

GOVERNMENT RESPONSE

COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE – REPORT 5: SEEKING JUSTICE: IMPROVING OPTIONS FOR SURVIVORS OF INSTITUTIONAL CHILD ABUSE; VOLUME 1: LEGISLATIVE AND HIGH-LEVEL ADMINISTRATIVE MATTERS

The Government has considered the recommendations made by the Community Development and Justice Standing Committee (CDJSC) in Report 5, 'Seeking justice: improving options for survivors of institutional child abuse; Volume 1: Legislative and high-level administrative matters' and is pleased to provide the following response, according to Standing Order 277. This response addresses all 12 recommendations.

The CDJSC's report builds upon the important work of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) in 2015.

The Government notes that since the Royal Commission's report significant work has been conducted to address the recommendations of the Royal Commission and improve access to justice for survivors of institutional child abuse in this State.

The CDJSC acknowledges that Western Australia (WA) acted quickly to remove limitation periods for civil actions for child sexual abuse, both prospectively and retrospectively, with the introduction of the *Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Act 2018* (WA) which has been in force since 19 April 2018.

Work continues to progress across the relevant Government agencies that have a role to play in preventing or addressing institutional child abuse in WA. There are several projects underway which demonstrate the Government's ongoing commitment to improving outcomes for survivors of institutional child abuse in WA. These include:

- The Department of Communities is currently working to give effect to the *Children and Community Services Amendment Act 2021* (WA), whose purpose was to fully implement the expansion of mandatory reporter categories of the Royal Commission to achieve minimum national consistency. The expanded reporter categories include ministers of religion, school counsellors and youth justice workers.
- The establishment of a reportable conduct scheme in 2022 was another critical milestone in the Government's commitment to responding to the Royal Commission's recommendations. The scheme, which is overseen by a team within the Ombudsman's office, compels heads of organisations to investigate allegations or convictions of reportable conduct that may involve employees, volunteers or contractors of the organisation.
- Implementation of the National Principles for Child Safe Organisations, which provides a framework to guide organisations across WA to develop child safe cultures and practices, identify risks and take actions to prevent and respond to child abuse. The Government is committed to supporting the development of safe organisations for children and young people and is working to develop an independent oversight system that will include monitoring and enforcement of the National Principles.

The recommendations made by the CDJSC raise complex matters of law and policy, and their practical implementation requires collaboration across Government agencies.

This includes matters such as the constitutional validity of certain recommendations and the combined impact of the recommendations on the physical and sexual abuse (PSA) insurance market.

The Attorney General has tasked the Department with leading the work to respond to the CDJSC's recommendations. Consultation has commenced across key agencies including the Department of Communities, the Insurance Commission of Western Australia, the State Solicitor's Office and the Solicitor-General.

The Government notes that the CDJSC intends to publish a second report, which is expected to contain further recommendations. In view of the need to consider the cumulative effect and interrelationship of all recommendations, work will progress on the report's recommendations, while awaiting the publication of the second report. The Government will then prepare a consolidated Government response to all of the CDJSC's recommendations.

Notwithstanding the further work required, further information can be provided in relation to several recommendations.

With respect to Recommendation 5, policy work and consultation is underway to consider the implementation of a statutory duty of care that will reverse the onus of proof for institutions to prevent the abuse of a child in circumstances where the child is in the care, supervision or authority of the institution. The Department is progressing this project and continues its discussions with the Department of Communities and the Insurance Commission of Western Australia to work through legal, policy and implementation matters, including addressing the withdrawal of commercial insurers from providing insurance policies with cover for PSA claims.

With respect to Recommendations 11 and 12, the Government is pleased to advise that the District Court of Western Australia has established a dedicated court list for institutional child sexual abuse civil claims, with effect from February 2024. Through the new Abuse Claims List, the Court has advanced a tailored approach to case management, promoting greater certainty for survivors who wish to access the justice system in this way. The District Court offers a special mediation service for these civil claims and actively works with counsel to promote effective and efficient negotiations for the speedy resolution of these matters.

This is a significant achievement for the District Court and the Government is confident that the dedicated court list will help deliver better outcomes for survivors of institutional child abuse in WA.

The Government welcomes the CDJSC's thoughtful and measured report and recommendations and looks forward to the next report on the inquiry.