

## Royal Commission Independent Education Inquiry Report 2013 – Implementation of Recommendations

Recommendation	Responsible Agency	Status
<p><b>1</b></p> <p>It is recommended that the Department establish a policy to inform a school community at the appropriate time whenever allegations of sexual misconduct are made against any person employed in any capacity at that school and those allegations raise concerns as to the suitability of that person to work with children: para 477 and Chapters 11 and 12.</p>	<b>Department for Education</b>	<b>Completed</b>
<p><b>2</b></p> <p>It is recommended that the Department inform a school community responsibly and with due regard to the following factors:</p> <ol style="list-style-type: none"> <li>a. The need to protect the alleged victim and not state anything that might identify the alleged victim.</li> <li>b. The need to safeguard the safety, health and well-being of other children at the school.</li> <li>c. The presumption of innocence of the alleged offender.</li> <li>d. The need to remove the alleged offender from the school.</li> <li>e. The hardship that might be inflicted on members of the family of the alleged offender.</li> <li>f. The fact that allegations of sexual misconduct have the capacity to leave a stigma that cannot be removed.</li> <li>g. The fact that others might engage in unlawful conduct such as retribution against the alleged offender.</li> <li>h. The need to correct misinformation.</li> <li>i. The need to maintain confidence in the school.</li> <li>j. The need to have regard to the provisions of both sections 69A and section 71A of the Evidence Act 1929 and to the law of defamation.</li> <li>k. The need to consult SA Police as to the timing and the content of any letter to parents.</li> </ol> <p>When considering the above factors, the Department should refer to the commentary on those factors in Chapter 11 of the report and, in relation to suppression orders, see paras 105-111.</p>	<b>Department for Education</b>	<b>Completed</b>
<p><b>3</b></p> <p>It is recommended that the Department adopt and implement the Guidelines in Chapter 15 of the report.</p>	<b>Department for Education</b>	<b>Completed</b>

Recommendation	Responsible Agency	Status
<p><b>4</b></p> <p>It is recommended that, where a person employed in any capacity at a school is arrested and charged with a sexual offence, the Department conduct a risk assessment for the purpose of determining whether there is a reasonable suspicion that at that school there might be children other than the alleged victim who might also be victims: paras 588 to 594.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>5a</b></p> <p>It is recommended that, where a risk assessment determines that there is a reasonable suspicion that there might be other children other than the alleged victim who might also be victims, that the Department arrange a meeting of parents of children at the school for the purpose of instructing and informing those parents on the matters described in the Guidelines and on such other matters as are relevant and necessary.</p> <p><b>5b</b></p> <p>It is recommended that, where a risk assessment determines that there is a reasonable suspicion that there might be other children other than the alleged victim who might also be victims, that the Department appoint a qualified and experienced expert such as a psychologist, who is knowledgeable on issues in relation to the management and assistance of children who have been victims of child abuse, to address the meeting of parents and provide the instruction and information as stated in the Guidelines and such other information and instruction as is relevant or necessary: paras 601-609.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>6</b></p> <p>It is recommended that site leaders and all members of the staff of a school involved in the management of sexual allegations should make notes of all conversations and events that occur in relation to the management of the allegations. The notes should be made in the course of the conversation or immediately after and those notes should be placed in a file marked "Confidential" and held in a secure cabinet. The notes should be made in the manner stated in paragraph 3.1 of the Guidelines: para 695.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>

Recommendation	Responsible Agency	Status
<p><b>7</b></p> <p>It is recommended that the Department establish and implement a policy that it will inform the Minister for Education whenever allegations of sexual misconduct are made against any person employed in any capacity at a school and those allegations raise concerns as to the suitability of that person to work with children and that the policy be as follows:</p> <ol style="list-style-type: none"> <li>a. That the Minister be informed of allegations of sexual misconduct at a school as soon as reasonably practicable after the Department becomes aware of the allegations.</li> <li>b. That, when a person employed in any capacity at a school is arrested and charged with sexual misconduct, the Minister be told the name of the school, the name of the accused person, the charges and the nature of the offending. This information should be given as soon as reasonably practicable after the Department becomes aware of the fact. It may be given orally or in writing and, if orally, confirmed immediately in writing.</li> <li>c. That the initial briefing be followed by a more detailed briefing in writing when the Department has more information to give to the Minister.</li> <li>d. That the Department keep the Minister informed with further written briefings as events unfold so that the Minister is in a position to respond quickly and appropriately to any issue that might arise in the course of the management of the allegations.</li> <li>e. That, soon after a new Minister has been appointed, the Department deliver to the new Minister a written briefing listing all matters current at the date of the Minister's appointment where allegations of sexual misconduct have been made against a person employed in any capacity at a school and stating the events in that matter to the date of the briefing and that, thereafter, the Department informs the new Minister with further written briefings as events unfold so that the Minister is in a position to respond quickly and appropriately to any issues that might arise in the course of the management of the allegations.</li> </ol> <p>See paras 584 to 587 and for sub-para (e) see paras 483 and 484.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>8</b></p> <p>It is recommended that, when allegations of sexual misconduct are made against any person employed in any capacity at a school, the Department</p> <ol style="list-style-type: none"> <li>a. appoint one person to supervise and coordinate the Department's management of the matter until all aspects of that matter have been resolved, and</li> <li>b. create a central file for that matter in which all documents relating to the matter and a copy of all relevant correspondence including emails are kept for future reference.</li> </ol> <p>See paras 463 to 467 and 699.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>

Recommendation	Responsible Agency	Status
<p><b>9</b></p> <p>It is recommended that the Department introduce procedures to ensure that information is accurately recorded by Departmental officers and correctly stated in all documents created by the Department, including ministerial briefings, reports and other internal Departmental correspondence including emails: para 469.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>10</b></p> <p>It is recommended that the Department introduce systems which ensure that the flow of information within the Department occurs in an accurate and timely manner to all relevant officers: para 462.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>11</b></p> <p>It is recommended that the Chief Executive of the Department consider the necessity for and take advice upon the lawfulness of a direction to a teacher not to communicate with other members of the staff at a school: paras 222-226.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>12</b></p> <p>It is recommended that, where a child at a school is a victim of sexual misconduct by any person employed in any capacity at a school, the Department provide counselling to the victim and to the parents of the victim and that the offer should be made orally and confirmed in writing: paras 692-693.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>13</b></p> <p>It is recommended that, where a person employed in any capacity at a school has been charged with sexual misconduct, the Department provide adequate counselling to children, parents and members of staff and that the Department establish a procedure to provide such counselling: para 610.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>14</b></p> <p>It is recommended that the list of policies on the Department's website be reviewed</p> <ol style="list-style-type: none"> <li>a. To include an index that groups topics together to enable ready access to all policies on any particular issue, and</li> <li>b. To rationalise and consolidate the policies: para 689.</li> </ol>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>

Recommendation	Responsible Agency	Status
<p><b>15</b></p> <p>It is recommended that the document entitled Responding to Problem Sexual Behaviour in Children and Young People: Guidelines for Staff in Education and Care Settings be amended</p> <p>a. to state that a child under the age of ten years is presumed not to be capable of forming an intent to commit a criminal offence as prescribed by section 5 of the Young Offenders Act 1993;</p> <p>b. to state that the Young Offenders Act prohibits the publication of anything that might identify both the offender and the victim where each is under the age of 18 years. It is desirable that that document explain the operation of these provisions so that a person managing an incident of sexual offending by one child against another is aware of those provisions and does not offend against them; and</p> <p>c. to include more information on managing the continuing education of the offending student(s) and the victim after the offending has occurred and, in particular, the safety and perceived safety of the victim: paras 681 to 684.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>16</b></p> <p>It is recommended that the Department take active steps to ensure that all regional directors, principals and teachers are aware of and become familiar with the document entitled Responding to Problem Sexual Behaviour in Children and Young People: Guidelines for Staff in Education and Care Settings: para 688.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>17</b></p> <p>It is recommended that the Department take active steps to ensure that all regional directors, principals and teachers are aware of and become more familiar with all Departmental policies and guidelines: paras 688-690.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>18</b></p> <p>It is recommended that the Department impose a contractual obligation upon third parties using a site of the Department to give notice to parents of children using services provided by the third party should a member or employee or volunteer of that organisation be arrested and charged with a sexual offence: paras 685-687.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>19</b></p> <p>It is recommended that the Department obtain legal advice from the Crown Solicitor on the question of appropriate clauses to include in a contract with a person who will be working with children at a school in relation to the suspension or termination of the contract should allegations of sexual misconduct be made against that person or employees of that person: para 221.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>20</b></p> <p>It is recommended that the Department adhere to and implement the recommendations made in the KPMG report to appoint trained and experienced investigators to the Investigations Unit: para 691.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>

Recommendation	Responsible Agency	Status
<p><b>21</b></p> <p>It is recommended that the Department take active steps to ensure that all regional directors, principals and teachers are aware of and are trained to implement the procedures in the Guidelines.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>22</b></p> <p>It is recommended that the Department establish a process of mediation for the resolution of disputes between the Department and the governing council of a school: para 658.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>23</b></p> <p>It is recommended that provision be made to establish a fund from which governing councils can draw funding to enable a governing council to obtain independent legal advice when that governing council is in dispute with the Department and that the decision whether it is necessary or appropriate for a governing council to obtain such funding be made by the person who holds the office of the Crown Solicitor: para 659.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>24</b></p> <p>It is recommended that a review be conducted of the powers and functions of governing councils with the intent of determining whether governing councils should have wider powers of governance or whether it is in truth an advisory body: paras 660-662.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>25</b></p> <p>It is recommended that Families SA extend its existing processes of electronic notification to enable more persons to make an electronic notification when discharging the obligation to make a notification under section 11 of the Children's Protection Act 1993: para 677.</p>	<p><b>Department for Child Protection</b></p>	<p><b>Completed</b></p>
<p><b>26</b></p> <p>It is recommended that section 11 of the Children's Protection Act 1993 be amended by adding a new subsection 4(a) to read as follows:</p> <p style="padding-left: 40px;">It shall be a defence to a charge under subsection (1) to prove that the knowledge of the facts that gave rise to the suspicion was gained only from a police officer acting in the course of his duty.</p> <p>See Para 674</p>	<p><b>Department for Child Protection</b></p>	<p><b>Completed</b></p>

Recommendation	Responsible Agency	Status
<p><b>27</b></p> <p>It is recommended that consideration be given to the question whether it is appropriate to relieve a teacher of the obligation to notify the Child Abuse Report Line pursuant to section 11 of the Children's Protection Act when the only knowledge that that teacher has of possible abuse or neglect of a child has been obtained from another teacher who has already notified the Child Abuse Report Line. That recommendation could be effected by an amendment to section 11 of the Children's Protection Act along the lines of the following:</p> <p style="padding-left: 40px;">This section does not require a teacher in an educational institution (including a kindergarten) to make a notification where that teacher's knowledge of the fact that gave rise to the suspicion was gained from another teacher in that educational institution and that other teacher had already made a notification under this section.</p> <p>See para 675.</p>	<p><b>Department for Child Protection</b></p>	<p><b>Completed</b></p>
<p><b>28</b></p> <p>It is recommended that section 66 of the Child Sex Offenders Registration Act 2006 be amended</p> <ol style="list-style-type: none"> <li>a. to require a person charged with a sexual offence involving a child or children to disclose to a police officer the name and address of the organisation where that person works with children either as an employee, contractor, volunteer or in any other capacity; and</li> <li>b. to authorise a police officer to inform the person for whom the accused person works of the fact that the person has been charged with a sexual offence involving children.</li> </ol> <p>See para 701 to 703.</p>	<p><b>Attorney-General's Department</b></p>	<p><b>Completed</b></p>
<p><b>29</b></p> <p>It is recommended that section 74(A) of the Summary Offences Act 1953 be amended by adding a new paragraph (f) to section (5) to read as follows:</p> <p style="padding-left: 40px;">Where the police officer has reasonable cause to suspect that a person has committed, is committing, or is about to commit a sexual offence involving a child or children, the name and place where that person works either as an employee, an independent contractor, a volunteer, or in any other capacity.</p> <p>See para 703.</p>	<p><b>Attorney-General's Department</b></p>	<p><b>Completed</b></p>

Recommendation	Responsible Agency	Status
<p><b>30</b></p> <p>It is recommended that SA Police continues its existing practice of promptly informing the Department whenever it has arrested and charged a person who is known to work in any capacity at a school under the aegis of the Department and, without limiting the effect of that recommendations, it is also recommended that SA Police provide officers of the Investigations Unit of the Department with the following information:</p> <ol style="list-style-type: none"> <li>a. the name of the person who has been charged;</li> <li>b. details of the charge;</li> <li>c. the conditions upon which the accused person has been bailed;</li> <li>d. the date of the first appearance of the accused person in court and the location of that court;</li> <li>e. whether there is a reasonable suspicion that there might be other victims;</li> <li>f. whether there are any complicating factors that would affect disclosure to parents;</li> <li>g. the contact details of the investigating officer; and</li> <li>h. whether the offence is a major indictable offence, a minor indictable offence or a summary offence.</li> </ol> <p>See para 70</p>	<p><b>South Australia Police / Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>31</b></p> <p>It is recommended that both the Interagency Code of Practice and the Information Sharing Guidelines be amended so that the recommendations in paragraph 30 can be effected: para 705.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>32</b></p> <p>It is recommended that, when either SA Police or a principal of a school or the Department is aware of allegations of sexual misconduct against a member of the staff of a school and it is necessary to prevent that member of staff from having contact with students at the school, that the Department and SA Police liaise and implement such co-ordinated action as is necessary to prevent that member of staff from attending the school or from having contact with students: para 704.</p>	<p><b>South Australia Police / Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>33</b></p> <p>It is recommended that clause 4(10) of the Information Privacy Principles Instructions be amended by deleting paragraph (b) and substituting in its place the following:</p> <ol style="list-style-type: none"> <li>b. the person disclosing the information believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious threat to the life, health or safety of the record-subject or of some other person.</li> </ol> <p>See para 184.</p>	<p><b>State Records</b></p>	<p><b>Completed</b></p>



Recommendation	Responsible Agency	Status
<p><b>34</b></p> <p>It is recommended that Part 6 of Chapter 3 of the Information Sharing Guidelines be amended by deleting the words</p> <p>Generally speaking, sufficient reason will exist if the provider believes that a child or young person or a group of young people is at risk in facing an immediate or anticipated serious threat to their wellbeing and/or safety.</p> <p>and that those words be replaced by the following:</p> <p>Generally speaking, sufficient reason will exist if the person disclosing the information (“the provider”) believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious threat to the life, health or safety of any person or group of persons or that the provider reasonably believes that a child or young person or a group of children or young people are at risk.</p> <p>See para 184.</p>	<p><b>Ombudsman SA</b></p>	<p><b>Completed</b></p>
<p><b>35</b></p> <p>It is recommended that the Code of Practice of governing councils be amended to include an obligation to comply with the Information Privacy Principles Instruction or, alternatively, that the Minister for Education issue an administrative instruction pursuant to section 96 of the Education Act 1972 to require governing councils to comply with the Information Privacy Principles Instruction: para 190.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>36</b></p> <p>It is recommended that the Interagency Code of Practice be amended as follows:</p> <ol style="list-style-type: none"> <li>a. To state at the end of the first paragraph of section 14.2 that policy should ensure that a support person is available for the child and that the support person be a parent (unless the parent is the alleged offender), a relative or friend chosen by or acceptable to the child;</li> <li>b. To delete the word “responsibility” in the fourth paragraph of section 14.2 and replace it with the word “duty”;</li> <li>c. To delete the expression “Department of Education and Children’s Services: wherever it appears and replace it with the expression “Department for Education and Child Development”;</li> <li>d. To delete the abbreviation “DECS” wherever it is used and to replace it with the abbreviation “DECD”; and</li> <li>e. To delete the expression “Special Investigations Unit” wherever it is used and to replace it with the expression “Investigations Unit”.</li> </ol> <p>See para 191.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>37</b></p> <p>It is recommended that the complement of staff at the Screening Unit at the Department for Communities and Social Inclusion be appropriately increased to manage the extra volume of work required for the purpose of screening teachers and students intending to be teachers: para 694.</p>	<p><b>Department of Human Services</b></p>	<p><b>Completed</b></p>

Recommendation	Responsible Agency	Status
<p><b>38</b></p> <p>It is recommended that the Teachers Registration Board enter into an administrative arrangement with the Department for Education, Catholic Education SA and the Association of Independent Schools of SA Inc to share information on the progress of court proceedings: para 706.</p>	<p><b>Teachers Registration Board</b></p>	<p><b>Completed</b></p>
<p><b>39</b></p> <p>It is recommended that the Department, in consultation with Catholic Education SA and with the Association of Independent Schools of SA Inc, adapt the Guidelines so that they apply both in government schools and non-government schools in South Australia: para 716.</p>	<p><b>Department for Education</b></p>	<p><b>Completed</b></p>
<p><b>40</b></p> <p>It is recommended that the edited version of this report be made available to the public as soon as reasonably practicable after it has been delivered to His Excellency the Governor.</p>	<p><b>Attorney-General's Department</b></p>	<p><b>Completed</b></p>
<p><b>41</b></p> <p>I have ordered that the unedited version of this report be a confidential document until the legal event I have identified to the Attorney-General has occurred. I recommend that, once that legal event has occurred, the unedited version of this report be made available to the public.</p>	<p><b>Attorney-General's Department</b></p>	<p><b>Completed</b></p>
<p><b>42</b></p> <p>I have ordered that the transcript of the evidence of this Inquiry be a confidential document until the legal event I have identified to the Attorney-General has occurred. I have recommended that, when the unedited version of the report is released to the public, the transcript of the evidence of this Inquiry be made available to the public except those parts of the transcript that have been ordered to be and to remain confidential: para 37.</p>	<p><b>Attorney-General's Department</b></p>	<p><b>Completed</b></p>
<p><b>43</b></p> <p>I have ordered that the exhibits that became evidence at this Inquiry be confidential until the legal event I have identified to the Attorney-General has occurred. I recommend that when the unedited version of the report is released to the public, the exhibits be available to the public except those exhibits that have been ordered to be and to remain confidential.</p>	<p><b>Attorney-General's Department</b></p>	<p><b>Completed</b></p>