff training that highlights the potential for strip searching to re-traumatise children who have been sexually abused and how the misuse of search powers can lead to sexual humiliation or abuse.</p> <p>State and territory governments should consider implementing strategies for detecting contraband, such as risk assessments or body scanners, to minimise the need for strip searching children.</p>		practice will be incorporated into the new procedure and training. The Department of Justice intends to examine regulatory options to guide the practice of searching children in juvenile detention centres.
Responding to children's different needs			
15.5	<p>State and territory governments should consider further strategies that provide for the cultural safety of Aboriginal and Torres Strait Islander children in youth detention including:</p> <p>a. recruiting and developing Aboriginal and Torres Strait Islander staff to work at all levels of the youth justice system, including in key roles in complaint handling systems</p> <p>b. providing access to interpreters, particularly with respect to induction and education programs, and accessing internal and external complaint handling systems</p> <p>c. ensuring that all youth detention facilities have culturally appropriate policies and procedures that facilitate connection with family, community and culture, and reflect an understanding of, and respect for, cultural practices in different clan groups</p> <p>d. employing, training and professionally developing culturally competent staff who understand the particular needs and experiences of Aboriginal and Torres Strait Islander children, including the specific barriers that Aboriginal and Torres Strait Islander children face in disclosing sexual abuse.</p>	Accepted in principle	<p>The NSW Government acknowledges the unacceptably high proportion of Aboriginal children in detention across Australia, including in NSW. Juvenile Justice is prioritising Aboriginal engagement to reduce overrepresentation and to ensure Juvenile Justice policies, procedures and programs are culturally responsive. Juvenile Justice is developing a strategy for Aboriginal recruitment and retention to further increase the already high proportion of Aboriginal staff employed. The Juvenile Justice Aboriginal Strategic Coordination Unit provides cultural advice on programs and service delivery, and promotes the support and development of Aboriginal employees.</p> <p>The NSW Government is also working with the NSW Council of Aboriginal Regional Alliances on strategies to actively reduce the number of Aboriginal children in detention for non-violent offences.</p> <p>The NSW Government recognises there is further work to do to reduce the overrepresentation of Aboriginal children in detention.</p>
15.6	All staff should receive appropriate training on the needs and experiences of children with disability, mental health problems, and alcohol or other drug problems, and children from culturally and linguistically diverse backgrounds that highlights the barriers these children may face in disclosing sexual abuse.	Accepted in principle	<p>The NSW Government recognises the high proportion of children in detention who present with complex needs, including mental and cognitive impairment, low levels of education, a history of trauma and substance abuse, and volatile family or living environments. Juvenile Justice has recently reformed recruitment practices to attract a more diverse staffing profile and enhance staff capability to respond to the experiences of children with complex needs and from a wide range of backgrounds. Juvenile Justice is also improving operational training to embed trauma-informed practice, and is strengthening clinical practices. Juvenile Justice introduced 22 custodial caseworker roles in 2017 to improve the case management of children in detention and their transition into the community.</p> <p>NSW delivers therapeutic interventions to children in custody through Juvenile Justice and recognises many children in detention are also victims of abuse. Psychologists provide therapeutic counselling both in the community and custody to children and young people with a history of sexual victimisation. Referrals are made to community services to ensure continuity of trauma counselling beyond expiration of the court order.</p>
15.7	State and territory governments should improve access to therapeutic treatment for survivors of child sexual abuse who are in youth detention, including by assessing their advocacy, support and therapeutic treatment needs and referring them to appropriate services, and ensure they are linked to ongoing treatment when they leave detention.	Accepted in principle	<p>Victims Services in the Department of Justice, in partnership with Juvenile Justice, is trialling counselling at three Juvenile Justice Centres to provide therapeutic services to address issues of trauma and victimisation, particularly to victims of sexual and violent assault.</p> <p>NSW recognises there is more to do to provide for the complex needs of children in detention.</p>
15.8	State and territory governments should ensure that all staff in youth detention are provided with training and ongoing professional development in trauma-informed care to assist them to meet the needs of children in youth detention, including children at risk of sexual abuse and children with harmful sexual behaviours.	Accepted in principle	
Improving complaint handling systems			
15.9	<p>State and territory governments should review the current internal and external complaint handling systems concerning youth detention to ensure they are capable of effectively dealing with complaints of child sexual abuse, including so that:</p> <p>a. children can easily access child-appropriate information about internal complaint processes and external oversight bodies that may</p>	Accepted	<p>NSW provides a comprehensive complaint handling system for juvenile detention facilities. Juvenile Justice currently has in place:</p> <ul style="list-style-type: none"> a Client Complaint Procedure to manage complaints as quickly, transparently and fairly as possible, and ensure procedural fairness an Ethics and Professional Standards Unit which investigates allegations of reportable conduct and/or reports matters to the NSW Police Force and the NSW Ombudsman

#	Royal Commission recommendation	NSW Government response	Comment
	<p>receive or refer children's complaints, such as visitor's schemes, ombudsmen, inspectors of custodial services, and children's commissioners or guardians</p> <p>b. children have confidential and unrestricted access to external oversight bodies</p> <p>c. staff involved in managing complaints both internally and externally include Aboriginal and Torres Strait Islander peoples and professionals qualified to provide trauma-informed care</p> <p>d. complaint handling systems are accessible for children with literacy difficulties or who speak English as a second language</p> <p>e. children are regularly consulted about the effectiveness of complaint handling systems and systems are continually improved.</p>		<ul style="list-style-type: none"> free unlimited and unmonitored phone calls from detention centres to the NSW Ombudsman an Official Visitor Scheme. <p>Juvenile Justice Centres also facilitate Detainee Representative Committees to enable children in detention to participate in regular and organised forums to raise, discuss and resolve concerns.</p> <p>Children and young people are further consulted about centre operations including complaint handling systems through routine quality assurance practices.</p> <p>Juvenile Justice, the NSW Ombudsman's Office, the Inspector of Custodial Services, the Official Visitor Scheme, and the Advocate for Children and Young People have identified roles to ensure culturally appropriate access to complaint systems.</p> <p>The Advocate for Children and Young People also routinely engages with children in detention to represent their views and experiences.</p>
Independent oversight of youth detention			
15.10	<p>State and territory governments should ensure they have an independent oversight body with the appropriate visitation, complaint handling and reporting powers, to provide oversight of youth detention. This could include an appropriately funded and independent Inspector of Custodial Services or similar body. New and existing bodies should have expertise in child-trauma, and the prevention and identification of child sexual abuse.</p>	Accepted	<p>NSW has strong independent oversight of youth detention. Children in detention are advised of their rights upon admission and Juvenile Justice Centres display information about how to make a complaint and how to access the NSW Ombudsman. Oversight functions for youth detention in NSW include those agencies listed below.</p> <p>Official Visitor Scheme</p> <p>NSW has an Official Visitor Scheme operating under the <i>Children (Detention Centres) Act 1987</i>, providing independent monitoring of Juvenile Justice Centres. It ensures the protection of rights, improves advocacy and enhances other forms of assistance related to the welfare and treatment of children in custody. There is an Aboriginal-identified Official Visitor role for each Juvenile Justice Centre. Official Visitors attend Juvenile Justice Centres weekly and ensure every child knows they are present and asks whether they need to speak with them about any issues or concerns.</p> <p>Inspector of Custodial Services</p> <p>NSW has an independent Inspector of Custodial Services to inspect Juvenile Justice Centres and report to Parliament on the findings of these inspections. The Inspector oversees the Official Visitor Scheme.</p> <p>NSW Ombudsman</p> <p>All investigations into reportable conduct have oversight from the NSW Ombudsman. Allegations are notified to the Ombudsman in accordance with the <i>Ombudsman Act 1976</i> and the investigation file is provided to the Ombudsman's Office for review.</p> <p>Children in detention have free and unmonitored access by phone to specialist investigation officers to raise any complaint about their custody or any other matter in the Ombudsman's jurisdiction. These staff also routinely visit Juvenile Justice Centres to speak with children in private and to meet with staff. Each occasion a child in detention is segregated or separated for 24 or more hours these staff are automatically notified via the Juvenile Justice client database. NSW Ombudsman custodial investigation staff have access to this database.</p> <p>Children's Guardian</p> <p>Allegations of sexual abuse or serious physical assault are notified to the NSW Office of the Children's Guardian, in accordance with the requirements under the Working with Children Check legislation.</p> <p>Other independent bodies</p> <p>The NSW Advocate for Children and Young People and the National Children's Commissioner also engage with children in detention in NSW.</p>
Immigration detention			
The Child Protection Panel recommendations			
15.11	<p>The Department of Immigration and Border Protection should publicly report within 12 months on how it has implemented the Child Protection Panel's recommendations.</p>	Accepted. This is a matter for the Australian Government	

#	Royal Commission recommendation	NSW Government response	Comment
Implementing the Child Safe Standards in immigration detention			
15.12	<p>a. The Australian Government should establish a mechanism to regularly audit the implementation of the Child Safe Standards in immigration detention by staff, contractors and agents of the Department of Immigration and Border Protection. The outcomes of each audit should be publicly reported.</p> <p>b. The Department of Immigration and Border Protection should contractually require its service providers to comply with the Child Safe Standards identified by the Royal Commission, as applied to immigration detention.</p>	Accepted. This is a matter for the Australian Government	
Therapeutic support for victims in immigration detention			
15.13	The Department of Immigration and Border Protection should identify the scope and nature of the need for support services for victims in immigration detention. The Department of Immigration and Border Protection should ensure that appropriate therapeutic and other specialist and support services are funded to meet the identified needs of victims in immigration detention and ensure they are linked to ongoing treatment when they leave detention.	Accepted. This is a matter for the Australian Government	
Training and supporting department and service provider staff			
15.14	The Department of Immigration and Border Protection should designate appropriately qualified child safety officers for each place in which children are detained. These officers should assist and build the capacity of staff and service providers at the local level to implement the Child Safe Standards.	Accepted. This is a matter for the Australian Government	
Preventive monitoring and oversight			
15.15	The Department of Immigration and Border Protection should implement an independent visitors program in immigration detention.	Accepted. This is a matter for the Australian Government	
Volume 16, Religious institutions			
Recommendations to the Anglican Church			
16.1	The Anglican Church of Australia should adopt a uniform episcopal standards framework that ensures that bishops and former bishops are accountable to an appropriate authority or body in relation to their response to complaints of child sexual abuse.	Noted – for religious institutions to respond	
16.2	<p>The Anglican Church of Australia should adopt a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse, which expressly covers:</p> <p>a. members of professional standards bodies</p> <p>b. members of diocesan councils (otherwise known as bishop-in-council or standing committee of synod)</p> <p>c. members of the Standing Committee of the General Synod</p> <p>d. chancellors and legal advisers for dioceses.</p>	Noted – for religious institutions to respond	
16.3	The Anglican Church of Australia should amend <i>Being together</i> and any other statement of expectations or code of conduct for lay members of the Anglican Church to expressly refer to the importance of child safety.	Noted – for religious institutions to respond	

#	Royal Commission recommendation	NSW Government response	Comment
16.4	The Anglican Church of Australia should develop a national approach to the selection, screening and training of candidates for ordination in the Anglican Church.	Noted – for religious institutions to respond	
16.5	The Anglican Church of Australia should develop and each diocese should implement mandatory national standards to ensure that all people in religious or pastoral ministry (bishops, clergy, religious and lay personnel): a. undertake mandatory, regular professional development, compulsory components being professional responsibility and boundaries, ethics in ministry and child safety b. undertake mandatory professional/pastoral supervision c. undergo regular performance appraisals.	Noted – for religious institutions to respond	
Recommendations to the Catholic Church			
16.6	The bishop of each Catholic Church diocese in Australia should ensure that parish priests are not the employers of principals and teachers in Catholic schools.	Noted – for religious institutions to respond	
16.7	The Australian Catholic Bishops Conference should conduct a national review of the governance and management structures of dioceses and parishes, including in relation to issues of transparency, accountability, consultation and the participation of lay men and women. This review should draw from the approaches to governance of Catholic health, community services and education agencies.	Noted – for religious institutions to respond	
16.8	In the interests of child safety and improved institutional responses to child sexual abuse, the Australian Catholic Bishops Conference should request the Holy See to: a. publish criteria for the selection of bishops, including relating to the promotion of child safety b. establish a transparent process for appointing bishops which includes the direct participation of lay people.	Noted – for religious institutions to respond	
16.9	The Australian Catholic Bishops Conference should request the Holy See to amend the 1983 Code of Canon Law to create a new canon or series of canons specifically relating to child sexual abuse, as follows: a. All delicts relating to child sexual abuse should be articulated as canonical crimes against the child, not as moral failings or as breaches of the 'special obligation of clerics and religious to observe celibacy.' b. All delicts relating to child sexual abuse should apply to any person holding a 'dignity, office or responsibility in the Church' regardless of whether they are ordained or not ordained. c. In relation to the acquisition, possession, or distribution of pornographic images, the delict (currently contained in Article 6 §2 1° of the revised 2010 norms attached to the motu proprio <i>Sacramentorum sanctitatis tutela</i>) should be amended to refer to minors under the age of 18, not minors under the age of 14.	Noted – for religious institutions to respond	
16.10	The Australian Catholic Bishops Conference should request the Holy See to amend canon law so that the pontifical secret does not apply to any aspect of allegations or canonical disciplinary processes relating to child sexual abuse.	Noted – for religious institutions to respond	
16.11	The Australian Catholic Bishops Conference should request the Holy See to amend canon law to ensure that the 'pastoral approach' is not an essential precondition to the commencement of canonical action relating to child sexual abuse.	Noted – for religious institutions to respond	

#	Royal Commission recommendation	NSW Government response	Comment
16.12	The Australian Catholic Bishops Conference should request the Holy See to amend canon law to remove the time limit (prescription) for commencement of canonical actions relating to child sexual abuse. This amendment should apply retrospectively.	Noted – for religious institutions to respond	
16.13	The Australian Catholic Bishops Conference should request the Holy See to amend the ‘imputability’ test in canon law so that a diagnosis of paedophilia is not relevant to the prosecution of or penalty for a canonical offence relating to child sexual abuse.	Noted – for religious institutions to respond	
16.14	The Australian Catholic Bishops Conference should request the Holy See to amend canon law to give effect to Recommendations 16.55 and 16.56.	Noted – for religious institutions to respond	
16.15	The Australian Catholic Bishops Conference and Catholic Religious Australia, in consultation with the Holy See, should consider establishing an Australian tribunal for trying canonical disciplinary cases against clergy, whose decisions could be appealed to the Apostolic Signatura in the usual way.	Noted – for religious institutions to respond	
16.16	The Australian Catholic Bishops Conference should request the Holy See to introduce measures to ensure that Vatican Congregations and canonical appeal courts always publish decisions in disciplinary matters relating to child sexual abuse, and provide written reasons for their decisions. Publication should occur in a timely manner. In some cases it may be appropriate to suppress information that might lead to the identification of a victim.	Noted – for religious institutions to respond	
16.17	The Australian Catholic Bishops Conference should request the Holy See to amend canon law to remove the requirement to destroy documents relating to canonical criminal cases in matters of morals, where the accused cleric has died or ten years have elapsed from the condemnatory sentence. In order to allow for delayed disclosure of abuse by victims and to take account of the limitation periods for civil actions for child sexual abuse, the minimum requirement for retention of records in the secret archives should be at least 45 years.	Noted – for religious institutions to respond	
16.18	The Australian Catholic Bishops Conference should request the Holy See to consider introducing voluntary celibacy for diocesan clergy.	Noted – for religious institutions to respond	
16.19	All Catholic religious institutes in Australia, in consultation with their international leadership and the Holy See as required, should implement measures to address the risks of harm to children and the potential psychological and sexual dysfunction associated with a celibate rule of religious life. This should include consideration of whether and how existing models of religious life could be modified to facilitate alternative forms of association, shorter terms of celibate commitment, and/or voluntary celibacy (where that is consistent with the form of association that has been chosen).	Noted – for religious institutions to respond	
16.20	In order to promote healthy lives for those who choose to be celibate, the Australian Catholic Bishops Conference and all Catholic religious institutes in Australia should further develop, regularly evaluate and continually improve, their processes for selecting, screening and training of candidates for the clergy and religious life, and their processes of ongoing formation, support and supervision of clergy and religious.	Noted – for religious institutions to respond	
16.21	The Australian Catholic Bishops Conference and Catholic Religious Australia should establish a national protocol for screening candidates	Noted – for religious institutions to respond	

#	Royal Commission recommendation	NSW Government response	Comment
	before and during seminary or religious formation, as well as before ordination or the profession of religious vows.		
16.22	The Australian Catholic Bishops Conference and Catholic Religious Australia should establish a mechanism to ensure that diocesan bishops and religious superiors draw upon broad-ranging professional advice in their decision-making, including from staff from seminaries or houses of formation, psychologists, senior clergy and religious, and lay people, in relation to the admission of individuals to: <ul style="list-style-type: none"> a. seminaries and houses of religious formation b. ordination and/or profession of vows. 	Noted – for religious institutions to respond	
16.23	In relation to guideline documents for the formation of priests and religious: <ul style="list-style-type: none"> a. The Australian Catholic Bishops Conference should review and revise the <i>Ratio nationalis institutionis sacerdotalis: Programme for priestly formation</i> (current version December 2015), and all other guideline documents relating to the formation of priests, permanent deacons, and those in pastoral ministry, to explicitly address the issue of child sexual abuse by clergy and best practice in relation to its prevention. b. All Catholic religious institutes in Australia should review and revise their particular norms and guideline documents relating to the formation of priests, religious brothers, and religious sisters, to explicitly address the issue of child sexual abuse and best practice in relation to its prevention. 	Noted – for religious institutions to respond	
16.24	The Australian Catholic Bishops Conference and Catholic Religious Australia should conduct a national review of current models of initial formation to ensure that they promote pastoral effectiveness, (including in relation to child safety and pastoral responses to victims and survivors) and protect against the development of clericalist attitudes.	Noted – for religious institutions to respond	
16.25	The Australian Catholic Bishops Conference and Catholic Religious Australia should develop and each diocese and religious institute should implement mandatory national standards to ensure that all people in religious or pastoral ministry (bishops, provincials, clergy, religious, and lay personnel): <ul style="list-style-type: none"> a. undertake mandatory, regular professional development, compulsory components being professional responsibility and boundaries, ethics in ministry, and child safety b. undertake mandatory professional/pastoral supervision c. undergo regular performance appraisals. 	Noted – for religious institutions to respond	
16.26	The Australian Catholic Bishops Conference should consult with the Holy See, and make public any advice received, in order to clarify whether: <ul style="list-style-type: none"> a. information received from a child during the sacrament of reconciliation that they have been sexually abused is covered by the seal of confession b. if a person confesses during the sacrament of reconciliation to perpetrating child sexual abuse, absolution can and should be withheld until they report themselves to civil authorities. 	Noted – for religious institutions to respond	
Recommendations to the Jehovah’s Witness organisation			
16.27	The Jehovah’s Witness organisation should abandon its application of the two-witness rule in cases involving complaints of child sexual abuse.	Noted – for religious institutions to respond	

#	Royal Commission recommendation	NSW Government response	Comment
16.28	The Jehovah's Witness organisation should revise its policies so that women are involved in processes related to investigating and determining allegations of child sexual abuse.	Noted – for religious institutions to respond	
16.29	The Jehovah's Witness organisation should no longer require its members to shun those who disassociate from the organisation in cases where the reason for disassociation is related to a person being a victim of child sexual abuse.	Noted – for religious institutions to respond	
Recommendations to Jewish institutions			
16.30	All Jewish institutions in Australia should ensure that their complaint handling policies explicitly state that the <i>halachic</i> concepts of <i>mesirah</i> , <i>moser</i> and <i>loshon horo</i> do not apply to the communication and reporting of allegations of child sexual abuse to police and other civil authorities.	Noted – for religious institutions to respond	
16.31	All institutions that provide activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children, should implement the 10 Child Safe Standards identified by the Royal Commission.	Noted – for religious institutions to respond	See response to Recommendation 6.8 (<i>Final report</i>).
16.32	Religious organisations should adopt the Royal Commission's 10 Child Safe Standards as nationally mandated standards for each of their affiliated institutions.	Noted – for religious institutions to respond	See response to Recommendation 6.8 (<i>Final report</i>).
16.33	Religious organisations should drive a consistent approach to the implementation of the Royal Commission's 10 Child Safe Standards in each of their affiliated institutions.	Noted – for religious institutions to respond	
16.34	Religious organisations should work closely with relevant state and territory oversight bodies to support the implementation of and compliance with the Royal Commission's 10 Child Safe Standards in each of their affiliated institutions.	Noted – for religious institutions to respond	
16.35	Religious institutions in highly regulated sectors, such as schools and out-of-home care service providers, should report their compliance with the Royal Commission's 10 Child Safe Standards, as monitored by the relevant sector regulator, to the religious organisation to which they are affiliated.	Noted – for religious institutions to respond	
16.36	Consistent with Child Safe Standard 1, each religious institution in Australia should ensure that its religious leaders are provided with leadership training both pre- and post-appointment, including in relation to the promotion of child safety.	Noted – for religious institutions to respond	
16.37	Consistent with Child Safe Standard 1, leaders of religious institutions should ensure that there are mechanisms through which they receive advice from individuals with relevant professional expertise on all matters relating to child sexual abuse and child safety. This should include in relation to prevention, policies and procedures and complaint handling. These mechanisms should facilitate advice from people with a variety of professional backgrounds and include lay men and women.	Noted – for religious institutions to respond	
16.38	Consistent with Child Safe Standard 1, each religious institution should ensure that religious leaders are accountable to an appropriate authority or body, such as a board of management or council, for the decisions they make with respect to child safety.	Noted – for religious institutions to respond	

#	Royal Commission recommendation	NSW Government response	Comment
16.39	Consistent with Child Safe Standard 1, each religious institution should have a policy relating to the management of actual or perceived conflicts of interest that may arise in relation to allegations of child sexual abuse. The policy should cover all individuals who have a role in responding to complaints of child sexual abuse.	Noted – for religious institutions to respond	
16.40	Consistent with Child Safe Standard 2, wherever a religious institution has children in its care, those children should be provided with age-appropriate prevention education that aims to increase their knowledge of child sexual abuse and build practical skills to assist in strengthening self-protective skills and strategies. Prevention education in religious institutions should specifically address the power and status of people in religious ministry and educate children that no one has a right to invade their privacy and make them feel unsafe.	Noted – for religious institutions to respond	
16.41	Consistent with Child Safe Standard 3, each religious institution should make provision for family and community involvement by publishing all policies relevant to child safety on its website, providing opportunities for comment on its approach to child safety, and seeking periodic feedback about the effectiveness of its approach to child safety.	Noted – for religious institutions to respond	
16.42	Consistent with Child Safe Standard 5, each religious institution should require that candidates for religious ministry undergo external psychological testing, including psychosexual assessment, for the purposes of determining their suitability to be a person in religious ministry and to undertake work involving children.	Noted – for religious institutions to respond	
16.43	Each religious institution should ensure that candidates for religious ministry undertake minimum training on child safety and related matters, including training that: <ul style="list-style-type: none"> a. equips candidates with an understanding of the Royal Commission’s 10 Child Safe Standards b. educates candidates on: <ul style="list-style-type: none"> i. professional responsibility and boundaries, ethics in ministry and child safety ii. policies regarding appropriate responses to allegations or complaints of child sexual abuse, and how to implement these policies iii. how to work with children, including childhood development iv. identifying and understanding the nature, indicators and impacts of child sexual abuse. 	Noted – for religious institutions to respond	
16.44	Consistent with Child Safe Standard 5, each religious institution should ensure that all people in religious or pastoral ministry, including religious leaders, are subject to effective management and oversight and undertake annual performance appraisals.	Noted – for religious institutions to respond	
16.45	Consistent with Child Safe Standard 5, each religious institution should ensure that all people in religious or pastoral ministry, including religious leaders, have professional supervision with a trained professional or pastoral supervisor who has a degree of independence from the institution within which the person is in ministry.	Noted – for religious institutions to respond	
16.46	Religious institutions which receive people from overseas to work in religious or pastoral ministry, or otherwise within their institution, should have targeted programs for the screening, initial training and professional supervision and development of those people. These programs should include material covering professional responsibility and boundaries, ethics in ministry and child safety.	Noted – for religious institutions to respond	

#	Royal Commission recommendation	NSW Government response	Comment
16.47	Consistent with Child Safe Standard 7, each religious institution should require that all people in religious or pastoral ministry, including religious leaders, undertake regular training on the institution's child safe policies and procedures. They should also be provided with opportunities for external training on best practice approaches to child safety.	Noted – for religious institutions to respond	
16.48	Religious institutions which have a rite of religious confession for children should implement a policy that requires the rite only be conducted in an open space within the clear line of sight of another adult. The policy should specify that, if another adult is not available, the rite of religious confession for the child should not be performed.	Noted – for religious institutions to respond	
16.49	Codes of conduct in religious institutions should explicitly and equally apply to people in religious ministry and to lay people.	Noted – for religious institutions to respond	
16.50	Consistent with Child Safe Standard 7, each religious institution should require all people in religious ministry, leaders, members of boards, councils and other governing bodies, employees, relevant contractors and volunteers to undergo initial and periodic training on its code of conduct. This training should include: <ul style="list-style-type: none"> a. what kinds of allegations or complaints relating to child sexual abuse should be reported and to whom b. identifying inappropriate behaviour which may be a precursor to abuse, including grooming c. recognising physical and behavioural indicators of child sexual abuse d. that all complaints relating to child sexual abuse must be taken seriously, regardless of the perceived severity of the behaviour. 	Noted – for religious institutions to respond	
16.51	All religious institutions' complaint handling policies should require that, upon receiving a complaint of child sexual abuse, an initial risk assessment is conducted to identify and minimise any risks to children.	Noted – for religious institutions to respond	
16.52	All religious institutions' complaint handling policies should require that, if a complaint of child sexual abuse against a person in religious ministry is plausible, and there is a risk that person may come into contact with children in the course of their ministry, the person be stood down from ministry while the complaint is investigated.	Noted – for religious institutions to respond	
16.53	The standard of proof that a religious institution should apply when deciding whether a complaint of child sexual abuse has been substantiated is the balance of probabilities, having regard to the principles in <i>Briginshaw v Briginshaw</i> .	Noted – for religious institutions to respond	
16.54	Religious institutions should apply the same standards for investigating complaints of child sexual abuse whether or not the subject of the complaint is a person in religious ministry.	Noted – for religious institutions to respond	
16.55	Any person in religious ministry who is the subject of a complaint of child sexual abuse which is substantiated on the balance of probabilities, having regard to the principles in <i>Briginshaw v Briginshaw</i> , or who is convicted of an offence relating to child sexual abuse, should be permanently removed from ministry. Religious institutions should also take all necessary steps to effectively prohibit the person from in any way holding himself or herself out as being a person with religious authority.	Noted – for religious institutions to respond	
16.56	Any person in religious ministry who is convicted of an offence relating to child sexual abuse should:	Noted – for religious institutions to respond	

#	Royal Commission recommendation	NSW Government response	Comment
	<p>a. in the case of Catholic priests and religious, be dismissed from the priesthood and/or dispensed from his or her vows as a religious</p> <p>b. in the case of Anglican clergy, be deposed from holy orders</p> <p>c. in the case of Uniting Church ministers, have his or her recognition as a minister withdrawn</p> <p>d. in the case of an ordained person in any other religious denomination that has a concept of ordination, holy orders and/or vows, be dismissed, deposed or otherwise effectively have their religious status removed.</p>		
16.57	<p>Where a religious institution becomes aware that any person attending any of its religious services or activities is the subject of a substantiated complaint of child sexual abuse, or has been convicted of an offence relating to child sexual abuse, the religious institution should:</p> <p>a. assess the level of risk posed to children by that perpetrator's ongoing involvement in the religious community</p> <p>b. take appropriate steps to manage that risk.</p>	Noted – for religious institutions to respond	
16.58	Each religious organisation should consider establishing a national register which records limited but sufficient information to assist affiliated institutions identify and respond to any risks to children that may be posed by people in religious or pastoral ministry.	Noted – for religious institutions to respond	
Volume 17, Beyond the Royal Commission			
Monitoring and reporting on implementation			
An initial government response			
17.1	The Australian Government and state and territory governments should each issue a formal response to this Final Report within six months of it being tabled, indicating whether our recommendations are accepted, accepted in principle, rejected or subject to further consideration.	Accepted (National priority)	The NSW Government agrees to issue formal responses to the Final report in June 2018.
Ongoing periodic reporting			
17.2	The Australian Government and state and territory governments should, beginning 12 months after this Final Report is tabled, report on their implementation of the Royal Commission's recommendations made in this Final Report and its earlier <i>Working with Children Checks, Redress and civil litigation</i> and <i>Criminal justice</i> reports, through five consecutive annual reports tabled before their respective parliaments.	Accepted (National priority)	<p>The NSW Government agrees to report on progress in implementing the Royal Commission's recommendations from the Final report, and the Working with Children Checks, Redress and civil litigation, and Criminal justice reports.</p> <p>These progress reports will be tabled before the NSW Parliament. Information will also be shared with the public, with a focus on ensuring information is accessible to survivors, families, children and institutions.</p>
17.3	Major institutions and peak bodies of institutions that engage in child-related work should, beginning 12 months after this Final Report is tabled, report on their implementation of the Royal Commission's recommendations to the National Office for Child Safety through five consecutive annual reports. The National Office for Child Safety should make these reports publicly available. At a minimum, the institutions reporting should include those that were the subject of the Royal Commission's institutional review hearings held from 5 December 2016 to 10 March 2017.	Noted – for major institutions and peak bodies of institutions to respond	
10-year review			
17.4	The Australian Government should initiate a review to be conducted 10 years after the tabling of this Final Report. This review should:	Accepted. This is a matter for the Australian Government	The NSW Government welcomes a future review by the Australian Government on the implementation of the Royal Commission's recommendations.

#	Royal Commission recommendation	NSW Government response	Comment
	<p>a. establish the extent to which the Royal Commission's recommendations have been implemented 10 years after the tabling of the Final Report</p> <p>b. examine the extent to which the measures taken in response to the Royal Commission have been effective in preventing child sexual abuse, improving the responses of institutions to child sexual abuse and ensuring that victims and survivors of child sexual abuse obtain justice, treatment and support</p> <p>c. advise on what further steps should be taken by governments and institutions to ensure continuing improvement in policy and service delivery in relation to child sexual abuse in institutional contexts.</p>		
Preserving the records of the Royal Commission			
17.5	The Australian Government should host and maintain the Royal Commission website for the duration of the national redress scheme for victims and survivors of institutional child sexual abuse.	Accepted. This is a matter for the Australian Government	The NSW Government supports a national website. In addition, the NSW Government provides updates on progress at www.nsw.gov.au/royalcommission .
A national memorial to victims and survivors of child sexual abuse in institutional contexts			
17.6	A national memorial should be commissioned by the Australian Government for victims and survivors of child sexual abuse in institutional contexts. Victims and survivors should be consulted on the memorial design and it should be located in Canberra.	Accepted. This is a matter for the Australian Government	The NSW Government recognises the courage of survivors who shared their heartbreaking accounts of the abuse experienced in institutions entrusted with their care.

Criminal justice report NSW Government response

The *Criminal justice report* was released in August 2017.

It includes 85 recommendations.

The recommendations cover:

- police responses
- child sexual abuse offences
- third-party offences
- prosecution responses
- tendency and coincidence evidence, and joint trials.



03

#	Royal Commission recommendation	NSW Government response	Comment
Our approach to criminal justice reforms			
1	In relation to child sexual abuse, including institutional child sexual abuse, the criminal justice system should be reformed to ensure that the following objectives are met: <ul style="list-style-type: none"> a. the criminal justice system operates in the interests of seeking justice for society, including the complainant and the accused b. criminal justice responses are available for victims and survivors c. victims and survivors are supported in seeking criminal justice responses. 	Accepted	The NSW Government has introduced a package of reforms to strengthen child sexual abuse laws to ensure the criminal justice system in NSW meets these objectives and reflects the spirit of all the Royal Commission's criminal justice recommendations.
Current police responses			
2	Australian governments should refer to the Steering Committee for the Report on Government Services for review the issues of: <ul style="list-style-type: none"> a. how the reporting framework for police services in the Report on Government Services could be extended to include reporting on child sexual abuse offences b. whether any outcome measures that would be appropriate for police investigations of child sexual abuse offences could be developed and reported on. 	Accepted	The NSW Government welcomes consideration of these two issues by the Steering Committee for the Report on Government Services. The NSW Police Force will consider the types of measures that can be identified and developed for inclusion in the report, and will seek input from the Department of Family and Community Services and NSW Health as necessary.
Issues in police responses			
Principles for initial police responses			
3	Each Australian government should ensure that its policing agency: <ul style="list-style-type: none"> a. recognises that a victim or survivor's initial contact with police will be important in determining their satisfaction with the entire criminal justice response and in influencing their willingness to proceed with a report and to participate in a prosecution b. ensures that all police who may come into contact with victims or survivors of institutional child sexual abuse are trained to: <ul style="list-style-type: none"> establishes arrangements to ensure that, on initial contact from a <ul style="list-style-type: none"> i. have a basic understanding of complex trauma and how it can affect people who report to police, including those who may have difficulties dealing with institutions or persons in positions of authority (such as the police) ii. treat anyone who approaches the police to report child sexual abuse with consideration and respect, taking account of any relevant cultural safety issues c. victim or survivor, police refer victims and survivors to appropriate support services. 	Accepted	The NSW Police Force has worked with the Royal Commission to develop a Mandatory Continuing Police Education training package which is schedule for delivery to all police in 2017–2018. Issues covered by the training include the importance of the initial police response, the impact of complex trauma on reporting, treating victims with dignity and respect, and referrals to external support or service providers. In addition, the NSW Police Force has reviewed and updated its internal policies to ensure they reflect victim care and support best practice.
Encouraging reporting			
4	To encourage reporting of allegations of child sexual abuse, including institutional child sexual abuse, each Australian government should ensure that its policing agency: <ul style="list-style-type: none"> a. takes steps to communicate to victims (and their families or support people where the victims are children or are particularly vulnerable) that their decision whether to participate in a police investigation will be respected – that is, victims retain the right to withdraw at any stage in the process and to decline to proceed further with police and/or any prosecution b. provides information on the different ways in which victims and survivors can report to police or seek advice from police on their options for reporting or not reporting abuse – this should be in a 	Accepted in principle	The NSW Police Force is committed to encouraging and facilitating the reporting of child sexual abuse. <ul style="list-style-type: none"> a. The NSW Police Force currently delivers training on communication with victims, including on encouraging victims to be involved in the decision-making process. The NSW Government will consider including the right of a victim to withdraw from the process in the Charter of Victims Rights or the Code of Practice for the Charter of Victims Rights. b. The NSW Police Force, Department of Family and Community Services, NSW Health and the Department of Education will consider what improvements can be made to communication materials on reporting options that are made available to the community. c. The NSW Police Force will consider additional channels for reporting and will consider what improvements may be made to existing channels.

#	Royal Commission recommendation	NSW Government response	Comment
	<p>format that allows institutions and survivor advocacy and support groups and support services to provide it to victims and survivors</p> <p>c. makes available a range of channels to encourage reporting, including specialist telephone numbers and online reporting forms, and provides information about what to expect from each channel of reporting</p> <p>d. works with survivor advocacy and support groups and support services, including those working with people from culturally and linguistically diverse backgrounds and people with disability, to facilitate reporting by victims and survivors</p> <p>e. allows victims and survivors to benefit from the presence of a support person of their choice if they so wish throughout their dealings with police, provided that this will not interfere with the police investigation or risk contaminating evidence</p> <p>f. is willing to take statements from victims and survivors in circumstances where the alleged perpetrator is dead or is otherwise unlikely to be able to be tried.</p>		<p>d. The NSW Police Force and other relevant agencies (such as Victims Services within the Department of Justice) actively engage with diverse victim advocacy and support groups to facilitate reporting.</p> <p>e. Victims may be accompanied by a support person in accordance with NSW Police Force policy, and may elect an alternative support person if their first choice would interfere with the investigation or prosecution.</p> <p>f. The NSW Police Force is committed to taking reports from victims where the alleged perpetrator is dead or is otherwise unlikely to be able to be brought before a court. The NSW Government will consider if a supporting amendment should be made to the Charter of Victims Rights or the Code of Practice for the Charter of Victims Rights.</p>
5	<p>To encourage reporting of allegations of child sexual abuse, including institutional child sexual abuse, among Aboriginal and Torres Strait Islander victims and survivors, each Australian government should ensure that its policing agency:</p> <p>a. takes the lead in developing good relationships with Aboriginal and Torres Strait Islander communities</p> <p>b. provides channels for reporting outside of the community (such as telephone numbers and online reporting forms).</p>	Accepted	<p>The Aboriginal Strategic Direction 2018–2023 guides the NSW Police Force in seeking a genuine level of Aboriginal community ownership and involvement through a consultative and proactive approach. Minor crimes can be reported to the NSW Police Force via telephone or the internet. The NSW Police Force will consider whether these reporting channels should be available when reporting child sexual abuse.</p>
6	<p>To encourage prisoners and former prisoners to report allegations of child sexual abuse, including institutional child sexual abuse, each Australian government should ensure that its policing agency:</p> <p>a. provides channels for reporting that can be used from prison and that allow reports to be made confidentially</p> <p>b. does not require former prisoners to report at a police station.</p>	Accepted in principle	<p>The NSW Police Force, NSW Corrective Services and Victims Services will develop a protocol to support reporting from prisons.</p>
Police investigations			
7	<p>Each Australian government should ensure that its policing agency conducts investigations of reports of child sexual abuse, including institutional child sexual abuse, in accordance with the following principles:</p> <p>a. While recognising the complexity of police rosters, staffing and transfers, police should recognise the benefit to victims and their families and survivors of continuity in police staffing and should take steps to facilitate, to the extent possible, continuity in police staffing on an investigation of a complaint.</p> <p>b. Police should recognise the importance to victims and their families and survivors of police maintaining regular communication with them to keep them informed of the status of their report and any investigation unless they have asked not to be kept informed.</p> <p>c. Particularly in relation to historical allegations of institutional child sexual abuse, police who assess or provide an investigative response to allegations should be trained to:</p> <p>i. be non-judgmental and recognise that many victims of child sexual abuse will go on to develop substance abuse and mental health problems, and some may have a criminal record</p> <p>ii. focus on the credibility of the complaint or allegation rather than focusing only on the credibility of the complainant.</p>	Accepted	<p>The NSW Police Force will ensure that these principles continue to be upheld in practice.</p> <p>a. The NSW Police Force aims for staff continuity in an investigation, and facilitates this by maintaining dedicated investigators for child sexual abuse and other child abuse in Child Abuse Units.</p> <p>b. The importance of communication with victims is emphasised by the requirements of regular contact in the Charter of Victims Rights.</p> <p>c. The new Mandatory Continuing Police Education training package developed collaboratively with the Royal Commission covers best practice for responding to and investigating child sexual abuse matters.</p>
8	<p>State and territory governments should introduce legislation to implement Recommendation 20-1 of the report of the Australian Law</p>	Accepted	<p>Recommendation 20-1 was based on NSW legislative provisions introduced in response to recommendations made in the <i>Report of the Special Commission of Inquiry into Child Protection</i></p>

#	Royal Commission recommendation	NSW Government response	Comment
	<p>Reform Commission and the New South Wales Law Reform Commission <i>Family violence: A national legal response</i> in relation to disclosing or revealing the identity of a mandatory reporter to a law enforcement agency.</p> <p><i>Recommendation 20-1: State and territory child protection legislation should authorise a person to disclose to a law enforcement agency—including federal, state and territory police—the identity of a reporter, or the contents of a report from which the reporter’s identity may be revealed, where:</i></p> <p>a. <i>the disclosure is in connection with the investigation of a serious offence alleged to have been committed against a child or young person; and</i></p> <p>b. <i>the disclosure is necessary to safeguard or promote the safety, welfare and wellbeing of any child or young person, whether or not the child or young person is the victim of the alleged offence.</i></p> <p><i>The information should only be disclosed where:</i></p> <p>a. <i>the information is requested by a senior law enforcement officer, who has certified in writing beforehand that obtaining the reporter’s consent would prejudice the investigation of the serious offence concerned; or</i></p> <p>b. <i>the agency that discloses the identity of the reporter has certified in writing that it is impractical to obtain the consent.</i></p> <p><i>Where information is disclosed, the person who discloses the identity of the reporter, or the contents of a report from which the identity of a reporter may be revealed, should notify the reporter as soon as practicable of this fact, unless to do so would prejudice the investigation.</i></p>		<p><i>Services in NSW</i> in 2008. These provisions commenced in 2010 and are still in place (see section 29(4A)-(4C) of the <i>Children and Young Persons (Care and Protection) Act 1998</i>).</p>
Investigative interviews for use as evidence in chief			
9	<p>Each Australian government should ensure that its policing agency conducts investigative interviewing in relation to reports of child sexual abuse, including institutional child sexual abuse, in accordance with the following principles:</p> <p>a. All police who provide an investigative response (whether specialist or generalist) to child sexual abuse should receive at least basic training in understanding sexual offending, including the nature of child sexual abuse and institutional child sexual abuse offending.</p> <p>b. All police who provide an investigative response (whether specialist or generalist) to child sexual abuse should be trained to interview the complainant in accordance with current research and learning about how memory works in order to obtain the complainant’s memory of the events.</p> <p>c. The importance of video recorded interviews for children and other vulnerable witnesses should be recognised, as these interviews usually form all, or most, of the complainant’s and other relevant witnesses’ evidence in chief in any prosecution.</p> <p>d. Investigative interviewing of children and other vulnerable witnesses should be undertaken by police with specialist training. The specialist training should focus on:</p> <p>i. a specialist understanding of child sexual abuse, including institutional child sexual abuse, and the developmental and communication needs of children and other vulnerable witnesses</p> <p>ii. skill development in planning and conducting interviews, including use of appropriate questioning techniques.</p> <p>e. Specialist police should undergo refresher training on a periodical basis to ensure that their specialist understanding and skills remain up to date and accord with current research.</p>	Accepted	<p>The NSW Police Force will ensure that these principles continue to be upheld in practice.</p> <p>a, b, d, e. All child sexual abuse matters in NSW are investigated and victims are interviewed by qualified and trained criminal investigators, mostly from specialised Child Abuse Units. The new Mandatory Continuing Police Education training package developed collaboratively with the Royal Commission will enhance the investigative response and investigative interviews undertaken by police. A refresher course is currently being developed which will be regularly delivered to Child Abuse Units.</p> <p>c. All interviews with children under 16 or with a cognitive impairment are recorded.</p> <p>f, g. The NSW Police Force is developing a process to review sample interviews of all Child Abuse Unit investigators, and will assess and address any impediments to using these interviews for quality assurance and training purposes.</p> <p>h. The NSW Police Force is currently trialling the use of high-definition Pan Tilt Zoom cameras in dedicated child interview suites.</p> <p>i. Interpreters are made available to any victim or witness where necessary.</p> <p>j. The NSW Government is trialling the use of witness intermediaries for child victims as part of the Child Sexual Offence Evidence Pilot (CSO Evidence Pilot). See response to Recommendation 59 (<i>Criminal justice report</i>).</p>

#	Royal Commission recommendation	NSW Government response	Comment
	<p>f. From time to time, experts should review a sample of video recorded interviews with children and other vulnerable witnesses conducted by specialist police for quality assurance and training purposes and to reinforce best-practice interviewing techniques.</p> <p>g. State and territory governments should introduce legislation to remove any impediments, including in relation to privacy concerns, to the use of video recorded interviews so that the relevant police officer, his or her supervisor and any persons engaged by police in quality assurance and training can review video recorded interviews for quality assurance and training purposes. This should not authorise the use of video recorded interviews for general training in a manner that would raise privacy concerns.</p> <p>h. Police should continue to work towards improving the technical quality of video recorded interviews so that they are technically as effective as possible in presenting the complainant's and other witnesses' evidence in chief.</p> <p>i. Police should recognise the importance of interpreters, including for some Aboriginal and Torres Strait Islander victims, survivors and other witnesses.</p> <p>j. Intermediaries should be available to assist in police investigative interviews of children and other vulnerable witnesses.</p>		
Police charging decisions			
10	<p>Each Australian government should ensure that its policing agency makes decisions in relation to whether to lay charges for child sexual abuse offences in accordance with the following principles:</p> <p>a. Recognising that it is important to complainants that the correct charges be laid as early as possible so that charges are not significantly downgraded at or close to trial, police should ensure that care is taken, and that early prosecution advice is sought, where appropriate, in laying charges.</p> <p>b. In making decisions about whether to charge, police should not:</p> <p>i. expect or require corroboration where the victim or survivor's account does not suggest that there should be any corroboration available</p> <p>ii. rely on the absence of corroboration as a determinative factor in deciding not to charge, where the victim or survivor's account does not suggest that there should be any corroboration available, unless the prosecution service advises otherwise.</p>	Accepted	<p>The NSW Police Force will ensure that these principles continue to be upheld in practice.</p> <p>a. The early appropriate guilty pleas scheme (see response to Recommendation 72 – <i>Criminal justice report</i>) includes a charge certification component. A senior prosecutor reviews the brief of evidence as soon as it is served and confirms that the charges will proceed.</p> <p>b. The NSW Police Force seeks to reach a standard of sufficiency of evidence to commence criminal proceedings, whether through corroborating evidence or other evidence.</p>
11	<p>The Victorian Government should review the operation of section 401 of the <i>Criminal Procedure Act 2009</i> (Vic) and consider amending the provision to restrict the awarding of costs against police if it appears that the risk of costs awards might be affecting police decisions to prosecute. The government of any other state or territory that has similar provisions should conduct a similar review and should consider similar amendments.</p>	Accepted	<p>This recommendation is not applicable to NSW, where costs may be awarded against a public officer in limited prescribed circumstances (see section 177 of the <i>Criminal Procedure Act 1986</i>).</p>
Police responses to reports of historical child sexual abuse			
12	<p>Each Australian government should ensure that, if its policing agency does not provide a specialist response to victims and survivors reporting historical child sexual abuse, its policing agency develops and implements a document in the nature of a 'guarantee of service' which sets out for the benefit of victims and survivors – and as a reminder to the police involved – what victims and survivors are entitled to expect in the police response</p>	Accepted in principle	<p>The NSW Police Force provides a specialist response to victims in Child Abuse Units under the Child Abuse and Sex Crimes Squad. However, there are also numerous policies in place setting out what victims are entitled to expect in the police response to their report, including the Charter of Victims Rights. The NSW Government will review the Charter of Victims Rights and the Code of Practice for the Charter of Victims Rights to ensure there are no gaps in its coverage of the specific entitlements identified by the Royal Commission.</p>

#	Royal Commission recommendation	NSW Government response	Comment
	<p>to their report of child sexual abuse. The document should include information to the effect that victims and survivors are entitled to:</p> <ol style="list-style-type: none"> be treated by police with consideration and respect, taking account of any relevant cultural safety issues have their views about whether they wish to participate in the police investigation respected be referred to appropriate support services contact police through a support person or organisation rather than contacting police directly if they prefer have the assistance of a support person of their choice throughout their dealings with police unless this will interfere with the police investigation or risk contaminating evidence have their statement taken by police even if the alleged perpetrator is dead be provided with the details of a nominated person within the police service for them to contact be kept informed of the status of their report and any investigation unless they do not wish to be kept informed have the police focus on the credibility of the complaint or allegations rather than focusing only on the credibility of the complainant, recognising that many victims of child sexual abuse will go on to develop substance abuse and mental health problems, and some may have a criminal record. 		
Police responses to reports of child sexual abuse made by people with disability			
13	<p>Each Australian government should ensure that its policing agency responds to victims and survivors with disability, or their representatives, who report or seek to report child sexual abuse, including institutional child sexual abuse, to police in accordance with the following principles:</p> <ol style="list-style-type: none"> Police who have initial contact with the victim or survivor should be non-judgmental and should not make any adverse assessment of the victim or survivor’s credibility, reliability or ability to make a report or participate in a police investigation or prosecution because of their disability. Police who assess or provide an investigative response to allegations made by victims and survivors with disability should focus on the credibility of the complaint or allegation rather than focusing only on the credibility of the complainant, and they should not make any adverse assessment of the victim or survivor’s credibility or reliability because of their disability. Police who conduct investigative interviewing should make all appropriate use of any available intermediary scheme, and communication supports, to ensure that the victim or survivor is able to give their best evidence in the investigative interview. Decisions in relation to whether to lay charges for child sexual abuse offences should take full account of the ability of any available intermediary scheme, and communication supports, to assist the victim or survivor to give their best evidence when required in the prosecution process. 	Accepted	<p>The NSW Police Force will ensure that these principles continue to be upheld in practice.</p> <p>The NSW Police Force provides training and resources to police on how to respond to victims and victims with disability. Police are encouraged to rely on the strength of a complainant’s evidence and not make any adverse assessment based on their disability, and are advised to encourage victims with disability to have a support person to assist them.</p>
Police responses and institutions			
Police communication and advice			
14	<p>In order to assist in the investigation of current allegations of institutional child sexual abuse, each Australian government should ensure that its policing agency:</p>	Accepted	<p>The Local Contact Point Protocol (LCPP) is a joint procedure developed by the Department of Family and Community Services (FACS), the NSW Police Force and NSW Health, which aligns with existing policies and procedures governing the three agencies and that of the NSW Department of Education.</p>

#	Royal Commission recommendation	NSW Government response	Comment
	<p>a. develops and keeps under review procedures and protocols to guide police and institutions about the information and assistance police can provide to institutions where a current allegation of institutional child sexual abuse is made</p> <p>b. develops and keeps under review procedures and protocols to guide the police, other agencies, institutions and the broader community on the information and assistance police can provide to children and parents and the broader community where a current allegation of institutional child sexual abuse is made.</p>		<p>The LCPP allows for the provision of information and support to the parents of children who may be at risk and concerned community members where there are allegations of child sexual abuse involving an institution.</p> <p>Led by the NSW Police Force, and supported by FACS and NSW Health, the protocol will be updated to reflect the Royal Commission's recommendations and any outstanding recommendations from the August 2017 NSW Ombudsman review report.</p>
15	The New South Wales Standard Operating Procedures for Employment Related Child Abuse Allegations and the Joint Investigation Response Team Local Contact Point Protocol should serve as useful precedents for other Australian governments to consider.	Accepted	This recommendation is based on existing practice in NSW.
Blind reporting			
16	<p>In relation to blind reporting, institutions and survivor advocacy and support groups should:</p> <p>a. be clear that, where the law requires reporting to police, child protection or another agency, the institution or group or its relevant staff member or official will report as required</p> <p>b. develop and adopt clear guidelines to inform staff and volunteers, victims and their families and survivors, and police, child protection and other agencies as to the approach the institution or group will take in relation to allegations, reports or disclosures it receives that it is not required by law to report to police, child protection or another agency.</p>	Accepted	<p>The NSW Department of Justice has consulted victim advocacy and support groups on recommendations 16–19 and has communicated the Royal Commission's recommended approach to blind reporting.</p> <p>To further assist victim and advocacy groups to develop or update their own processes and resources, Victims Services will facilitate consultations between the victim advocacy and support groups and the NSW Police Force through existing forums.</p>
17	If a relevant institution or survivor advocacy and support group adopts a policy of reporting survivors' details to police without survivors' consent – that is, if it will not make blind reports – it should seek to provide information about alternative avenues for a survivor to seek support if this aspect of the institution or group's guidelines is not acceptable to the survivor.	Accepted	
18	Institutions and survivor advocacy and support groups that adopt a policy that they will not report the survivor's details without the survivor's consent should make a blind report to police in preference to making no report at all.	Accepted	
19	<p>Regardless of an institution or survivor advocacy and support group's policy in relation to blind reporting, the institution or group should provide survivors with:</p> <p>a. information to inform them about options for reporting to police</p> <p>b. support to report to police if the survivor is willing to do so.</p>	Accepted	
20	Police should ensure that they review any blind reports they receive and that they are available as intelligence in relation to any current or subsequent police investigations. If it appears that talking to the survivor might assist with a police investigation, police should contact the relevant institution or survivor advocacy and support group, and police and the institution or group should cooperate to try to find a way in which the survivor will be sufficiently supported so that they are willing to speak to police.	Accepted	The NSW Police Force (NSWPF) will continue to review all reports received, including blind reports, and work with survivor advocacy and support groups to ensure victims are supported to speak to police if they decide to do so.
Persistent child sexual abuse offences			
21	Each state and territory government should introduce legislation to amend its persistent child sexual abuse offence so that:	Accepted	The NSW Government has introduced legislation to reform and strengthen the persistent child sexual abuse offence so that it is based on maintaining an unlawful relationship, where an accused engages in

#	Royal Commission recommendation	NSW Government response	Comment
	<p>a. the actus reus is the maintaining of an unlawful sexual relationship</p> <p>b. an unlawful sexual relationship is established by more than one unlawful sexual act</p> <p>c. the trier of fact must be satisfied beyond reasonable doubt that the unlawful sexual relationship existed but, where the trier of fact is a jury, jurors need not be satisfied of the same unlawful sexual acts</p> <p>d. the offence applies retrospectively but only to sexual acts that were unlawful at the time they were committed</p> <p>e. on sentencing, regard is to be had to relevant lower statutory maximum penalties if the offence is charged with retrospective application.</p>		two or more unlawful sexual acts with or towards a child over any period of time. The maximum penalty for the offence has been increased from 25 years to life imprisonment.
22	The draft provision in Appendix H provides for the recommended reform. Legislation to the effect of the draft provision should be introduced.	Accepted in principle	
23	State and territory governments (other than Victoria) should consider introducing legislation to establish legislative authority for course of conduct charges in relation to child sexual abuse offences if legislative authority may assist in using course of conduct charges.	Accepted in principle	The NSW Government considered introducing a course of conduct charge and determined that it is unnecessary. Any conduct that could be prosecuted through a course of conduct charge will be able to be prosecuted under the strengthened offence of persistent child sexual abuse (see response to Recommendation 21 – <i>Criminal Justice report</i>).
24	State and territory governments should consider providing for any of the two or more unlawful sexual acts that are particularised for the maintaining an unlawful sexual relationship offence to be particularised as courses of conduct.	Accepted in principle	
Grooming offences			
25	To the extent they do not already have a broad grooming offence, each state and territory government should introduce legislation to amend its criminal legislation to adopt a broad grooming offence that captures any communication or conduct with a child undertaken with the intention of grooming the child to be involved in a sexual offence.	Accepted in principle	The NSW Government has introduced legislation to broaden the offence of grooming to include where an adult provides a child with gifts or money with the intention of making it easier to procure the child for unlawful sexual activity. This ensures the offence captures common grooming behaviour, while ensuring that the prosecution can continue to use evidence of more general relationship and trust-building behaviours by the accused on sentence for substantive offences.
26	Each state and territory government (other than Victoria) should introduce legislation to extend its broad grooming offence to the grooming of persons other than the child.	Accepted	The NSW Government has introduced legislation making it an offence for an adult to groom another adult. The offence covers circumstances where an adult provides another adult, who has care of or authority over a child, with a financial or material benefit with the intention of making it easier to access the child for unlawful sexual activity
Position of authority offences			
27	State and territory governments should review any position of authority offences applying in circumstances where the victim is 16 or 17 years of age and the offender is in a position of authority (however described) in relation to the victim. If the offences require more than the existence of the relationship of authority (for example, that it be 'abused' or 'exercised'), states and territories should introduce legislation to amend the offences so that the existence of the relationship is sufficient.	Accepted	<p>The 'special care offence' in s 73 of the <i>Crimes Act 1900</i> is aligned with this recommendation.</p> <p>The NSW Government recently acted to further strengthen the offence by broadening the definition of 'teacher' to include any person who works at a school and has students under their care or authority. In addition, a new special care offence was introduced to criminalise sexual touching within a special care relationship.</p> <p>The NSW Government has also instigated a parliamentary inquiry into the adequacy and scope of the special care offence to ensure it is achieving its aim of protecting children.</p>
28	State and territory governments should review any provisions allowing consent to be negated in the event of sexual contact between a victim of 16 or 17 years of age and an offender who is in a position of authority (however described) in relation to the victim. If the provisions require more than the existence of the relationship of authority (for example, that it be 'abused' or 'exercised'), state and territory governments should introduce legislation to amend the provisions so that the existence of the relationship is sufficient.	Accepted	The special care offence in s 73 of the <i>Crimes Act 1900</i> is aligned with this recommendation.

#	Royal Commission recommendation	NSW Government response	Comment
29	If there is a concern that one or more categories of persons in a position of authority (however described) may be too broad and may catch sexual contact which should not be criminalised when it is engaged in by such persons with children above the age of consent, state and territory governments could consider introducing legislation to establish defences such as a similar-age consent defence.	Accepted	The NSW Government has introduced a limited similar-age defence that is available where there is less than a two-year age gap between the complainant and the accused, and the complainant is 14 or older. The similar-age defence also provides a defence to the special care offence in circumstances where the two parties are aged within two years of each other.
Limitation periods and immunities			
30	State and territory governments should introduce legislation to remove any remaining limitation periods, or any remaining immunities, that apply to child sexual abuse offences, including historical child sexual abuse offences, in a manner that does not revive any sexual offences that are no longer in keeping with community standards.	Accepted	There are no remaining limitation periods or immunities in NSW other than those referenced in other recommendations (see responses to recommendations 31 and 83 – <i>Criminal Justice report</i>).
31	Without limiting recommendation 30, the New South Wales Government should introduce legislation to give the repeal of the limitation period in section 78 of the <i>Crimes Act 1900</i> (NSW) retrospective effect.	Accepted	The NSW Government has introduced legislation to give the repeal of the limitation period retrospective effect. This removed a restriction on the prosecutions of certain child sexual abuse offences committed against girls aged 14 to 15 that occurred before May 1992 (when the limitation period was repealed).
Failure to report offence			
Moral or ethical duty to report to police			
32	Any person associated with an institution who knows or suspects that a child is being or has been sexually abused in an institutional context should report the abuse to police (and, if relevant, in accordance with any guidelines the institution adopts in relation to blind reporting under recommendation 16).	Accepted	The NSW Government supports this statement of principle.
Failure to report offence			
33	Each state and territory government should introduce legislation to create a criminal offence of failure to report targeted at child sexual abuse in an institutional context as follows: a. The failure to report offence should apply to any adult person who: i. is an owner, manager, staff member or volunteer of a relevant institution – this includes persons in religious ministry and other officers or personnel of religious institutions ii. otherwise requires a Working with Children Check clearance for the purposes of their role in the institution but it should not apply to individual foster carers or kinship carers. b. The failure to report offence should apply if the person fails to report to police in circumstances where they know, suspect, or should have suspected (on the basis that a reasonable person in their circumstances would have suspected and it was criminally negligent for the person not to suspect), that an adult associated with the institution was sexually abusing or had sexually abused a child. c. Relevant institutions should be defined to include institutions that operate facilities or provide services to children in circumstances where the children are in the care, supervision or control of the institution. Foster and kinship care services should be included (but not individual foster carers or kinship carers). Facilities and services provided by religious institutions, and any services or functions performed by persons in religious ministry, should be included.	Accepted in principle	The NSW Government has introduced a ‘failure to report’ offence that applies where any adult knows, believes or should reasonably have known that a sexual offence, serious physical assault offence or serious neglect offence has been committed against a child under 18, and fails, without reasonable excuse, to report material information to police that may assist in the apprehension or prosecution of an offender. A reasonable excuse includes where a person believes the material information is already known to police, or has reported the offence under regulatory schemes, or reasonably fears for the safety of any person, or where the victim is now an adult and does not wish the offence to be reported.

#	Royal Commission recommendation	NSW Government response	Comment
	<p>d. If the knowledge is gained or the suspicion is or should have been formed after the failure to report offence commences, the failure to report offence should apply if any of the following circumstances apply:</p> <ol style="list-style-type: none"> i. A child to whom the knowledge relates or in relation to whom the suspicion is or should have been formed is still a child (that is, under the age of 18 years). ii. The person who is known to have abused a child or is or should have been suspected of abusing a child is either: <ul style="list-style-type: none"> • still associated with the institution • known or believed to be associated with another relevant institution. iii. The knowledge gained or the suspicion that is or should have been formed relates to abuse that may have occurred within the previous 10 years. <p>e. If the knowledge is gained or the suspicion is or should have been formed before the failure to report offence commences, the failure to report offence should apply if any of the following circumstances apply:</p> <ol style="list-style-type: none"> i. A child to whom the knowledge relates or in relation to whom the suspicion is or should have been formed is still a child (that is, under the age of 18 years) and is still associated with the institution (that is, they are still in the care, supervision or control of the institution). ii. The person who is known to have abused a child or is or should have been suspected of abusing a child is either: <ul style="list-style-type: none"> • still associated with the institution • known or believed to be associated with another relevant institution. 		
Interaction with regulatory reporting			
34	<p>State and territory governments should:</p> <ol style="list-style-type: none"> a. ensure that they have systems in place in relation to their mandatory reporting scheme and any reportable conduct scheme to ensure that any reports made under those schemes that may involve child sexual abuse offences are brought to the attention of police b. include appropriate defences in the failure to report offence to avoid duplication of reporting under mandatory reporting and any reportable conduct schemes. 	Accepted	<p>All reports made to Family and Community Services under the NSW mandatory reporting scheme that indicate a crime has been committed are brought to the attention of police. Reports made to the NSW Ombudsman under the reportable conduct scheme are not necessarily reported to police, but will always also be reported through the mandatory reporting scheme.</p> <p>Under the new failure to report offence, it will be a reasonable excuse for not reporting knowledge or suspicion of child sexual abuse to police if the person has reported through regulatory reporting channels (see response to Recommendation 33 – <i>Criminal justice report</i>).</p>
Treatment of religious confessions			
35	<p>Each state and territory government should ensure that the legislation it introduces to create the criminal offence of failure to report recommended in recommendation 33 addresses religious confessions as follows:</p> <ol style="list-style-type: none"> a. The criminal offence of failure to report should apply in relation to knowledge gained or suspicions that are or should have been formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession. b. The legislation should exclude any existing excuse, protection or privilege in relation to religious confessions to the extent necessary to achieve this objective. c. Religious confession should be defined to include a confession about the conduct of a person associated with the institution made by a person to a second person who is in religious ministry in that second person's professional capacity according to the ritual of the church or religious denomination concerned. 	Subject to further consideration	<p>The new failure to report offence (see response to Recommendation 33 – <i>Criminal justice report</i>) will apply to any person, including members of the clergy.</p> <p>Whether or how the offence will apply to members of the clergy where the information about an offence was gathered through religious confession is a complex issue that has been referred to the Council of Attorneys-General for national consideration.</p>

#	Royal Commission recommendation	NSW Government response	Comment
Failure to protect offence			
36	<p>State and territory governments should introduce legislation to create a criminal offence of failure to protect a child within a relevant institution from a substantial risk of sexual abuse by an adult associated with the institution as follows:</p> <p>a. The offence should apply where:</p> <ol style="list-style-type: none"> i. an adult person knows that there is a substantial risk that another adult person associated with the institution will commit a sexual offence against: <ul style="list-style-type: none"> • a child under 16 • a child of 16 or 17 years of age if the person associated with the institution is in a position of authority in relation to the child ii. the person has the power or responsibility to reduce or remove the risk iii. the person negligently fails to reduce or remove the risk. <p>b. The offence should not be able to be committed by individual foster carers or kinship carers.</p> <p>c. Relevant institutions should be defined to include institutions that operate facilities or provide services to children in circumstances where the children are in the care, supervision or control of the institution. Foster care and kinship care services should be included, but individual foster carers and kinship carers should not be included. Facilities and services provided by religious institutions, and any service or functions performed by persons in religious ministry, should be included.</p> <p>d. State and territory governments should consider the Victorian offence in section 49C of the <i>Crimes Act 1958</i> (Vic) as a useful precedent, with an extension to include children of 16 or 17 years of age if the person associated with the institution is in a position of authority in relation to the child.</p>	Accepted	<p>The NSW Government has introduced a ‘failure to protect’ offence, which is based on the recommended offence, but is broader in some respects. The NSW offence applies where an adult:</p> <ul style="list-style-type: none"> • occupies a position within a relevant organisation • knows there is a risk that another adult associated with the organisation will commit a sexual offence, serious physical abuse or serious neglect offence against a child • has the power or responsibility to reduce or remove the risk, and • negligently fails to reduce or remove the risk.
Issues in prosecution responses			
Principles for prosecution responses			
37	<p>All Australian Directors of Public Prosecutions, with assistance from the relevant government in relation to funding, should ensure that prosecution responses to child sexual abuse are guided by the following principles:</p> <p>a. All prosecution staff who may have professional contact with victims of institutional child sexual abuse should be trained to have a basic understanding of the nature and impact of child sexual abuse – and institutional child sexual abuse in particular – and how it can affect people who are involved in a prosecution process, including those who may have difficulties dealing with institutions or person in positions of authority.</p> <p>b. While recognising the complexity of prosecution staffing and court timetables, prosecution agencies should recognise the benefit to victims and their families and survivors of continuity in prosecution team staffing and should take steps to facilitate, to the extent possible, continuity in staffing of the prosecution team involved in a prosecution.</p> <p>c. Prosecution agencies should continue to recognise the importance to victims and their families and survivors of the prosecution agency maintaining regular communication with them to keep them informed of the status of the prosecution unless they have asked not to be kept informed.</p>	Accepted	<p>The Office of the Director of Public Prosecutions (ODPP) supports the recommended principles to guide prosecution responses to child sexual abuse. All of the principles are reflected in existing processes, including those developed for the early appropriate guilty pleas scheme. The ODPP will also update the Prosecution Guidelines to reflect the principles.</p>

#	Royal Commission recommendation	NSW Government response	Comment
	<p>d. Witness Assistance Services should be funded and staffed to ensure that they can perform their task of keeping victims and their families and survivors informed and ensuring that they are put in contact with relevant support services, including staff trained to provide a culturally appropriate service for Aboriginal and Torres Strait Islander victims and survivors. Specialist services for children should also be considered.</p> <p>e. Particularly in relation to historical allegations of institutional child sexual abuse, prosecution staff who are involved in giving early charge advice or in prosecuting child sexual abuse matters should be trained to:</p> <ul style="list-style-type: none"> i. be non-judgmental and recognise that many victims of child sexual abuse will go on to develop substance abuse and mental health problems, and some may have a criminal record ii. focus on the credibility of the complaint or allegation rather than focusing only on the credibility of the complainant. <p>f. Prosecution agencies should recognise that children with disability are at a significantly increased risk of abuse, including child sexual abuse. Prosecutors should take this increased risk into account in any decisions they make in relation to prosecuting child sexual abuse offences.</p>		
38	<p>Each state and territory government should facilitate the development of standard material to provide to complainants or other witnesses in child sexual abuse trials to better inform them about giving evidence. The development of the standard material should be led by Directors of Public Prosecutions in consultation with Witness Assistance Services, public defenders (where available), legal aid services and representatives of the courts to ensure that it:</p> <ul style="list-style-type: none"> a. is likely to be of adequate assistance for complainants who are not familiar with criminal trials and giving evidence b. is fair to the accused as well as to the prosecution c. does not risk rehearsing or coaching the witness. 	Accepted	The Office of the Director of Public Prosecutions is reviewing all material provided to complainants and other witnesses in child sexual abuse trials to ensure it communicates necessary information clearly to support witnesses' participation in trials.
Charging and plea decisions			
39	<p>All Australian Directors of Public Prosecutions should ensure that prosecution charging and plea decisions in prosecutions for child sexual abuse offences are guided by the following principles:</p> <ul style="list-style-type: none"> a. Prosecutors should recognise the importance to complainants of the correct charges being laid as early as possible so that charges are not significantly downgraded or withdrawn at or close to trial. Prosecutors should provide early advice to police on appropriate charges to lay when such advice is sought. b. Regardless of whether such advice has been sought, prosecutors should confirm the appropriateness of the charges as early as possible once they are allocated the prosecution to ensure that the correct charges have been laid and to minimise the risk that charges will have to be downgraded or withdrawn closer to the trial date. c. While recognising the benefit of securing guilty pleas, prosecution agencies should also recognise that it is important to complainants – and to the criminal justice system – that the charges for which a guilty plea is accepted reasonably reflect the true criminality of the abuse they suffered. d. Prosecutors must endeavour to ensure that they allow adequate time to consult the complainant and the police in relation to any proposal to downgrade or withdraw charges or to accept a negotiated plea and that the complainant is given the opportunity to obtain assistance from relevant witness assistance officers or other 	Accepted	The Office of the Director of Public Prosecutions supports the recommended principles to guide prosecution charging and plea decisions, and will incorporate them into the Prosecution Guidelines or standard operating procedures.

#	Royal Commission recommendation	NSW Government response	Comment
	advocacy and support services before they give their opinion on the proposal. If the complainant is a child, prosecutors must endeavour to ensure that they give the child the opportunity to consult their carer or parents unless the child does not wish to do so.		
DPP complaints and oversight mechanisms			
40	Each Australian Director of Public Prosecutions should: <ul style="list-style-type: none"> a. have comprehensive written policies for decision-making and consultation with victims and police b. publish all policies online and ensure that they are publicly available c. provide a right for complainants to seek written reasons for key decisions, without detracting from an opportunity to discuss reasons in person before written reasons are provided. 	Accepted in principle	The Office of the Director of Public Prosecutions (ODPP) has comprehensive, published written policies for decision-making and consultation with victims and police, including the Victims Charter, Prosecution Guideline 19, and s35A of the <i>Crimes (Sentencing Procedure) Act 1999</i> . The ODPP will consider the rights of the complainant to seek written reasons in conjunction with the development of a formal process to seek a merits review (see response to Recommendation 41 – <i>Criminal justice report</i>).
41	Each Australian Director of Public Prosecutions should establish a robust and effective formalised complaints mechanism to allow victims to seek internal merits review of key decisions.	Accepted	The Office of the Director of Public Prosecutions will develop a formal process for merits review of decisions to withdraw all charges or refuse to certify any charges.
42	Each Australian Director of Public Prosecutions should establish robust and effective internal audit processes to audit their compliance with policies for decision-making and consultation with victims and police.	Accepted	The Office of the Director of Public Prosecutions has an Audit and Risk Committee which undertakes internal audits of compliance with policies.
43	Each Australian Director of Public Prosecutions should publish the existence of their complaints mechanism and internal audit processes and data on their use and outcomes online and in their annual reports.	Accepted	All new policies and processes concerning complaints and internal auditing will be published.
Tendency and coincidence and joint trials			
44	In order to ensure justice for complainants and the community, the laws governing the admissibility of tendency and coincidence evidence in prosecutions for child sexual abuse offences should be reformed to facilitate greater admissibility and cross-admissibility of tendency and coincidence evidence and joint trials.	Accepted in principle	The law on tendency and evidence in NSW is governed by uniform evidence law that also applies in the Commonwealth, Victoria, ACT, Tasmania and Northern Territory. To preserve consistency in the uniform law, the Attorney General of NSW is leading a national reform project in this area through the Council of Attorneys-General.
45	Tendency or coincidence evidence about the defendant in a child sexual offence prosecution should be admissible: <ul style="list-style-type: none"> a. if the court thinks that the evidence will, either by itself or having regard to the other evidence, be 'relevant to an important evidentiary issue' in the proceeding, with each of the following kinds of evidence defined to be 'relevant to an important evidentiary issue' in a child sexual offence proceeding: <ul style="list-style-type: none"> i. evidence that shows a propensity of the defendant to commit particular kinds of offences if the commission of an offence of the same or a similar kind is in issue in the proceeding ii. evidence that is relevant to any matter in issue in the proceeding if the matter concerns an act or state of mind of the defendant and is important in the context of the proceeding as a whole b. unless, on the application of the defendant, the court thinks, having regard to the particular circumstances of the proceeding, that both: <ul style="list-style-type: none"> i. admission of the evidence is more likely than not to result in the proceeding being unfair to the defendant ii. if there is a jury, the giving of appropriate directions to the jury about the relevance and use of the evidence will not remove the risk. 	Subject to further consideration	See response to Recommendation 44 (<i>Criminal Justice report</i>). This recommendation will be considered in detail through a national process agreed by the Council of Attorneys-General.
46	Common law principles or rules that restrict the admission of propensity or similar fact evidence should be explicitly abolished or excluded in	Subject to further consideration	

#	Royal Commission recommendation	NSW Government response	Comment
	relation to the admissibility of tendency or coincidence evidence about the defendant in a child sexual offence prosecution.		
47	Issues of concoction, collusion or contamination should not affect the admissibility of tendency or coincidence evidence about the defendant in a child sexual offence prosecution. The court should determine admissibility on the assumption that the evidence will be accepted as credible and reliable, and the impact of any evidence of concoction, collusion or contamination should be left to the jury or other fact-finder.	Subject to further consideration	
48	Tendency or coincidence evidence about a defendant in a child sexual offence prosecution should not be required to be proved beyond reasonable doubt.	Subject to further consideration	
49	Evidence of: a. the defendant's prior convictions b. acts for which the defendant has been charged but not convicted (other than acts for which the defendant has been acquitted) should be admissible as tendency or coincidence evidence if it otherwise satisfies the test for admissibility of tendency or coincidence evidence about a defendant in a child sexual offence prosecution.	Subject to further consideration	
50	Australian governments should introduce legislation to make the reforms we recommend to the rules governing the admissibility of tendency and coincidence evidence.	Subject to further consideration	
51	The draft provisions in Appendix N provide for the recommended reforms for Uniform Evidence Act jurisdictions. Legislation to the effect of the draft provisions should be introduced for Uniform Evidence Act jurisdictions and non-Uniform Evidence Act jurisdictions.	Subject to further consideration	
Evidence of victims and survivors			
Prerecording			
52	State and territory governments should ensure that the necessary legislative provisions and physical resources are in place to allow for the prerecording of the entirety of a witness's evidence in child sexual abuse prosecutions. This should include both: a. in summary and indictable matters, the use of a prerecorded investigative interview as some or all of the witness's evidence in chief b. in matters tried on indictment, the availability of pre-trial hearings to record all of a witness's evidence, including cross-examination and re-examination, so that the evidence is taken in the absence of the jury and the witness need not participate in the trial itself.	Accepted in principle	The Child Sexual Offence Evidence Pilot (CSO Evidence Pilot) is piloting prerecording measures and the use of witness intermediaries in NSW until March 2019. An interim independent evaluation of process in 2017 found that the CSO Evidence Pilot was operating well. The NSW Government has brought forward a final evaluation of outcomes to mid-2018 so it can make an earlier decision on the potential continuation or expansion of prerecording measures in NSW.
53	Full prerecording should be made available for: a. all complainants in child sexual abuse prosecutions b. any other witnesses who are children or vulnerable adults c. any other prosecution witness that the prosecution considers necessary.	Accepted in principle	
54	Where the prerecording of cross-examination is used, it should be accompanied by ground rules hearings to maximise the benefits of such a procedure.	Accepted in principle	See response to Recommendation 52 (<i>Criminal Justice report</i>). Ground rules hearings occur regularly as part of the Child Sexual Offence Evidence Pilot, at the court's discretion.
55	State and territory governments should work with courts to improve the technical quality of closed circuit television and audiovisual links and the	Accepted	In NSW, there is no issue with the technical quality of closed circuit television and audiovisual links (AVL). The Justice Video Conferencing Network in NSW includes over 550 AVL suites installed in the

#	Royal Commission recommendation	NSW Government response	Comment
	equipment used and staff training in taking and replaying prerecorded and remote evidence.		Department of Justice's (DoJ) agencies. A \$40 million Justice AVL Consolidation Project is underway (running from 2014 to 2018) to expand technology, transform business processes in DoJ agencies, and provide a support system to meet the future needs of criminal and civil proceedings.
Recording			
56	State and territory governments should introduce legislation to require the audiovisual recording of evidence given by complainants and other witnesses that the prosecution considers necessary in child sexual abuse prosecutions, whether tried on indictment or summarily, and to allow these recordings to be tendered and relied on as the relevant witness's evidence in any subsequent trial or retrial. The legislation should apply regardless of whether the relevant witness gives evidence live in court, via closed circuit television or in a prerecorded hearing.	Accepted in principle	Where possible, evidence given live in court is recorded in audiovisual form in proceedings for sexual offences including child sexual abuse offences. Any record made of evidence given by complainants in these proceedings may be tendered as evidence in a retrial or subsequent trial, including an audiovisual recording, an audio recording or a transcript. The NSW Government is considering making audiovisual recording available and able to be tendered in more circumstances.
57	State and territory governments should ensure that the courts are adequately resourced to provide this facility, in terms of both the initial recording and its use in any subsequent trial or retrial.	Accepted in principle	
58	If it is not practical to record evidence given live in court in a way that is suitable for use in any subsequent trial or retrial, prosecution guidelines should require that the fact that a witness may be required to give evidence again in the event of a retrial be discussed with witnesses when they make any choice as to whether to give evidence via prerecording, closed circuit television or in person.	Accepted in principle	See response to Recommendation 56 (<i>Criminal justice report</i>). It is already possible in NSW to record evidence given live in court for use in subsequent trials or retrials.
Intermediaries			
59	State and territory governments should establish intermediary schemes similar to the Registered Intermediary Scheme in England and Wales which are available to any prosecution witness with a communication difficulty in a child sexual abuse prosecution. Governments should ensure that the scheme: <ul style="list-style-type: none"> a. requires intermediaries to have relevant professional qualifications to assist in communicating with vulnerable witnesses b. provides intermediaries with training on their role and in understanding that their duty is to assist the court to communicate with the witness and to be impartial c. makes intermediaries available at both the police interview stage and trial stage d. enables intermediaries to provide recommendations to police and the court on how best to communicate with the witness and to intervene in an interview or examination where they observe a communication breakdown. 	Accepted in principle	The Child Sexual Offence (CSO) Evidence Pilot is piloting prerecording measures and the use of witness intermediaries in NSW until March 2019. All the recommended requirements are in place. An interim independent evaluation of process in 2017 found that the CSO Evidence Pilot was operating well. The NSW Government has brought forward a final evaluation of outcomes to mid-2018 so it can make an earlier decision on the potential continuation or expansion of the witness intermediary scheme in NSW (for example, to include other prosecution witnesses or people with a disability).
60	State and territory governments should work with their courts administration to ensure that ground rules hearings are able to be held – and are in fact held – in child sexual abuse prosecutions to discuss the questioning of prosecution witnesses with specific communication needs, whether the questioning is to take place via a prerecorded hearing or during the trial. This should be essential where a witness intermediary scheme is in place and should allow, at a minimum, a report from an intermediary to be considered.	Accepted in principle	See response to Recommendation 54 (<i>Criminal justice report</i>). Ground rules hearings occur regularly as part of the Child Sexual Offence Evidence Pilot, at the court's discretion. This occurs without an explicit legislative provision.
Other special measures			
61	The following special measures should be available in child sexual abuse prosecutions for complainants, vulnerable witnesses and other prosecution witnesses where the prosecution considers it necessary:	Accepted	All recommended special measures are already in place for sexual assault complainants and vulnerable witnesses (that is, children and witnesses with a cognitive impairment). The NSW Government is considering whether the protections should be extended to other categories of prosecution witnesses.

#	Royal Commission recommendation	NSW Government response	Comment
	<ul style="list-style-type: none"> a. giving evidence via closed circuit television or audiovisual link so that the witness is able to give evidence from a room away from the courtroom b. allowing the witness to be supported when giving evidence, whether in the courtroom or remotely, including, for example, through the presence of a support person or a support animal or by otherwise creating a more child-friendly environment c. if the witness is giving evidence in court, using screens, partitions or one-way glass so that the witness cannot see the accused while giving evidence d. clearing the public gallery of a courtroom during the witness's evidence e. the judge and counsel removing their wigs and gowns. 		
Courtroom issues			
62	<p>State and territory governments should introduce legislation to allow a child's competency to give evidence in child sexual abuse prosecutions to be tested as follows:</p> <ul style="list-style-type: none"> a. Where there is any doubt about a child's competence to give evidence, a judge should establish the child's ability to understand basic questions asked of them by asking simple, non-theoretical questions – for example, about their age, school, family et cetera. b. Where it does not appear that the child can give sworn evidence, the judge should simply ask the witness for a promise to tell the truth and allow the examination of the witness to proceed. 	Accepted	In NSW, a child is competent to give sworn evidence if they have the capacity to understand that they are under an obligation to tell the truth. Judges can establish a child's ability to understand basic questions to help determine whether they are competent to give sworn evidence. If a child gives unsworn evidence, the child is not required to promise to tell the truth, but the court is required to provide guidance to the child by telling the child it is important to tell the truth.
Use of interpreters			
63	State and territory governments should provide adequate interpreting services such that any witness in a child sexual abuse prosecution who needs an interpreter is entitled to an interpreter who has sufficient expertise in their primary language, including sign language, to provide an accurate and impartial translation.	Accepted	Interpreters are organised by court registries or the NSW Police Force, and are provided free of charge for prosecution witnesses and accused persons in criminal cases. Interpreters are provided when a witness or accused person is either deaf, has a hearing impairment or is unable to communicate with reasonable fluency in English, and needs an interpreter to comprehend and fully participate in court proceedings.
Judicial directions and informing juries			
Reforming judicial directions			
64	State and territory governments should consider or reconsider the desirability of partial codification of judicial directions now that Victoria has established a precedent from which other jurisdictions could develop their own reforms.	Accepted in principle	The NSW Government has reconsidered the codification of jury directions and has determined to continue the existing approach of prohibiting or requiring specific jury directions when this becomes desirable or necessary. It is unclear that codification for its own sake will improve the prosecution of child sexual offences in NSW, especially as the Royal Commission's substantive recommendations about jury directions will all be implemented (see response to recommendations 65–71 – <i>Criminal justice report</i>).
65	<p>Each state and territory government should review its legislation and introduce any amending legislation necessary to ensure that it has the following provisions in relation to judicial directions and warnings:</p> <ul style="list-style-type: none"> a. Delay and credibility: Legislation should provide that: <ul style="list-style-type: none"> i. there is no requirement for a direction or warning that delay affects the complainant's credibility ii. the judge must not direct, warn or suggest to the jury that delay affects the complainant's credibility unless the direction, warning or suggestion is requested by the accused and is warranted on the evidence in the particular circumstances of the trial iii. in giving any direction, warning or comment, the judge must not use expressions such as 'dangerous or unsafe to convict' or 'scrutinise with great care'. 	Accepted	All recommended judicial directions are already legislated in NSW. The Royal Commission noted that NSW jury directions on corroboration, delay and reliability are consistent with social science research.

#	Royal Commission recommendation	NSW Government response	Comment
	<p>b. Delay and forensic disadvantage: Legislation should provide that:</p> <ol style="list-style-type: none"> i. there is no requirement for a direction or warning as to forensic disadvantage to the accused ii. the judge must not direct, warn or suggest to the jury that delay has caused forensic disadvantage to the accused unless the direction, warning or suggestion is requested by the accused and there is evidence that the accused has suffered significant forensic disadvantage iii. the mere fact of delay is not sufficient to establish forensic disadvantage iv. in giving any direction, warning or comment, the judge should inform the jury of the nature of the forensic disadvantage suffered by the accused v. in giving any direction, warning or comment, the judge must not use expressions such as ‘dangerous or unsafe to convict’ or ‘scrutinise with great care’. <p>c. Uncorroborated evidence: Legislation should provide that the judge must not direct, warn or suggest to the jury that it is ‘dangerous or unsafe to convict’ on the uncorroborated evidence of the complainant or that the uncorroborated evidence of the complainant should be ‘scrutinised with great care’.</p> <p>d. Children’s evidence: Legislation should provide that:</p> <ol style="list-style-type: none"> i. the judge must not direct, warn or suggest to the jury that children as a class are unreliable witnesses ii. the judge must not direct, warn or suggest to the jury that it would be ‘dangerous or unsafe to convict’ on the uncorroborated evidence of a child or that the uncorroborated evidence of a child should be ‘scrutinised with great care’ iii. the judge must not give a direction or warning about, or comment on, the reliability of a child’s evidence solely on account of the age of the child. 		
66	The New South Wales Government, the Queensland Government and the government of any other state or territory in which Markuleski directions are required should consider introducing legislation to abolish any requirement for such directions.	Accepted in principle	The NSW Government has considered abolishing the Markuleski direction and has determined not to take this approach. The direction is not mandatory, and consequently, there is no need to abolish a requirement to give the direction.
Improving information for judges and legal professionals			
67	State and territory governments should support and encourage the judiciary, public prosecutors, public defenders, legal aid and the private Bar to implement regular training and education programs for the judiciary and legal profession in relation to understanding child sexual abuse and current social science research in relation to child sexual abuse.	Accepted	The NSW Government has supported and encouraged legal agencies to develop training and to continue to provide relevant training that is already in place. The NSW Department of Justice (DoJ) has offered legal agencies the assistance of Victims Services within DoJ to help these agencies to develop and implement further training programs.
68	Relevant Australian governments should ensure that bodies such as: <ol style="list-style-type: none"> a. the Australasian Institute of Judicial Administration b. the National Judicial College of Australia c. the Judicial Commission of New South Wales d. the Judicial College of Victoria are adequately funded to provide leadership in making relevant information and training available in the most effective forms to the judiciary and, where relevant, the broader legal profession so that they understand and keep up to date with current social science research that is relevant to understanding child sexual abuse.	Accepted	The Judicial Commission of NSW is responsible for organising and supervising an appropriate scheme of continuing education and training of judicial officers in NSW. The commission already provides extensive relevant information and training on understanding child sexual abuse through speeches at conferences, training and seminars for particular courts, and published articles.

#	Royal Commission recommendation	NSW Government response	Comment
Improving information for jurors			
69	In any state or territory where provisions such as those in sections 79(2) and 108C of the Uniform Evidence Act or their equivalent are not available, the relevant government should introduce legislation to allow for expert evidence in relation to the development and behaviour of children generally and the development and behaviour of children who have been victims of child sexual abuse offences.	Accepted	Expert evidence can be used in child sexual abuse proceedings in NSW (see sections 79(2) and 108C of the <i>Evidence Act 1995</i>).
70	Each state and territory government should lead a process to consult the prosecution, defence, judiciary and academics with relevant expertise in relation to judicial directions containing educative information about children and the impact of child sexual abuse, with a view to settling standard directions and introducing legislation as soon as possible to authorise and require the directions to be given. The National Child Sexual Assault Reform Committee's recommended mandatory judicial directions and the Victorian Government's proposed directions on inconsistencies in the complainant's account should be the starting point for the consultation process, subject to the removal of the limitation in the third direction recommended by the National Child Sexual Assault Reform Committee in relation to children's responses to sexual abuse so that it can apply regardless of the complainant's age at trial.	Accepted in principle	The NSW Government has introduced legislation based on a direction already in place in Victoria requiring a judge in sexual assault proceedings to instruct the jury about the common reasons for inconsistency in a complainant's account of abuse, where there appears to be an inconsistency. This addresses key misconceptions juries may form about a complainant's credibility. Other issues (such as the reliability of children's evidence and the effect of trauma on children's behaviour) can more easily be addressed through the use of expert evidence.
71	In advance of any more general codification of judicial directions, each state and territory government should work with the judiciary to identify whether any legislation is required to permit trial judges to assist juries by giving relevant directions earlier in the trial or to otherwise assist juries by providing them with more information about the issues in the trial. If legislation is required, state and territory governments should introduce the necessary legislation.	Accepted	In NSW, directions are sometimes given early in the trial (rather than at its conclusion). No legislation is necessary to support this practice continuing.
Delays and case management			
72	Each state and territory government should work with its courts, prosecution, legal aid and policing agencies to ensure that delays are reduced and kept to a minimum in prosecutions for child sexual abuse offences, including through measures to encourage: <ul style="list-style-type: none"> a. the early allocation of prosecutors and defence counsel b. the Crown - including subsequently allocated Crown prosecutors - to be bound by early prosecution decisions c. appropriate early guilty pleas d. case management and the determination of preliminary issues before trial. 	Accepted	The NSW Government recently implemented the early appropriate guilty plea scheme to encourage appropriate pleas in indictable criminal matters. The reform package was designed to reduce delays in the District Court. It includes the following measures: early disclosure of evidence, charge certification, mandatory criminal case conferencing, Local Court case management and statutory sentence discounts.
73	In those states and territories that have a qualified privilege in relation to sexual assault communications, the relevant state or territory government should work with its courts, prosecution and legal aid agencies to implement any necessary procedural or case management reforms to ensure that complainants are effectively able to claim the privilege without risking delaying the trial.	Accepted in principle	A formal review of the sexual assault communications privilege provisions is being undertaken by the NSW Department of Justice in 2018 to investigate ways of improving the provisions and their practical operation.
Sentencing			
Excluding good character as a mitigating factor			
74	All state and territory governments (other than New South Wales and South Australia) should introduce legislation to provide that good character be excluded as a mitigating factor in sentencing for child	Accepted	In 2009, the NSW Government excluded good character as a mitigating factor in sentencing for child sexual abuse offences where that good character facilitated the offending. The NSW Government has introduced legislation to ensure this rule also applies in prosecutions for historic offences.

#	Royal Commission recommendation	NSW Government response	Comment
	sexual abuse offences where that good character facilitated the offending, similar to that applying in New South Wales and South Australia.		
Cumulative and concurrent sentencing			
75	State and territory governments should introduce legislation to require sentencing courts, when setting a sentence in relation to child sexual abuse offences involving multiple discrete episodes of offending and/or where there are multiple victims, to indicate the sentence that would have been imposed for each offence had separate sentences been imposed.	Accepted	When setting an aggregate sentence for multiple offences instead of separate sentences, sentencing courts are required to indicate the sentence that would have been imposed for each offence had separate sentences been imposed instead of an aggregate sentence (see s 53A, <i>Crimes (Sentencing Procedure) Act 1999</i> , which commenced in 2010).
Sentencing standards in historical cases			
76	State and territory governments should introduce legislation to provide that sentences for child sexual abuse offence should be set in accordance with the sentencing standards at the time of sentencing instead of at the time of the offending, but the sentence must be limited to the maximum sentence available for the offence at the date when the offence was committed.	Accepted	The NSW Government has introduced legislation to require a court sentencing an offender for a child sexual abuse offence to have regard to the sentencing patterns that exist at the time of sentencing.
Victim impact statements			
77	State and territory governments, in consultation with their respective Directors of Public Prosecutions, should improve the information provided to victims and survivors of child sexual abuse offences to: <ul style="list-style-type: none"> a. give them a better understanding of the role of the victim impact statement in the sentencing process b. better prepare them for making a victim impact statement, including in relation to understanding the sort of content that may result in objection being taken to the statement or parts of it. 	Accepted in principle	This issue was considered by the Sentencing Council in its review of victims' involvement in the sentencing process. The final report of the review is under consideration by the NSW Government.
78	State and territory governments should ensure that, as far as reasonably practicable, special measures to assist victims of child sexual abuse offences to give evidence in prosecutions are available for victims when they give a victim impact statement, if they wish to use them.	Accepted in principle	
Appeals			
79	State and territory governments should introduce legislation, where necessary, to expand the Director of Public Prosecution's right to bring an interlocutory appeal in prosecutions involving child sexual abuse offences so that the appeal right: <ul style="list-style-type: none"> a. applies to pre-trial judgments or orders and decisions or rulings on the admissibility of evidence, but only if the decision or ruling eliminates or substantially weakens the prosecution's case b. is not subject to a requirement for leave c. extends to 'no case' rulings at trial. 	Accepted	The Royal Commission's recommendation is based on current law in NSW (see section 5F of the <i>Criminal Appeal Act 2012</i>).
80	State and territory governments should work with their appellate court and the Director of Public Prosecutions to ensure that the court is sufficiently well resourced to hear and determine interlocutory appeals in prosecutions involving child sexual abuse offences in a timely manner.	Accepted	The NSW Supreme Court and Office of the Director of Public Prosecutions have confirmed that courts in NSW are able to hear and determine interlocutory appeals in a timely manner. It is current practice to deal with an interlocutory appeal within a few days if it is likely to affect an imminent or ongoing trial.
81	Directors of Public Prosecutions should amend their prosecution guidelines, where necessary, in relation to the decision as to whether there should be a retrial following a successful conviction appeal in child sexual abuse prosecutions. The guidelines should require that the	Accepted in principle	The Office of the Director of Public Prosecutions (ODPP) undertakes consultation with the complainant and relevant police officer as recommended. The ODPP will consider making a supportive amendment to the Prosecution Guidelines.

#	Royal Commission recommendation	NSW Government response	Comment
	prosecution consult the complainant and relevant police officer before the Director of Public Prosecutions decides whether to retry a matter.		
82	State and territory governments should ensure that a relevant government agency, such as the Office of the Director of Public Prosecutions, is monitoring the number, type and success rate of appeals in child sexual abuse prosecutions and the issues raised to: <ol style="list-style-type: none"> identify areas of the law in need of reform ensure any reforms – including reforms arising from the Royal Commission’s recommendations in relation to criminal justice, if implemented – are working as intended. 	Accepted	The NSW Government has established a monitoring group to generally monitor all reforms made in response to the Royal Commission’s <i>Criminal justice report</i> , chaired by the NSW Department of Justice (see Recommendation 85 – <i>Criminal justice report</i>). Identified law reform issues can be raised through this group. Statistics on the number, type and success rate of appeals in child sexual abuse prosecutions can be obtained from the Office of the Director of Public Prosecutions, Judicial Commission, or the NSW Bureau of Crime Statistics and Research to assist the monitoring group.
Juvenile offenders			
83	State and territory governments (other than the Northern Territory) should give further consideration to whether the abolition of the presumption that a male under the age of 14 years is incapable of having sexual intercourse should be given retrospective effect and whether any immunity which has arisen as a result of the operation of the presumption should be abolished. State and territory governments (other than the Northern Territory) should introduce any legislation they consider necessary as a result of this consideration.	Accepted in principle	The NSW Government has considered the retrospective abolition of the presumption and has determined against imposing retrospectivity. A retrospective repeal has the potential to expose defendants to a maximum penalty of life imprisonment in circumstances where they were previously protected from prosecution, and where they were young children at the time of the offence.
84	State and territory governments should review their legislation – and if necessary introduce amending legislation – to ensure that complainants in child sexual abuse prosecutions do not have to give evidence on any additional occasion in circumstances where the accused, or one of two or more co-accused, is a juvenile at the time of prosecution or was a juvenile at the time of the offence.	Accepted	NSW will introduce legislation to ensure complainants are no longer required to give evidence twice where an accused is aged under 18 and the proceedings commence in the Children’s Court but continue in a higher court. The Children’s Court will determine if an accused should be sent to a higher court without calling the complainant to give evidence, unless the court is satisfied that there are special reasons in the interests of justice why this should occur.
Criminal justice and regulatory responses			
85	State and territory governments should keep the interaction of: <ol style="list-style-type: none"> their legislation relevant to regulatory responses to institutional child sexual abuse their crimes legislation and the crimes legislation of all other Australian jurisdictions, particularly in relation to child sexual abuse offences and sex offender registration under regular review to ensure that their regulatory responses work together effectively with their relevant crimes legislation and the relevant crimes legislation of all other Australian jurisdictions in the interests of responding effectively to institutional child sexual abuse.	Accepted	The NSW Government has established a monitoring group to generally monitor all reforms made in response to the Royal Commission’s <i>Criminal justice report</i> , chaired by the NSW Department of Justice. Part of the monitoring group’s role will be to monitor the interaction of regulatory responses and criminal legislation in light of the changes made in response to the Royal Commission’s <i>Criminal justice report</i> .

Redress and civil litigation report NSW Government response

The *Redress and civil litigation report* was released in September 2015.

It includes 99 recommendations.

The recommendations cover:

- what redress should be provided
- how redress should be provided
- civil litigation.

#	Royal Commission recommendation	NSW Government response	Comment
Justice for victims			
1	A process for redress must provide equal access and equal treatment for survivors – regardless of the location, operator, type, continued existence or assets of the institution in which they were abused – if it is to be regarded by survivors as being capable of delivering justice.	Accepted	The NSW Government has joined the National Redress Scheme, to provide support and recognition to survivors of institutional child sexual abuse.
Redress elements and principles			
2	Appropriate redress for survivors should include the elements of: <ul style="list-style-type: none"> a. direct personal response b. counselling and psychological care c. monetary payments. 	Accepted	The proposed National Redress Scheme includes the three elements: <ul style="list-style-type: none"> • a monetary payment of up to \$150,000 • access to counselling and psychological support, depending on where the person lives – in the form of services or a maximum payment of \$5000 • a direct personal response from the participating institution or institutions responsible.
3	Funders or providers of existing support services should maintain their current resourcing for existing support services, without reducing or diverting resources in response to the Royal Commission’s recommendations on redress and civil litigation.	Accepted	The NSW Government will continue to fund and deliver a range of support services for victims and survivors of sexual abuse.
4	Any institution or redress scheme that offers or provides any element of redress should do so in accordance with the following principles: <ul style="list-style-type: none"> a. Redress should be survivor focused. b. There should be a ‘no wrong door’ approach for survivors in gaining access to redress. c. All redress should be offered, assessed and provided with appropriate regard to what is known about the nature and impact of child sexual abuse – and institutional child sexual abuse in particular – and to the cultural needs of survivors. d. All redress should be offered, assessed and provided with appropriate regard to the needs of particularly vulnerable survivors. 	Accepted	To ensure that the National Redress Scheme is survivor-focused, redress will be assessed, offered and provided in accordance with general principles that reflect the Royal Commission recommendations. This includes having regard to the nature and impact of child sexual abuse, the cultural needs of survivors and the needs of those who are particularly vulnerable.
Direct personal response			
5	Institutions should offer and provide a direct personal response to survivors in accordance with the following principles: <ul style="list-style-type: none"> a. Re-engagement between a survivor and an institution should only occur if, and to the extent that, a survivor desires it. b. Institutions should make clear what they are willing to offer and provide by way of direct personal response to survivors of institutional child sexual abuse. Institutions should ensure that they are able to provide the direct personal response they offer to survivors. c. At a minimum, all institutions should offer and provide on request by a survivor: <ul style="list-style-type: none"> i. an apology from the institution ii. the opportunity to meet with a senior institutional representative and receive an acknowledgement of the abuse and its impact on them iii. an assurance or undertaking from the institution that it has taken, or will take, steps to protect against further abuse of children in that institution. d. In offering direct personal responses, institutions should try to be responsive to survivors’ needs. e. Institutions that already offer a broader range of direct personal responses to survivors and others should consider continuing to offer those forms of direct personal response. 	Accepted	Direct personal responses (DPRs) are a key element of the National Redress Scheme. The principles guiding the provision of DPRs are informed by the Royal Commission recommendations. A Direct Personal Response Framework also sets out the arrangements under which institutions will deliver DPRs to survivors as part of the National Redress Scheme.

#	Royal Commission recommendation	NSW Government response	Comment
	<p>f. Direct personal responses should be delivered by people who have received some training about the nature and impact of child sexual abuse and the needs of survivors, including cultural awareness and sensitivity training where relevant.</p> <p>g. Institutions should welcome feedback from survivors about the direct personal response they offer and provide.</p>		
6	Those who operate a redress scheme should offer to facilitate the provision of a written apology, a written acknowledgement and/or a written assurance of steps taken to protect against further abuse for survivors who seek these forms of direct personal response but who do not wish to have any further contact with the institution.	Accepted in principle	The Australian Government is responsible for operating the National Redress Scheme.
7	Those who operate a redress scheme should facilitate the provision of these forms of direct personal response by conveying survivors' requests for these forms of direct personal response to the relevant institution.	Accepted in principle	The Australian Government is responsible for operating the National Redress Scheme.
8	Institutions should accept a survivor's choice of intermediary or representative to engage with the institution on behalf of the survivor, or with the survivor as a support person, in seeking or obtaining a direct personal response.	Accepted	The National Redress Scheme Direct Personal Response Framework allows for support persons to facilitate survivors receiving a direct personal response.
Counselling and psychological care			
9	<p>Counselling and psychological care should be supported through redress in accordance with the following principles:</p> <p>a. Counselling and psychological care should be available throughout a survivor's life.</p> <p>b. Counselling and psychological care should be available on an episodic basis.</p> <p>c. Survivors should be allowed flexibility and choice in relation to counselling and psychological care.</p> <p>d. There should be no fixed limits on the counselling and psychological care provided to a survivor.</p> <p>e. Without limiting survivor choice, counselling and psychological care should be provided by practitioners with appropriate capabilities to work with clients with complex trauma.</p> <p>f. Treating practitioners should be required to conduct ongoing assessment and review to ensure treatment is necessary and effective. If those who fund counselling and psychological care through redress have concerns about services provided by a particular practitioner, they should negotiate a process of external review with that practitioner and the survivor. Any process of assessment and review should be designed to ensure it causes no harm to the survivor.</p> <p>g. Counselling and psychological care should be provided to a survivor's family members if necessary for the survivor's treatment.</p>	Accepted in principle	Under the National Redress Scheme, survivors who reside in NSW will receive access to counselling and psychological services, provided by approved counsellors through NSW Victims Services. The Intergovernmental Agreement for the National Redress Scheme includes National Service Standards for the provision of state- and/or territory-based counselling and psychological care.
10	<p>To facilitate the provision of counselling and psychological care by practitioners with appropriate capabilities to work with clients with complex trauma:</p> <p>a. the Australian Psychological Society should lead work to design and implement a public register to enable identification of practitioners with appropriate capabilities to work with clients with complex trauma</p>	Accepted in principle. This is matter for the Australian Government	The Australian Government is responsible for operating the National Redress Scheme.

#	Royal Commission recommendation	NSW Government response	Comment
	<p>b. the public register and the process to identify practitioners with appropriate capabilities to work with clients with complex trauma should be designed and implemented by a group that includes representatives of the Australian Psychological Society, the Australian Association of Social Workers, the Royal Australian and New Zealand College of Psychiatrists, Adults Surviving Child Abuse, a specialist sexual assault service, and a non-government organisation with a suitable understanding of the counselling and psychological care needs of Aboriginal and Torres Strait Islander survivors</p> <p>c. the funding for counselling and psychological care under redress should be used to provide financial support for the public register if required</p> <p>d. those who operate a redress scheme should ensure that information about the public register is made available to survivors who seek counselling and psychological care through the redress scheme.</p>		
11	<p>Those who administer support for counselling and psychological care through redress should ensure that counselling and psychological care are supported through redress in accordance with the following principles:</p> <p>a. Counselling and psychological care provided through redress should supplement, and not compete with, existing services.</p> <p>b. Redress should provide funding for counselling and psychological care services and should not itself provide counselling and psychological care services.</p> <p>c. Redress should fund counselling and psychological care as needed by survivors rather than providing a lump sum payment to survivors for their future counselling and psychological care needs.</p>	Accepted.	<p>Under the National Redress Scheme, in NSW counselling and psychological care will be provided directly by Victims Services.</p> <p>Counselling will be provided in accordance with agreed service standards consistent with guiding principles for service systems outlined in the Royal Commission's <i>Final report</i>. These include for services to be collaborative, available, accessible, high quality and inclusive of Aboriginal and Torres Strait Islander healing approaches. Survivors will receive a minimum of 20 hours of counselling services, to be provided over the course of their lifetime.</p>
12	The Australian Government should remove any restrictions on the number of sessions of counselling and psychological care, whether in a particular period of time or generally, for which Medicare funding is available for survivors who are assessed as eligible for redress under a redress scheme.	Accepted. This is a matter for the Australian Government	The Australian Government is responsible for operating the National Redress Scheme.
13	The Australian Government should expand the range of counselling and psychological care services for which Medicare funding is available for survivors who are assessed as eligible for redress under a redress scheme to include longer-term interventions that are suitable for treating complex trauma, including through non-cognitive approaches.	Accepted in principle. This is a matter for the Australian Government	The Australian Government is responsible for operating the National Redress Scheme.
14	<p>The funding obtained through redress to ensure that survivors' needs for counselling and psychological care are met should be used to fund measures that help to meet those needs, including:</p> <p>a. measures to improve survivors' access to Medicare by:</p> <p>i. funding case management style support to help survivors to understand what is available through the Better Access initiative and Access to Allied Psychological Services and why a GP diagnosis and referral is needed</p> <p>ii. maintaining a list of GPs who have mental health training, are familiar with the existence of the redress scheme and are willing to be recommended to survivors as providers of GP services, including referrals, in relation to counselling and psychological care</p> <p>iii. supporting the establishment and use of the public register that provides details of practitioners who have been identified as having appropriate capabilities to treat survivors and who are registered practitioners for Medicare purposes</p>	Accepted in principle. This is a matter for the Australian Government	The Australian Government is responsible for operating the National Redress Scheme.

#	Royal Commission recommendation	NSW Government response	Comment								
	<p>b. providing funding to supplement existing services provided by state-funded specialist services to increase the availability of services and reduce waiting times for survivors</p> <p>c. measures to address gaps in expertise and geographical and cultural gaps by:</p> <ul style="list-style-type: none"> i. supporting the establishment and promotion of the public register that provides details of practitioners who have been identified as having appropriate capabilities to treat survivors ii. funding training in cultural awareness for practitioners who have the capabilities to work with survivors but have not had the necessary training or experience in working with Aboriginal and Torres Strait Islander survivors iii. funding rural and remote practitioners, or Aboriginal and Torres Strait Islander practitioners, to obtain appropriate capabilities to work with survivors iv. providing funding to facilitate regional and remote visits to assist in establishing therapeutic relationships; these could then be maintained largely by online or telephone counselling. There could be the potential to fund additional visits if required from time to time <p>d. providing funding for counselling and psychological care for survivors whose needs for counselling and psychological care cannot otherwise be met, including by paying reasonable gap fees charged by practitioners if survivors are unable to afford these fees.</p>										
Monetary payments											
15	The purpose of a monetary payment under redress should be to provide a tangible recognition of the seriousness of the hurt and injury suffered by a survivor.	Accepted	The National Redress Scheme includes a monetary payment to survivors as a tangible means of recognising the wrong they have suffered.								
16	<p>Monetary payments should be assessed and determined by using the following matrix:</p> <table border="1"> <thead> <tr> <th>Factor</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>Severity of abuse</td> <td>1–40</td> </tr> <tr> <td>Impact of abuse</td> <td>1–40</td> </tr> <tr> <td>Additional elements</td> <td>1–20</td> </tr> </tbody> </table>	Factor	Value	Severity of abuse	1–40	Impact of abuse	1–40	Additional elements	1–20	Accepted in principle	An assessment framework will set out the method and matters to take into account for working out redress payments under the National Redress Scheme.
Factor	Value										
Severity of abuse	1–40										
Impact of abuse	1–40										
Additional elements	1–20										
17	<p>The 'Additional elements' factor should recognise the following elements:</p> <ul style="list-style-type: none"> a. whether the applicant was in state care at the time of the abuse – that is, as a ward of the state or under the guardianship of the relevant Minister or government agency b. whether the applicant experienced other forms of abuse in conjunction with the sexual abuse – including physical, emotional or cultural abuse or neglect c. whether the applicant was in a 'closed' institution or without the support of family or friends at the time of the abuse d. whether the applicant was particularly vulnerable to abuse because of his or her disability. 	Accepted in principle	The National Redress Scheme assessment framework takes into account the elements recommended by the Royal Commission.								
18	<p>Those establishing a redress scheme should commission further work to develop this matrix and the detailed assessment procedures and guidelines required to implement it:</p> <ul style="list-style-type: none"> a. in accordance with our discussion of the factors b. taking into account expert advice in relation to institutional child sexual abuse, including child development, medical, psychological, social and legal perspectives 	Accepted	The Australian Government has developed the assessment framework in consultation with stakeholders, including government, institutions and survivor groups.								

#	Royal Commission recommendation	NSW Government response	Comment
	c. with the benefit of actuarial advice in relation to the actuarial modelling on which the level and spread of monetary payments and funding expectations are based.		
19	The appropriate level of monetary payments under redress should be: a. a minimum payment of \$10,000 b. a maximum payment of \$200,000 for the most severe case c. an average payment of \$65,000.	Accepted in principle	Under the National Redress Scheme, redress includes a payment of up to \$150,000. The minimum payment will be \$10,000 (including impact on the survivor). The average payment is expected to be approximately \$76,000.
20	Monetary payments should be assessed and paid without any reduction to repay past Medicare expenses, which are to be repaid (if required) as part of the administration costs of a redress scheme.	Accepted. This is a matter for the Australian Government	Under the National Redress Scheme, payments will not be reduced due to previous Medicare expenses.
21	Consistent with our view that monetary payments under redress are not income for the purposes of social security, veterans' pensions or any other Commonwealth payments, those who operate a redress scheme should seek a ruling to this effect to provide certainty for survivors.	Accepted. This is a matter for the Australian Government	The National Redress Scheme will exempt redress payments from being considered compensation or damages under social security and veterans' entitlements legislation.
22	Those who operate a redress scheme should give consideration to offering monetary payments by instalments at the option of eligible survivors, taking into account the likely demand for this option from survivors and the cost to the scheme of providing it.	Accepted in principle. This is matter for the Australian Government	The Australian Government is responsible for operating the National Redress Scheme.
23	Survivors who have received monetary payments in the past – whether under other redress schemes, statutory victims of crime schemes, through civil litigation or otherwise – should be eligible to be assessed for a monetary payment under redress.	Accepted in principle	Under the National Redress Scheme, prior payments will be taken into account in determining the amount of redress payable to a person.
24	The amount of the monetary payments that a survivor has already received for institutional child sexual abuse should be determined as follows: a. monetary payments already received should be counted on a gross basis, including any amount the survivor paid to reimburse Medicare or in legal fees b. no account should be taken of the cost of providing any services to the survivor, such as counselling services c. any uncertainty as to whether a payment already received related to the same abuse for which the survivor seeks a monetary payment through redress should be resolved in the survivor's favour.	Accepted in principle	24(a) and (b) are features of the National Redress Scheme. In relation to 24(c), uncertainty as to whether a payment already received relates to the same abuse will be determined on a case-by-case basis.
25	The monetary payments that a survivor has already received for institutional child sexual abuse should be taken into account in determining any monetary payment under redress by adjusting the amount of the monetary payments already received for inflation and then deducting that amount from the amount of the monetary payment assessed under redress.	Accepted	Under the National Redress Scheme, relevant prior payments will be adjusted for inflation and taken into account in the determination of the monetary redress payment. A relevant prior payment is one that was made by or on behalf of the responsible participating institution in recognition of the harm caused by the abuse that is within the scope of the scheme.
Redress structure and funding			
Redress scheme structure			
26	In order to provide redress under the most effective structure for ensuring justice for survivors, the Australian Government should establish a single national redress scheme.	Accepted	The NSW Government has consistently supported the establishment of a single, national redress scheme. The National Redress Scheme will provide consistent, accessible redress to survivors.

#	Royal Commission recommendation	NSW Government response	Comment
27	If the Australian Government does not establish a single national redress scheme, as the next best option for ensuring justice for survivors, each state and territory government should establish a redress scheme covering government and non-government institutions in the relevant state or territory.	Accepted in principle	Not required, as the National Redress Scheme has been established.
28	The Australian Government should determine and announce by the end of 2015 that it is willing to establish a single national redress scheme.	Accepted in principle	In November 2016, the Australian Government announced that it would establish a national redress scheme.
29	If the Australian Government announces that it is willing to establish a single national redress scheme, the Australian Government should commence national negotiations with state and territory governments and all parties to the negotiations should seek to ensure that the negotiations proceed as quickly as possible to agree the necessary arrangements for a single national redress scheme.	Accepted	The Australian Government has worked closely with state and territory governments, including NSW, to develop the National Redress Scheme.
30	If the Australian Government does not announce that it is willing to establish a single national redress scheme, each state and territory government should establish a redress scheme for the relevant state or territory that covers government and non-government institutions. State and territory governments should undertake national negotiations as quickly as possible to agree the necessary matters of detail to provide the maximum possible consistency for survivors between the different state and territory schemes.	Accepted in principle	Not required, as the National Redress Scheme has been established.
31	Whether there is a single national redress scheme or separate state and territory redress schemes, the scheme or schemes should be established and ready to begin inviting and accepting applications from survivors by no later than 1 July 2017.	Accepted in principle	The National Redress Scheme will commence on 1 July 2018.
32	The Australian Government (if it announces that it is willing to establish a single national redress scheme) or state and territory governments should establish a national redress advisory council to advise all participating governments on the establishment and operation of the redress scheme or schemes.	Accepted	In 2016, the Australian Prime Minister established an Independent Advisory Council to advise on the design and development of the National Redress Scheme.
33	The national redress advisory council should include representatives: <ul style="list-style-type: none"> a. of survivor advocacy and support groups b. of non-government institutions, particularly those that are expected to be required to respond to a significant number of claims for redress c. with expertise in issues affecting survivors with disabilities d. with expertise in issues of particular importance to Aboriginal and Torres Strait Islander survivors e. with expertise in psychological and legal issues relevant to survivors f. with any other expertise that may assist in advising on the establishment and operation of the redress scheme or schemes. 	Accepted	See response to Recommendation 32 (<i>Redress and civil litigation report</i>). The Independent Advisory Council includes survivors of institutional child sexual abuse, representatives from support organisations, legal and psychological experts, Indigenous representatives, disability experts, institutional interest groups and those with a background in government.
Redress scheme funding			
34	For any application for redress made to a redress scheme, the cost of redress in respect of the application should be: <ul style="list-style-type: none"> a. a proportionate share of the cost of administration of the scheme b. if the applicant is determined to be eligible, the cost of any contribution for counselling and psychological care in respect of the applicant c. if the applicant is determined to be eligible, the cost of any monetary payment to be made to the applicant. 	Accepted	The funding arrangements under the National Redress Scheme are based on ‘responsible entity pays’, including: <ul style="list-style-type: none"> • a contribution towards the administration of the scheme, equivalent to 7.5 per cent of the monetary payment amount paid to an eligible survivor in each case • the cost of providing eligible survivors with access to counselling and psychological care • the cost of the monetary payment.

#	Royal Commission recommendation	NSW Government response	Comment
35	The redress scheme or schemes should be funded as much as possible in accordance with the following principles: a. The institution in which the abuse is alleged or accepted to have occurred should fund the cost of redress. b. Where an applicant alleges or is accepted to have experienced abuse in more than one institution, the redress scheme or schemes should apportion the cost of funding redress between the relevant institutions, taking account of the relative severity of the abuse in each institution and any other features relevant to calculating a monetary payment. c. Where the institution in which the abuse is alleged or accepted to have occurred no longer exists but the institution was part of a larger group of institutions or where there is a successor to the institution, the group of institutions or the successor institution should fund the cost of redress.	Accepted	The National Redress Scheme Operator will determine each participating institution that is responsible for the abuse and therefore liable for providing redress to the person under the scheme. This will include a determination of each institution's share of the costs. A 'defunct' institution can participate in the scheme if it has a representative that acts on its behalf and assumes its obligations and liabilities under the scheme.
36	The Australian Government and state and territory governments should provide 'funder of last resort' funding for the redress scheme or schemes so that the governments will meet any shortfall in funding for the scheme or schemes.	Accepted in principle	Under the National Redress Scheme, a participating government institution may be the funder of last resort for a defunct non-government institution, where the government institution is equally responsible for the abuse and has agreed to be the funder of last resort.
37	Regardless of whether there is a single national redress scheme or separate state and territory redress schemes, the Australian Government and each state or territory government should negotiate and agree their respective shares of or contributions to 'funder of last resort' funding in respect of applications alleging abuse in the relevant state or territory.	Accepted in principle	
38	The Australian Government (if it announces that it is willing to establish a single national redress scheme) or state and territory governments should determine how best to raise the required funding for the redress scheme or schemes, including government funding and funding from non-government institutions.	Accepted	The Australian Government will contribute funding towards the establishment of and support services under the scheme; and participating institutions, including NSW Government institutions, responsible under the scheme will contribute funding towards the cost of settling those claims and towards the administration of the scheme.
39	The Australian Government or state and territory governments should determine whether or not to require particular non-government institutions or particular types of non-government institutions to contribute funding for redress.	Accepted	
Trust fund for counselling and psychological care			
40	The redress scheme, or each redress scheme, should establish a trust fund to receive the funding for counselling and psychological care paid under redress and to manage and apply that funding to meet the needs for counselling and psychological care of those eligible for redress under the relevant redress scheme.	Accepted in principle. This is a matter for the Australian Government	The Australian Government is responsible for operating the National Redress Scheme. Participating states and territories which elect to provide counselling under the scheme will receive funding for that counselling through the scheme and will utilise that funding to provide services to survivors.
41	The trust fund, or each trust fund, should be governed by a corporate trustee with a board of directors appointed by the government that establishes the relevant redress scheme. The board or each board should include: a. an independent Chair b. a representative of: government; non-government institutions; survivor advocacy and support groups; and the redress scheme c. those with any other expertise that is desired at board level to direct the trust.	Accepted in principle. This is a matter for the Australian Government	

#	Royal Commission recommendation	NSW Government response	Comment
42	The trustee, or each trustee, should engage actuaries to conduct regular actuarial assessments to determine a 'per head' estimate of future counselling and psychological care costs to be met through redress. The trustee, or each trustee, should determine the amount from time to time that those who fund redress, including as the funder of last resort, must pay per eligible applicant to fund the counselling and psychological care element of redress.	Accepted in principle. This is a matter for the Australian Government	
Redress scheme processes			
Eligibility for redress			
43	A person should be eligible to apply to a redress scheme for redress if he or she was sexually abused as a child in an institutional context and the sexual abuse occurred, or the first incidence of the sexual abuse occurred, before the cut-off date.	Accepted	The scope of the National Redress Scheme is consistent with this recommendation.
44	'Institution' should have the same meaning as in the Royal Commission's terms of reference.	Accepted	The National Redress Scheme's definition of 'institution' is consistent with that of the Royal Commission's terms of reference.
45	Child sexual abuse should be taken to have occurred in an institutional context in the following circumstances: a. it happens: i. on premises of an institution ii. where activities of an institution take place or iii. in connection with the activities of an institution in circumstances where the institution is, or should be treated as being, responsible for the contact between the abuser and the applicant that resulted in the abuse being committed b. it is engaged in by an official of an institution in circumstances (including circumstances that involve settings not directly controlled by the institution) where the institution has, or its activities have, created, facilitated, increased, or in any way contributed to (whether by act or omission) the risk of abuse or the circumstances or conditions giving rise to that risk c. it happens in any other circumstances where the institution is, or should be treated as being, responsible for the adult abuser having contact with the applicant.	Accepted	The National Redress Scheme sets out the circumstances relevant to determining whether an institution is primarily or equally responsible for the abuser having contact with the person as a child, including whether: <ul style="list-style-type: none"> the institution was responsible for the day-to-day care or custody of the child when the abuse occurred the institution was the legal guardian of the child when the abuse occurred the institution was responsible for placing the child into the institution in which the abuse occurred the abuser was an official of the institution when the abuse occurred the abuse occurred on the premises of the institution, or where the activities of the institution took place, or in connection with the activities of the institution.
46	Those who operate the redress scheme should specify the cut-off date as being the date on which the Royal Commission's recommended reforms to civil litigation in relation to limitation periods and the duty of institutions commence.	Accepted in principle	The Australian Government is responsible for operating the National Redress Scheme. The National Redress Scheme is for child sexual abuse that occurred prior to the scheme's commencement (expected on 1 July 2018).
47	An offer of redress should only be made if the applicant is alive at the time the offer is made.	Accepted in principle	The National Redress Scheme provides that a person must be alive in order to make an application; however, if they die after submitting a redress application, the redress payment may be made to another person (having regard to any will by the person).
Duration of a redress scheme			
48	A redress scheme should have no fixed closing date. But, when applications to the scheme reduce to a level where it would be reasonable to consider closing the scheme, those who operate the redress scheme should consider specifying a closing date for the scheme. The closing date should be at least 12 months into the future. Those who operate the redress scheme should ensure that the closing date is given widespread publicity until the scheme closes.	Subject to further consideration	The National Redress Scheme will operate for 10 years, but will be reviewed eight years after commencement.

#	Royal Commission recommendation	NSW Government response	Comment
Publicising and promoting the availability of the scheme			
49	Those who operate a redress scheme should ensure the availability of the scheme is widely publicised and promoted.	Accepted	The Australian Government is responsible for operating the National Redress Scheme.
50	The redress scheme should consider adopting particular communication strategies for people who might be more difficult to reach, including: <ul style="list-style-type: none"> a. Aboriginal and Torres Strait Islander communities b. people with disability c. culturally and linguistically diverse communities d. regional and remote communities e. people with mental health difficulties f. people who are experiencing homelessness g. people in correctional or detention centres h. children and young people i. people with low levels of literacy j. survivors now living overseas. 	Accepted	The Australian Government is responsible for operating the National Redress Scheme.
Application process			
51	A redress scheme should rely primarily on completion of a written application form.	Accepted	This is a feature of the National Redress Scheme.
52	A redress scheme should fund support services and community legal centres to assist applicants to apply for redress.	Accepted in principle	The Australian Government is responsible for operating the National Redress Scheme. Redress Support Services will be funded by the Australian Government and available to all applicants, including specialised support for Indigenous people, people with disability, and people from culturally and linguistically diverse backgrounds.
53	A redress scheme should select support services and community legal centres to cover a broad range of likely applicants, taking into account the need to cover regional and remote areas and the particular needs of different groups of survivors, including Aboriginal and Torres Strait Islander survivors.	Accepted	The Australian Government is responsible for operating the National Redress Scheme. See response to Recommendation 52 (<i>Redress and civil litigation report</i>).
54	Those who operate a redress scheme should determine whether the scheme will require additional material or evidence and additional procedures to determine the validity of applications. Any additional requirements should be clearly set out in scheme material that is made available to applicants, support services and others who may support or advise applicants in relation to the scheme.	Accepted	The Australian Government is responsible for operating the National Redress Scheme. The National Redress Scheme will not require supporting evidence (other than a statutory declaration); however, it may request further information from the applicant.
55	A redress scheme may require applicants for redress to verify their accounts of abuse by statutory declaration.	Accepted	Applications will be required to be verified by statutory declaration.
Institutional involvement			
56	A redress scheme should inform any institution named in an application for redress of the application and the allegations made in it and request the institution to provide any relevant information, documents or comments.	Accepted	Under the National Redress Scheme, if an application for redress identifies a participating institution as being involved in the abuse or if the Scheme Operator has reasonable grounds to believe a participating institution may be responsible, the Scheme Operator must request that the institution provide any information that may be relevant.
Standard of proof			
57	'Reasonable likelihood' should be the standard of proof for determining applications for redress.	Accepted	Reasonable likelihood is the standard of proof under the National Redress Scheme.

#	Royal Commission recommendation	NSW Government response	Comment
Decision making on a claim			
58	A redress scheme should adopt administrative decision-making processes appropriate to a large-scale redress scheme. It should make decisions based on the application of the detailed assessment procedures and guidelines for implementing the matrix for monetary payments.	Accepted	The enabling legislation for the National Redress Scheme includes administrative decision-making processes that fulfil this recommendation. The process for working out the amount of redress, including the application of an assessment framework, is prescribed.
Offer and acceptance of offer			
59	An offer of redress should remain open for acceptance for a period of one year.	Accepted in principle. This is a matter for the Australian Government	Under the National Redress Scheme, offers of redress will remain open for six months. During the six months, survivors will be able to access services including legal advice to ensure they are supported to make considered and informed decisions.
60	A period of three months should be allowed for an applicant to seek a review of an offer of redress after the offer is made.	Accepted in principle. This is a matter for the Australian Government	The National Redress Scheme Operator is required to nominate a period in which an application for review can be made. This must be at least 28 days but no longer than six months.
Review and appeals			
61	A redress scheme should offer an internal review process.	Accepted	The National Redress Scheme includes an internal review process. Internal reviews will be conducted by an Independent Decision Maker who was not involved in the initial decision.
62	A redress scheme established on an administrative basis should be made subject to oversight by the relevant ombudsman through the ombudsman's complaints mechanism.	Accepted in principle	The Australian Government is responsible for operating the National Redress Scheme.
Deeds of release			
63	As a condition of making a monetary payment, a redress scheme should require an applicant to release the scheme (including the contributing government or governments) and the institution from any further liability for institutional child sexual abuse by executing a deed of release.	Accepted	Consistent with this recommendation, as part of the National Redress Scheme, if a person accepts an offer of redress, they must release contributing institutions from all civil liability for the abuse.
64	A redress scheme should fund, at a fixed price, a legal consultation for an applicant before the applicant decides whether or not to accept the offer of redress and grant the required releases.	Accepted in principle	Legal support services will be made available prior to application and through to acceptance of redress offers.
65	No confidentiality obligations should be imposed on applicants for redress.	Accepted	Consistent with this recommendation, under the National Redress Scheme, no confidentiality obligations will be imposed on applicants for redress.
Support for survivors			
66	A redress scheme should offer and fund counselling during the period from assisting applicants with the application, through the period when the application is being considered, to the making of the offer and the applicant's consideration of whether or not to accept the offer. This should include a session of financial counselling if the applicant is offered a monetary payment.	Accepted	The Australian Government will provide support services for survivors during the application process. The National Redress Scheme will support referrals for survivors to access existing Commonwealth-funded financial counsellors. NSW Victims Services will continue to provide support services, including free counselling and financial assistance, to all victims of crime.
67	A redress scheme should fund counselling provided by a therapist of the applicant's choice if it is specifically requested by the applicant and in circumstances where the applicant has an established relationship with the therapist and the cost is reasonably comparable to the cost the redress scheme is paying for these services generally.	Accepted in principle. This is a matter for the Australian Government	The Australian Government is responsible for operating the National Redress Scheme.

#	Royal Commission recommendation	NSW Government response	Comment
68	A redress scheme should offer and fund a limited number of counselling sessions for family members of survivors if reasonably required.	Accepted in principle. This is a matter for the Australian Government	The Australian Government is responsible for operating the National Redress Scheme.
Transparency and accountability			
69	A redress scheme should take the following steps to improve transparency and accountability: <ul style="list-style-type: none"> a. In addition to publicising and promoting the availability of the scheme, the scheme's processes and time frames should be as transparent as possible. The scheme should provide up-to-date information on its website and through any funded counselling and support services and community legal centres, other relevant support services and relevant institutions. b. If possible, the scheme should ensure that each applicant is allocated to a particular contact officer who they can speak to if they have any queries about the status of their application or the timing of its determination and so on. c. The scheme should operate a complaints mechanism and should welcome any complaints or feedback from applicants and others involved in the scheme (for example, support services and community legal centres). d. The scheme should provide any feedback it receives about common problems that have been experienced with applications or institutions' responses to funded counselling and support services and community legal centres, other relevant support services and relevant institutions. It should include any suggestions on how to improve applications or responses or ensure more timely determinations. e. The scheme should publish data, at least annually, about: <ul style="list-style-type: none"> i. the number of applications received ii. the institutions to which the applications relate iii. the periods of alleged abuse iv. the number of applications determined v. the outcome of applications vi. the mean, median and spread of payments offered vii. the mean, median and spread of time taken to determine the application viii. the number and outcome of applications for review. 	Accepted in principle	The Australian Government is responsible for operating the National Redress Scheme.
Interaction with alleged abuser, disciplinary process and police			
70	A redress scheme should not make any 'findings' that any alleged abuser was involved in any abuse.	Accepted	In line with this recommendation, a determination made by the National Redress Scheme Operator is an administrative decision, not a finding of law or fact.
71	A redress scheme may defer determining an application for redress if the institution advises that it is undertaking internal disciplinary processes in respect of the abuse the subject of the application. A scheme may have the discretion to consider the outcome of the disciplinary process, if it is provided by the institution, in determining the application.	Accepted in principle	The Australian Government is responsible for operating the National Redress Scheme.
72	A redress scheme should comply with any legal requirements, and make use of any permissions, to report or disclose abuse, including to oversight agencies.	Accepted	The enabling legislation for the National Redress Scheme includes provisions that allow for information to be shared for the purposes of criminal law enforcement and for the safety and wellbeing of children. This ensures that participating institutions will be able to meet their mandatory reporting and reportable conduct obligations.

#	Royal Commission recommendation	NSW Government response	Comment
73	<p>A redress scheme should report any allegations to the police if it has reason to believe that there may be a current risk to children. If the relevant applicant does not consent to the allegations being reported to the police, the scheme should report the allegations to the police without disclosing the applicant's identity.</p> <p>Note: The issue of reporting to police, including blind reporting, will be considered further in our work in relation to criminal justice issues.</p>	Accepted	The National Redress Scheme Operator will have mechanisms in place to refer allegations of child sexual abuse and related other abuse to police and child protection authorities in the relevant jurisdictions.
74	A redress scheme should seek to cooperate with any reasonable requirements of the police in terms of information sharing, subject to satisfying any privacy and consent requirements with applicants.	Accepted	The enabling legislation for the National Redress Scheme includes provisions that allow for information to be shared for the purposes of criminal law enforcement.
75	A redress scheme should encourage any applicants who seek advice from it about reporting to police to discuss their options directly with the police.	Accepted in principle	The Australian Government is responsible for operating the National Redress Scheme.
Interim arrangements			
76	<p>Institutions should seek to achieve independence in institutional redress processes by taking the following steps:</p> <ol style="list-style-type: none"> Institutions should provide information on the application process, including online, so that survivors do not need to approach the institution if there is an independent person with whom they can make their claim. If feasible, the process of receiving and determining claims should be administered independently of the institution to minimise the risk of any appearance that the institution can influence the process or decisions. Institutions should ensure that anyone they engage to handle or determine redress claims is appropriately trained in understanding child sexual abuse and its impacts and in any relevant cultural awareness issues. Institutions should ensure that any processes or interactions with survivors are respectful and empathetic, including by taking into account the factors discussed in Chapter 5 concerning meetings and meeting environments. Processes and interactions should not be legalistic. Any legal, medical and other relevant input should be obtained for the purposes of decision making. 	Accepted in principle	NSW does not have an interim redress scheme. However, in the interim period, the NSW Government has implemented a new approach to responding to civil claims concerning child abuse, in accordance with the Guiding Principles for Civil Claims for Child Abuse (Guiding Principles) introduced in 2014. The Guiding Principles provide, among other things, that NSW Government agencies will finalise claims as quickly as possible and without requiring a formal Statement of Claim. The Guiding Principles seek to ensure a more caring and compassionate approach across NSW Government when dealing with civil claims for child abuse.
77	Institutions should ensure that the required independence is set out clearly in writing between the institution and any person or body the institution engages as part of its redress process.	Accepted in principle	
78	<p>If a survivor alleges abuse in more than one institution, the institution to which the survivor applies for redress should adopt the following process:</p> <ol style="list-style-type: none"> With the survivor's consent, the institution's redress process should approach the other named institutions to seek cooperation on the claim. If the survivor consents and the relevant institutions agree, one institutional process should assess the survivor's claim in accordance with the recommended redress elements and processes (with any necessary modifications because of the absence of a government-run scheme) and allocate contributions between the institutions. If any institution no longer exists and has no successor, its share should be met by the other institution or institutions. 	Accepted in principle	
79	Institutions should adopt the elements of redress and the general principles for providing redress recommended in Chapter 4.	Accepted in principle	

#	Royal Commission recommendation	NSW Government response	Comment
80	Institutions should undertake, through their redress processes, to meet survivors' needs for counselling and psychological care. A survivor's need for counselling and psychological care should be assessed independently of the institution.	Accepted in principle	NSW offers free and confidential counselling to survivors of child sexual and physical abuse through the NSW Victims Support Scheme.
81	Institutions should adopt the purpose of monetary payments recommended in Chapter 7 and be guided by the recommended matrix for assessing monetary payments.	Accepted in principle	See response to Recommendation 76 (<i>Redress and civil litigation report</i>).
82	In implementing any interim arrangements for institutions to offer and provide redress, institutions should take account of our discussion of the applicability of the redress scheme processes recommended in Chapter 11.	Accepted in principle	
83	Institutions should ensure no deeds of release are required under interim arrangements for institutions to offer and provide redress.	Accepted in principle	
84	If the Australian Government or state and territory governments accept our recommendations and announce that they are working to establish a single national redress scheme or separate state and territory redress schemes, institutions may wish to offer smaller interim or emergency payments as an alternative to offering institutional redress processes as interim arrangements.	Accepted in principle	
Limitation periods			
85	State and territory governments should introduce legislation to remove any limitation period that applies to a claim for damages brought by a person where that claim is founded on the personal injury of the person resulting from sexual abuse of the person in an institutional context when the person is or was a child.	Accepted	In response to these recommendations, the NSW Government introduced the Limitation Amendment (Child Abuse) Act 2016 to remove limitation periods in civil claims to allow survivors to bring claims regardless of the date of the alleged abuse. The Act came into effect on 17 March 2016.
86	State and territory governments should ensure that the limitation period is removed with retrospective effect and regardless of whether or not a claim was subject to a limitation period in the past.	Accepted	
87	State and territory governments should expressly preserve the relevant courts' existing jurisdictions and powers so that any jurisdiction or power to stay proceedings is not affected by the removal of the limitation period.	Accepted	
88	State and territory governments should implement these recommendations to remove limitation periods as soon as possible, even if that requires that they be implemented before our recommendations in relation to the duty of institutions and identifying a proper defendant are implemented.	Accepted	
Duty of institutions			
89	State and territory governments should introduce legislation to impose a non-delegable duty on certain institutions for institutional child sexual abuse despite it being the deliberate criminal act of a person associated with the institution.	Accepted in principle	The NSW Government will meet the intent of this recommendation by introducing legislation to codify the common law vicarious liability of employers for child abuse committed by their employees and extend vicarious liability to employment-like relationships in those circumstances. Like a non-delegable duty, vicarious liability is a strict form of liability that enables institutions to be held liable for institutional child abuse despite it being the deliberate criminal act of a person associated with the institution.
90	The non-delegable duty should apply to institutions that operate the following facilities or provide the following services and be owed to children who are in the care, supervision or control of the institution in relation to the relevant facility or service:	Accepted in principle	

#	Royal Commission recommendation	NSW Government response	Comment
	<ul style="list-style-type: none"> a. residential facilities for children, including residential out of home care facilities and juvenile detention centres but not including foster care or kinship care b. day and boarding schools and early childhood education and care services, including long day care, family day care, outside school hours services and preschool programs c. disability services for children d. health services for children e. any other facility operated for profit which provides services for children that involve the facility having the care, supervision or control of children for a period of time but not including foster care or kinship care f. any facilities or services operated or provided by religious organisations, including activities or services provided by religious leaders, officers or personnel of religious organisations but not including foster care or kinship care. 		
91	Irrespective of whether state and territory parliaments legislate to impose a non-delegable duty upon institutions, state and territory governments should introduce legislation to make institutions liable for institutional child sexual abuse by persons associated with the institution unless the institution proves it took reasonable steps to prevent the abuse. The 'reverse onus' should be imposed on all institutions, including those institutions in respect of which we do not recommend a non-delegable duty be imposed.	Accepted	The NSW Government will introduce legislation imposing a new statutory liability on all institutions that exercise care, supervision or authority over children, with a reverse onus of proof and a defence of reasonable precautions.
92	For the purposes of both the non-delegable duty and the imposition of liability with a reverse onus of proof, the persons associated with the institution should include the institution's officers, office holders, employees, agents, volunteers and contractors. For religious organisations, persons associated with the institution also include religious leaders, officers and personnel of the religious organisation.	Accepted	See responses to recommendations 89 and 91 (<i>Redress and civil litigation report</i>). Vicarious liability (implementing the intent of the non-delegable duty) will apply to employment relationships and relationships akin to employment. The statutory duty with reverse onus of proof will apply to institutions in respect of acts of individuals associated with the institution, to be defined non-exhaustively to include categories such as those recommended by the Royal Commission.
93	State and territory governments should ensure that the non-delegable duty and the imposition of liability with a reverse onus of proof apply prospectively and not retrospectively.	Accepted	Both the vicarious liability and the statutory duty reforms will be prospective only.
Identifying a proper defendant			
94	State and territory governments should introduce legislation to provide that, where a survivor wishes to commence proceedings for damages in respect of institutional child sexual abuse where the institution is alleged to be an institution with which a property trust is associated, then unless the institution nominates a proper defendant to sue that has sufficient assets to meet any liability arising from the proceedings: <ul style="list-style-type: none"> a. the property trust is a proper defendant to the litigation b. any liability of the institution with which the property trust is associated that arises from the proceedings can be met from the assets of the trust. 	Accepted	The NSW Government will introduce legislation allowing unincorporated associations to nominate a proper defendant to child abuse claims. Where an unincorporated association does not nominate a proper defendant with sufficient assets to satisfy the claim, the court will be allowed to nominate a trustee of an associated trust as the defendant to the claim, and allow the assets of the trust to be used to satisfy the claim.
95	The Australian Government and state and territory governments should consider whether there are any unincorporated bodies that they fund directly or indirectly to provide children's services. If there are, they should consider requiring them to maintain insurance that covers their liability in respect of institutional child sexual abuse claims.	Accepted in principle	The NSW Government does not provide funding to unincorporated entities.

#	Royal Commission recommendation	NSW Government response	Comment
Model litigant approaches			
96	Government and non-government institutions that receive, or expect to receive, civil claims for institutional child sexual abuse should adopt guidelines for responding to claims for compensation concerning allegations of child sexual abuse.	Accepted	The NSW Government has implemented a new approach to responding to civil claims concerning child abuse, in accordance with the Guiding Principles for Civil Claims for Child Abuse (Guiding Principles) introduced in 2014. The Guiding Principles provide, among other things, that NSW Government agencies will finalise claims as quickly as possible and without requiring a formal Statement of Claim. The Guiding Principles seek to ensure a more caring and compassionate approach across NSW Government when dealing with civil claims for child abuse.
97	The guidelines should be designed to minimise potential re-traumatisation of claimants and to avoid unnecessarily adversarial responses to claims.	Accepted	
98	The guidelines should include an obligation on the institution to provide assistance to claimants and their legal representatives in identifying the proper defendant to a claim if the proper defendant is not identified or is incorrectly identified.	Accepted	
99	Government and non-government institutions should publish the guidelines they adopt or otherwise make them available to claimants and their legal representatives.	Accepted	

Working with Children Checks report NSW Government response

The *Working with Children Checks report* was released in August 2015.

It includes 36 recommendations.

The recommendations cover:

- a national approach
- standards
- benefits, impacts and implementation.



05

#	Royal Commission recommendation	NSW Government response	Comment
General			
1	<p>State and territory governments should:</p> <ol style="list-style-type: none"> a. within 12 months of the publication of this report, amend their WWCC laws to implement the standards identified in this report b. once the standards are implemented, obtain agreement from the Council of Australian Governments (COAG), or a relevant ministerial council, before deviating from or altering the standards in this report, adopting changes across all jurisdictions c. within 18 months from the publication of this report, amend their WWCC laws to enable clearances from other jurisdictions to be recognised and accepted. 	Accepted in principle	The NSW Government is working with the Australian Government, and other states and territories to agree and implement National Standards for Working with Children Checks (the National Standards).
2	The South Australian Government should, within 12 months of the publication of this report, replace its criminal history assessments with a WWCC scheme that incorporates the standards set out in this report.	Accepted	Not applicable.
3	<p>The Commonwealth Government should, within 12 months of the publication of this report:</p> <ol style="list-style-type: none"> a. facilitate a national model for WWCCs by: <ol style="list-style-type: none"> i. establishing a centralised database, operated by CrimTrac, that is readily accessible to all jurisdictions to record WWCC decisions ii. together with state and territory governments, identifying consistent terminology to capture key WWCC decisions (for example, refusal, cancellation, suspension and grant) for recording into the centralised database iii. enhancing CrimTrac's capacity to continuously monitor WWCC cardholders' national criminal history records b. explore avenues to make international records more accessible for the purposes of WWCCs c. identify and require all Commonwealth Government personnel, including contractors, undertaking child-related work, as defined by the child-related work standards set out in this report, to obtain WWCCs. 	Accepted in principle	The NSW Government is working with the Australian Government, and other states and territories to establish a centralised database for Working with Children Check (WWCC) decisions. The NSW Minister for Family and Community Services wrote to the Australian Government Attorney-General in January 2018, providing in-principle support to establishing a centralised database of WWCCs.
4	<p>The Commonwealth, state and territory governments should, within 12 months of the publication of this report:</p> <ol style="list-style-type: none"> a. agree on a set of standards or guidelines to enhance the accurate and timely recording of information by state and territory police into CrimTrac's system b. review the information they have agreed to exchange under the National Exchange of Criminal History Information for People Working with Children (ECHIPWC), and establish a set of definitions for the key terms used to describe the different types of criminal history records so they are consistent across the jurisdictions (these key terms include pending charges, non-conviction charges and information about the circumstances of an offence) c. take immediate action to record into CrimTrac's system historical criminal records that are in paper form or on microfilm and which are not currently identified by CrimTrac's initial database search d. once these historical criminal history records are entered into CrimTrac's system by all jurisdictions, check all WWCC cardholders against them through the expanded continuous monitoring process. 	Accepted	The NSW Government is working with the Australian Government, and other states and territories to agree the National Standards.

#	Royal Commission recommendation	NSW Government response	Comment
Standards			
Child-related work			
5	State and territory governments should amend their WWCC laws to incorporate a consistent and simplified definition of child-related work, in line with the recommendations below.	Accepted	In April 2018, the NSW Government amended Section 6 of the <i>Child Protection (Working with Children) Act 2012</i> (NSW) (WWC Act) to include a simplified definition of child-related work, as recommended by the Royal Commission. The NSW Government expects the National Standards will include a consistent and simplified definition of 'child-related work'.
6	State and territory governments should amend their WWCC laws to provide that work must involve contact between an adult and one or more children to qualify as child-related work.	Accepted	In April 2018, the NSW Government amended Section 6(1) of the WWC Act in line with this recommendation. The NSW Government expects the National Standards will include a consistent and simplified definition of 'child-related work'.
7	State and territory governments should: a. amend their WWCC laws to provide that the phrase 'contact with children' refers to physical contact, face-to-face contact, oral communication, written communication or electronic communication b. through COAG, or a relevant ministerial council, agree on standard definitions for each kind of contact and amend their WWCC laws to incorporate those definitions.	Accepted in principle	NSW is partially compliant with recommendation 7(a) as it has expanded child-related roles to include roles providing ongoing children's services by way of counselling, mentoring and distance education by any form of communication, including oral, written and electronic.
8	State and territory governments should: a. amend their WWCC laws to provide that contact with children must be a usual part of, and more than incidental to, the child-related work b. through COAG, or a relevant ministerial council, agree on standard definitions for the phrases 'usual part of work' and 'more than incidental to the work', and amend their WWCC laws to incorporate those definitions.	Accepted	The NSW Government recently amended Section 6(1)(a) of the WWC Act to comply with this recommendation. NSW expects part (a) of this recommendation will be included in the National Standards. Part (b) will not be included because defining the term 'usual part of work' and 'more than incidental to the work' may be too restrictive and lead to negative child protection outcomes.
9	State and territory governments should amend their WWCC laws to specify that it is irrelevant whether the contact with children is supervised or unsupervised.	Accepted	NSW largely complies with this recommendation under Clause 20 of the <i>Child Protection (Working with Children) Regulation 2013</i> (NSW) (WWC Regulation); however, there are some exemptions (i.e. Clause 20 (1) (b)). The NSW Government expects the National Standards will include a consistent and simplified definition of 'child-related work'.
10	State and territory governments should amend their WWCC laws to provide that a person is engaged in child-related work if they are engaged in the work in any capacity and whether or not for reward.	Accepted	The NSW WWCC system complies with this recommendation under sections 6 and 7 of the WWC Act. The NSW Government expects the National Standards will include a consistent and simplified definition of 'child-related work'.
11	State and territory governments should amend their WWCC laws to provide that work that is undertaken under an arrangement for a personal or domestic purpose is not child-related, even if it would otherwise be so considered.	Accepted	NSW's WWCC system complies with this recommendation under Section 20 of the WWC Regulation. The NSW Government expects the National Standards will include a consistent and simplified definition of 'child-related work', including that which is not considered child-related.
12	State and territory governments should amend their WWCC laws to: a. define the following as child-related work: i. accommodation and residential services for children, including overnight excursions or stays ii. activities or services provided by religious leaders, officers or personnel of religious organisations iii. childcare or minding services iv. child protection services, including out of home care (OOHC) v. clubs and associations with a significant membership of, or involvement by, children vi. coaching or tuition services for children	Accepted in principle	Section 6(2) of the WWC Act broadly complies with this recommendation. It includes categories beyond those specified in Recommendation 12a. NSW does not support removing categories, as per Recommendation 12c. NSW expects the National Standards will include consistent categories classified as 'child-related work'.

#	Royal Commission recommendation	NSW Government response	Comment
	<ul style="list-style-type: none"> vii. commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions viii. disability services for children ix. education services for children x. health services for children xi. justice and detention services for children, including immigration detention facilities where children are regularly detained xii. transport services for children, including school crossing services xiii. other work or roles that involve contact with children that is a usual part of, and more than incidental to, the work or roles. <ul style="list-style-type: none"> b. require WWCCs for adults residing in the homes of authorised carers of children c. remove all other remaining categories of work or roles. 		
13	State and territory governments, through COAG, or a relevant ministerial council, should agree on standard definitions for each category of child-related work and amend their WWCC laws to incorporate those definitions.	Accepted in principle	NSW supports reaching agreement on standard definitions for each category of child-related work, as long as the existing NSW framework is not weakened.
Exemptions			
14	State and territory governments should amend their WWCC laws to: <ul style="list-style-type: none"> a. exempt: <ul style="list-style-type: none"> i. children under 18 years of age, regardless of their employment status ii. employers and supervisors of children in a workplace, unless the work is child-related iii. people who engage in child-related work for seven days or fewer in a calendar year, except in respect of overnight excursions or stays iv. people who engage in child-related work in the same capacity as the child v. police officers, including members of the Australian Federal Police vi. parents or guardians who volunteer for services or activities that are usually provided to their children, in respect of that activity, except in respect of: <ul style="list-style-type: none"> a) overnight excursions or stays b) providing services to children with disabilities, where the services involve close, personal contact with those children b. remove all other exemptions and exclusions c. prohibit people who have been denied a WWCC, and subsequently not granted one, from relying on any exemption. 	Accepted in principle	<p>Section 20 of the WWC Regulation outlines those who are considered exempt from the WWC Act. The exemptions are broadly consistent with the Royal Commission’s recommendations, but there are some differences.</p> <p>NSW expects the National Standards will specify a consistent approach to who should be exempt from obtaining a WWCC, but may not include all of the exemptions listed by the Royal Commission and may include additional exemptions already outlined in NSW legislation.</p>
15	State and territory governments, through COAG, or a relevant ministerial council, should agree on standard definitions for each exemption category and amend their WWCC laws to incorporate those definitions.	Accepted in principle	<p>The Australian Government and other jurisdictions will consider this further when agreeing the National Standards.</p> <p>NSW’s acceptance of this recommendation will be on the condition it does not weaken NSW’s WWCC system.</p>
Offences			
16	State and territory governments should amend their WWCC laws to incorporate a consistent and simplified list of offences, including: <ul style="list-style-type: none"> a. engaging in child-related work without holding, or having applied for, a WWCC b. engaging a person in child-related work without them holding, or having applied for, a WWCC 	Accepted	NSW complies with this recommendation under sections 8, 9, 45A, 36B (new) and 45 of the WWC Act. In relation to 16(d), requiring applicants to inform about a change in criminal records is unnecessary in NSW due to our system of continuous monitoring of all relevant (NSW) offences and findings of disciplinary proceedings. However, in April 2018, NSW made legislative changes requiring applicants and holders to notify the NSW Office of the Children’s Guardian about changes to personal details.

#	Royal Commission recommendation	NSW Government response	Comment
	<ul style="list-style-type: none"> c. providing false or misleading information in connection with a WWCC application d. applicants and/or WWCC cardholders failing to notify screening agencies of relevant changes in circumstances e. unauthorised disclosure of information gathered during the course of a WWCC. 		
Criminal history information			
17	<p>State and territory governments should amend their WWCC laws to include a standard definition of criminal history, for WWCC purposes, comprised of:</p> <ul style="list-style-type: none"> a. convictions, whether or not spent b. findings of guilt that did not result in a conviction being recorded c. charges, regardless of status or outcome, including: <ul style="list-style-type: none"> i. pending charges – that is, charges laid but not finalised ii. charges disposed of by a court, or otherwise, other than by way of conviction (for example, withdrawn, set aside or dismissed) iii. charges that led to acquittals or convictions that were quashed or otherwise over-turned on appeal <p>for all offences, irrespective of whether or not they concern the person's history as an adult or a child and/or relate to offences outside Australia.</p>	Accepted	<p>In April 2018, the NSW Government amended Section 5 of the WWC Act, in line with this recommendation. The WWC Act now includes the definition of 'criminal history' recommended by the Royal Commission and replaces references to 'criminal record' with 'criminal history'.</p> <p>NSW expects the National Standards will include a standard definition of 'criminal history' for WWCC purposes.</p>
18	<p>State and territory governments should amend their WWCC laws to require police services to provide screening agencies with records that meet the definition of criminal history records for WWCC purposes and any other available information relating to the circumstances of such offences.</p>	Accepted in principle	<p>NSW complies with this recommendation under sections 33 and 34 of the WWC Act. NSW expects the National Standards will include a consistent approach to requiring police services to provide records that meet the definition of criminal history records for WWCC purposes.</p>
Disciplinary or misconduct information			
19	<p>State and territory governments should amend their WWCC laws to:</p> <ul style="list-style-type: none"> a. require that relevant disciplinary and/or misconduct information is checked for all WWCC applicants b. include a standard definition of disciplinary and/or misconduct information that encompasses disciplinary action and/or findings of misconduct where the conduct was against, or involved, a child, irrespective of whether this information arises from reportable conduct schemes or other systems or bodies responsible for disciplinary or misconduct proceedings c. require the bodies responsible for the relevant disciplinary and/or misconduct information to notify their respective screening agencies of relevant disciplinary and/or misconduct information that meets the definition. 	Accepted	<p>NSW is broadly compliant with this recommendation under Section 35 and schedule 1(2) of the WWC Act, and is working with the Australian Government, and other states and territories to agree the National Standards identified in the Royal Commission's <i>Working with Children Checks</i> Report. NSW expects the National Standards will include recommendations 19(a) and 19(c), as well as a revised version of 19(b).</p>
Response to records returned			
20	<p>State and territory governments should amend their WWCC laws to respond to records in the same way, specifically that:</p> <ul style="list-style-type: none"> a. the absence of any relevant criminal history, disciplinary or misconduct information in an applicant's history leads to an automatic grant of a WWCC b. any conviction and/or pending charge in an applicant's criminal history for the following categories of offence leads to an automatic WWCC refusal, provided the applicant was at least 18 years old at the time of the offence: <ul style="list-style-type: none"> i. murder of a child ii. manslaughter of a child iii. indecent or sexual assault of a child 	Accepted	<p>NSW complies with this recommendation under Part 3, divisions 3 and 4 and schedules 1 and 2 of the WWC Act. NSW expects the National Standards will include a consistent approach to assessing WWCC applications.</p>

#	Royal Commission recommendation	NSW Government response	Comment
	<ul style="list-style-type: none"> iv. child pornography-related offences v. incest where the victim was a child vi. abduction or kidnapping of a child vii. animal-related sexual offences. <p>c. all other relevant criminal, disciplinary or misconduct information should trigger an assessment of the person’s suitability for a WWCC (consistent with the risk assessment factors set out below).</p>		
21	<p>State and territory governments should amend their WWCC laws to specify that relevant criminal records for the purposes of recommendation 20(c) include but are not limited to the following:</p> <ul style="list-style-type: none"> a. juvenile records and/or non-conviction charges for the offence categories specified in recommendation 20(b) b. sexual offences, regardless of whether the victim was a child and including offences not already covered in recommendation 20(b) c. violent offences, including assaults, arson and other fire-related offences, regardless of whether the victim was a child and including offences not already covered in recommendation 20(b) d. child welfare offences e. offences involving cruelty to animals f. drug offences. 	Accepted	NSW largely complies with this recommendation under schedule 1 of the WWC Act, and work is underway to ensure all offences listed are included. NSW expects the National Standards will include a consistent definition of ‘relevant criminal records’.
22	<p>The Commonwealth Government, through COAG, or a relevant ministerial council, should take a lead role in identifying the specific criminal offences that fall within the categories specified in recommendations 20(b) and 21.</p>	Accepted	The Australian Government is taking a lead role in identifying the specific criminal offences that fall within the categories specified in recommendations 20(b) and 21.
Assessing risk			
23	<p>State and territory governments should amend their WWCC laws to specify that the criteria for assessing risks to children include:</p> <ul style="list-style-type: none"> a. the nature, gravity and circumstances of the offence and/or misconduct, and how this is relevant to children or child-related work b. the length of time that has passed since the offence and/or misconduct occurred c. the age of the child d. the age difference between the person and the child e. the person’s criminal and/or disciplinary history, including whether there is a pattern of concerning conduct f. all other relevant circumstances in respect of their history and the impact on their suitability to be engaged in child-related work. 	Accepted	NSW complies with all criteria included in Recommendation 23 under Part 3, division 3 of the WWC Act, which outlines the risk assessment process for WWCC applications in NSW. Additionally, in relation to 23(g), NSW requires authorised carers and adult household members to have a WWCC. NSW expects the National Standards will include a consistent approach to assessing risks to children.
24	<p>State and territory governments should amend their WWCC laws to expressly provide that, in weighing up the risk assessment criteria, the paramount consideration must always be the best interests of children, having regard to their safety and protection.</p>	Accepted	NSW complies with this recommendation under Section 15 of the WWC Act, which specifies that the Office of the Children’s Guardian must consider the risk to the safety of children, and Section 4, which provides that paramount consideration in operation of the Act is the safety, welfare and wellbeing of children, and in particular, protecting them from abuse. NSW expects the National Standards will include a commitment to giving the best interests of children paramountcy when assessing WWCCs.
Eligibility to work while an application is assessed			
25	<p>State and territory governments should amend their WWCC laws to permit WWCC applicants to begin child-related work before the outcome of their application is determined, provided the safeguards listed below are introduced.</p> <p>Applicants</p> <ul style="list-style-type: none"> a. applicants must submit a WWCC application to the appropriate screening agency before beginning child-related work and not withdraw the application while engaging in child-related work 	Accepted	NSW complies with this recommendation under sections 9A and 17 of the WWC Act. NSW expects the National Standards will include consistent safeguards for the period in which an application is being assessed.

#	Royal Commission recommendation	NSW Government response	Comment
	<p>b. applicants must provide a WWCC application receipt to their employers before beginning child-related work</p> <p>Other safeguards</p> <p>c. employers must cite application receipts, record application numbers and verify applications with the relevant screening agency</p> <p>d. there must be capacity to impose interim bars on applicants where records are identified that may indicate a risk and require further assessment.</p>		
26	State and territory governments that do not have an online WWCC processing system should establish one.	Accepted	NSW has an online processing system for WWCCs which is legislated in Section 25 of the WWC Act. NSW expects the National Standards will include an expectation that jurisdictions establish online WWCC processing systems.
27	State and territory governments should process WWCC applications within five working days, and no longer than 21 working days for more complex cases.	Accepted in principle	NSW expects the National Standards will include a standard processing time which will account for more complex cases that rely on other agencies' and individuals' cooperation in order to conduct the assessment.
Clearance types			
28	<p>All state and territory governments should amend their WWCC laws to specify that:</p> <p>a. WWCC decisions are based on the circumstances of the individual and are detached from the employer the person is seeking to work for, or the role or organisation the person is seeking to work in</p> <p>b. the outcome of a WWCC is either that a clearance is issued or it is not; there should be no conditional or different types of clearances</p> <p>c. volunteers and employees are issued with the same type of clearance.</p>	Accepted	NSW complies with this recommendation under sections 12, 15 and 20 of the WWC Act. NSW expects the National Standards will include a consistent approach to clearance types.
Appeals			
29	<p>All state and territory governments should ensure that any person the subject of an adverse WWCC decision can appeal to a body independent of the WWCC screening agency, but within the same jurisdiction, for a review of the decision, except persons who have been convicted of one of the following categories of offences:</p> <ul style="list-style-type: none"> • murder of a child • indecent or sexual assault of a child • child pornography-related offences • incest where the victim was a child <p>and</p> <p>a. received a sentence of full time custody for the conviction, such persons being permanently excluded from an appeal</p> <p>or</p> <p>b. by virtue of that conviction, the person is subject to an order that imposes any control on the person's conduct or movement, or excludes the person from working with children, such persons being excluded from an appeal for the duration of that order.</p> <p>Notwithstanding the above any person may bring an appeal in which they allege that offences have been mistakenly recorded as applying to that person.</p>	Accepted in principle	NSW is broadly compliant with this recommendation under Part 4 of the WWC Act, and has gone further to limit appeal rights and by restricting appeal rights for individuals convicted of murder, regardless of the victim's age. NSW expects the National Standards will include a consistent approach to appeals, and may specify that appeals about alleged offences which a person considers mistaken should occur outside of the WWCC system.
Portability			
30	Subject to the implementation of the standards set out in this report, all state and territory governments should amend their WWCC laws to enable WWCCs from other jurisdictions to be recognised and accepted.	Accepted in principle	NSW has recently inserted Section 36A into the WWC Act to exchange WWCC information between the Office of the Children's Guardian and other WWCC interjurisdictional bodies subject to a Ministerial protocol. NSW is encouraging jurisdictions to consider exchanging information subject to the protocol

#	Royal Commission recommendation	NSW Government response	Comment
			as an interim measure before a database is established. Portability of WWCCs requires further consideration while other jurisdictions have less comprehensive checking schemes.
Duration and continuous monitoring			
31	Subject to the commencement of continuous monitoring of national criminal history records, state and territory governments should amend their WWCC laws to specify that: <ul style="list-style-type: none"> a. WWCCs are valid for five years b. employers and WWCC cardholders engaged in child-related work must inform the screening agency when a person commences or ceases being engaged in specific child-related work c. screening agencies are required to notify a person's employer of any change in the person's WWCC status. 	Accepted	NSW complies with this recommendation under sections 20, 22, 23 and 24 of the WWC Act. NSW expects the National Standards will include measures about the duration of WWCCs and continuous monitoring.
Monitoring compliance			
32	All state and territory governments should grant screening agencies, or another suitable regulatory body, the statutory power to monitor compliance with WWCC laws.	Accepted	NSW complies with this recommendation under Section 39 of the WWC Act. NSW expects the National Standards will include a consistent approach to screening agencies, or a suitable regulation body, exercising powers to monitor compliance with WWCC laws.
33	All state and territory governments should ensure their WWCC laws include powers to compel the production of relevant information for the purposes of compliance monitoring.	Accepted	NSW complies with this recommendation under Section 40 of the WWC Act. NSW expects the National Standards will include a consistent approach to compelling the production of relevant information for the purposes of compliance monitoring.
Governance			
34	The Commonwealth, state and territory governments should: <ul style="list-style-type: none"> a. through COAG, or a relevant ministerial council, adopt the standards and set a timeframe within which all jurisdictions must report back to COAG, or a relevant ministerial council, on implementation b. establish a process whereby changes to the standards or to state and territory schemes need to be agreed to by COAG, or a relevant ministerial council, and must be adopted across all jurisdictions. 	Accepted in principle	NSW is working with other jurisdictions through the Interjurisdictional Working Group for WWCCs to agree the National Standards. Once a position is agreed, the National Standards will be considered by Social Services and Attorney General Ministerial Councils.
35	The Commonwealth, state and territory governments should provide an annual report to COAG, or a relevant ministerial council, for three years following the publication of this report, to be tabled in the parliaments of all nine jurisdictions, detailing their progress in implementing the recommendations in this report and achieving a nationally consistent approach to WWCCs.	Accepted in principle	NSW is working with other jurisdictions through the Interjurisdictional Working Group for WWCCs to agree National Standards. Once a position is agreed, the National Standards will be considered by Social Services and Attorney General Ministerial Councils.
36	COAG, or a relevant ministerial council, should ensure a review is made after three years of the publication of this report, of the state and territory governments' progress in achieving consistency across the WWCC schemes, with a view to assessing whether they have implemented the Royal Commission's recommendations.	Accepted in principle	Not applicable.



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