



**Government  
of South Australia**

## **Response**

**by the**

**Minister for Families and Communities**

**to the**

**Children in State Care Commission of Inquiry Report  
*Allegations of Sexual Abuse and Death from Criminal  
Conduct***

*As required by section 11A of the Commission of Inquiry (Children  
in State Care and Children on APY Lands) Act 2004*

**June 2008**

Recommendation 1:

The SMART (Strategies for Managing Abuse Related Trauma) program should be ongoing, with the development of updated, refresher professional development seminars and collaborative practice forums.

**South Australian Government Response**

The South Australian Government supports this recommendation.

The SMART (Strategies for Managing Abuse Related Trauma) program provides training in understanding the impact of abuse-related trauma on children and young people. The Government currently funds the program for delivery to educators, district support staff and personnel in Children's Centres, preschools and schools. The program also includes an online learning component that is accessible free of charge via the internet. Several government and non-government agencies have accessed the online training.

The present program continues until December 2008. Following that, the Government will fund a SMART program for delivery for the next three years from 2009 to 2011.

#### Recommendation 2:

That the self-protective training being taught by Second Story be reviewed to ensure that it covers the *Keeping safe: child protection curriculum* developed for teaching all children in schools and is adapted to target the specific needs and circumstances of :

- children and young people in care generally
- Aboriginal children and young people in care
- and children and young people in care with disabilities

That such self protective training is then delivered to children and young people in State care at their residential or secure care facility.

### **South Australian Government Response**

The South Australian Government supports the intent of this recommendation.

The self-protective training program being taught by Second Story will be reviewed as suggested, taking into account the recent new Child Protection curriculum for schools.

The review will also consider strategies for combining this training with other therapeutic support services. The current self-protective training program will require further development to ensure that all groups outlined in this recommendation will receive the type of program suited to their context.

The new *Keeping Safe: Child Protection Curriculum* was recently introduced into South Australian schools. *Keeping Safe* is the first update of the State's child protection curriculum for more than two decades and was developed by the Department of Education and Children's Services in consultation with the Catholic and Independent school sectors. *Keeping Safe* will provide appropriate self-protective education for all levels of learning from preschool to year 12. It will provide a good basis for self-protective training being taught in other venues such as Second Story. The curriculum addresses the following areas:

- the right to be safe
- relationships
- recognising and reporting abuse
- protective strategies.

Recommendation 3:

That the application of section 8B of the *Children's Protection Act 1993* be broadened to include organisations as defined in section 8C.

That consideration is given to reducing or waiving the fee for an organisation applying for a criminal history report in order to comply with section 8B.

That a criminal history report be defined as a report that includes information as to whether a person is on the Australian National Child Offender Register (ANCOR).

### **South Australian Government Response**

As proposed by the Commission of Inquiry, the South Australian Government will extend the obligation for criminal history checks to *local government or non-government organisations that provide health, welfare, education, sporting or recreational, religious or spiritual, child care or residential services wholly or partly for children* (section 8C definition).

Section 8B of the *Children's Protection Act 1993* now requires only government organisations and non-government schools to conduct criminal history checks for personnel who: work with children, regularly work in close proximity to children, or have access to their records. The obligation extends to employees, volunteers, agents, contractors and sub-contractors.

The broadening of the range of organisations who must obtain criminal history checks for personnel will provide much stronger protections for those children and young people who use their services. The Government will however, provide exemptions from the requirement to organisations, persons, and positions where there is an assessed low risk to children and the requirement would be unnecessarily onerous for the organisation. (The ability to grant exemptions is already provided for via regulations under s 8B (7) of the *Children's Protection Act*).

The Government will also continue the present government policy of waiving fees for criminal history reports for volunteers working with vulnerable groups.

The Australian National Child Offender Register (ANCOR) was established by legislation to assist police in protecting the community by giving police the power to closely monitor those on the register. Its operation is governed by national arrangements. Information about any criminal offences that would cause a person to be entered on the national register is provided as part of a criminal history check. Under national arrangements, names are not released to discourage persons released after sentence from "going underground" and so being impossible to monitor. However, to ensure that information obtained from the national register of child offenders is as complete as possible, South

Australia Police are working with other police jurisdictions to achieve new national arrangements so that information concerning Paedophile Restraining Orders (not normally regarded as criminal history) can also be released as a matter of course where the Paedophile Restraining Order is issued from a Court.

South Australia has one of the strongest approaches of any jurisdiction to criminal history checks. In South Australia for example, offences committed against a child will never be expunged from a person's record and information about them will always be provided in a "working with children" check, along with information about charges not leading to a conviction.

Recommendation 4:

That the *Children's Protection Act 1993* be amended to require organisations to lodge a copy of their policies and procedures established pursuant to section 8C(1) with the chief executive and that the chief executive be required to keep a register of those policies and procedures.

### **South Australian Government Response**

The South Australian Government supports the broad objective of recommendation 4 – that the range of organisations in the community which work with children or regularly interact with children should be monitored on their progress in implementing “child safe environments”.

Under section 8C(1) of the *Children's Protection Act 1993*, a government department, agency or instrumentality or a local government or non-government organisation that “provides health, welfare, education, sporting or recreational, religious or spiritual, child care or residential services wholly or partly for children” is required to establish appropriate policies and procedures for ensuring that reports of abuse or neglect are made where necessary and that “child safe environments” are established and maintained within the organisation. The *Children's Protection Act* (section 8A) already requires the Chief Executive of the Department for Families and Communities (DFC) to monitor progress on this and report regularly to the Minister on this subject.

The Government will require these organisations to lodge a copy of their policies and procedures established pursuant to section 8C(1) with the chief executive of the Department for Families and Communities as evidence that the organisation is engaged in making their organisation a safer place for children. The Government will introduce legislation to ensure that after the initial lodging, the Chief Executive is able to seek information from specific organisations or sectors where experience is showing that there is a particular risk of child abuse occurring or where the nature of reports to the Child Abuse Report Line (or other source) suggests that more stringent efforts need to be made by a particular class or group of organisations to protect children from possible abuse. This targeted monitoring will lessen the bureaucratic burden while still ensuring an effective monitoring regime in areas which present specific risks to children.

Recommendation 5:

That Families SA, as part of the screening process of employees, carers and volunteers, obtains information as to whether or not that person is on the Australian National Child Offender Register (ANCOR).

### **South Australian Government Response**

The South Australian Government accepts the burden of this recommendation that Families SA, as part of its screening process for employees, carers and volunteers needs to obtain the most complete information possible from the Australian National Child Offender Register (ANCOR) and from police databases (through the national CrimTrac network).

Under section 8B of the *Children's Protection Act 1993*, Families SA already obtains a criminal history check for each employee, carer, volunteer or contractor working with children or in regular contact with children or with access to records about children. The criminal history check provides information from national police databases about any criminal offences that would cause the person to be entered on the Australian National Child Offender Register (ANCOR). To ensure that information obtained from the national register of child offenders is as complete as possible, South Australia Police are working with other police jurisdictions to achieve new national arrangements so that information concerning Pedophile Restraining Orders (not normally regarded as criminal history) can also be released as a matter of course where the Pedophile Restraining Order is issued from a Court.

South Australia has one of the strongest approaches of any jurisdiction to criminal history checks. In South Australia for example, offences committed against a child will never be expunged from a person's record and information about them will always be provided in a "working with children" check. Information about charges not leading to a conviction will be provided. Information from Families SA's own databases is also considered if relevant.

The national register is a powerful policing tool, which was developed to ensure that persons convicted of sex offences and other serious offences against children are able to be monitored by police once they have served their sentence. Under national arrangements, the names of persons on the national register are not publicly released to discourage offenders released into the community after sentence from "going underground" and so being impossible to properly monitor. Information from the register about a person's criminal history can be provided.

Recommendation 6:

That Families SA extends its screening processes to cover known regular service providers to children and young people in care with disabilities, such as regular bus or taxi drivers.

### **South Australian Government Response**

The South Australian Government supports the recommendation in principle.

The Government will examine whether there are viable options for prospective bus and taxi drivers to be screened through the existing Families SA screening processes.

The Government will also examine whether the current screening process undertaken by bus and taxi drivers providing regular services to children can be further tightened. For example, the Government will examine the feasibility of requiring criminal history reports every 3 years rather than every 5 years, and whether “proof of identity” checks are strong enough. The Government will also examine whether the information available through current screening processes is the best and most relevant available.

The Government will include in the already extensive list of disqualifying offences for drivers of public passenger vehicles (under section 31(1)(b) of the *Passenger Transport Act 1994*) any offence of assault on a child or vulnerable adult. Under section 31(10)(b) Conditions of Accreditation, a person charged or convicted of a disqualifying offence has their accreditation automatically suspended. The list of disqualifying offences presently includes a wide range of offences against children, for example, it includes the offences of procuring a child to commit an indecent act and possession of child pornography.

The Public Transport Division (PTD) in the Department for Transport, Energy and Infrastructure, currently administers a system of accreditation for drivers and operators of public passenger vehicles which is based on the national standard for the industry. The PTD also runs a Volunteer Driver Accreditation Program in regional South Australia for eleven (11) volunteer Community Passenger Networks that provide transport for people who are ‘transport disadvantaged’ (including for some children with a disability). Conditions applying to the transport of children through Community Passenger Networks already prohibit the carriage of unaccompanied children. (All children under 16 must be accompanied by an adult carer.)

Bus and taxi drivers accredited in both the current public transport system and the volunteer networks are already required to submit a national criminal history report obtained through South Australia Police. (This is known as a National Police Certificate.) This report (or certificate) lists all convictions within the past 10 years (as well as all serious convictions over 10 years old)



and includes information regarding all matters heard in court relating to children, regardless of whether these matters were withdrawn or no conviction recorded. The criminal history reports are assessed by the Passenger Transport Standards Committee, which also hears any appeals to have accreditation reinstated.

Recommendation 7:

That the *Charter of rights for children and young people in care* be the subject of legislation in South Australia.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The Government will legislate for a Charter of Rights for Children and Young People in Care as suggested by the Commission of Inquiry, as part of the package of legislation to be introduced to give effect to this response.

The Guardian for Children and Young People developed a *Charter of Rights for Children and Young People in Care* during 2005/06. Extensive input was received by children and young people in care. The Charter articulates the ordinary rights to children and young people in care in easily understood language. The Charter has been well-received by young people in care and by carers and organisations that support them.

The Government agrees that enshrining a requirement for a Charter in legislation will have important symbolic and practical value. It will influence the practices of agencies and individuals caring for children and young people. It will draw attention to the rights of young people in care and it will help equip young people in care with the tools and confidence to voice their views and concerns while in care.

Recommendation 8:

That the *Children's Protection Act 1993* be amended to provide for a Youth Advisory Committee, established and appointed by the Guardian for Children and Young People. The committee would consist of children and young people currently or formerly under the guardianship or in the custody of the Minister. Membership should include an Aboriginal person/s and a person/s with a disability.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The Government expects that it will be implemented shortly and formalised as part of the package of legislation to be introduced to give effect to this response.

In practice the South Australian Guardian for Children and Young People has made it a priority to consult with and receive advice from a range of children and young people under the guardianship or in the custody of the Minister. However there is no legal requirement that she do so. Legislation requiring that a youth advisory committee exist to advise the Guardian will ensure that there is no question that young people should be actively involved in the work of the Guardian. In the first instance, the Guardian advises that she expects that the current Youth Advisors will make up this committee.

Recommendation 9:

That a Minister's Youth Council be established to directly advise the Minister for Families and Communities. Council members must be children or young people aged 12–25 years currently or previously under the guardianship or in the custody of the Minister. The membership must include an Aboriginal child or young person; a child or young person/s with a disability; and a youth adviser to the Guardian for Children and Young People.

### **South Australian Government Response**

The intention of this recommendation is to ensure that the Minister for Families and Communities has advice and input from young people in care. The South Australian Government supports this goal. In response to this recommendation the Government will legislate to require the Minister to consult at least twice yearly with a cross-section of children and young people, as described in the recommendation, on issues relevant to children and young people in care or custody. The Government believes that this arrangement will provide greater flexibility in being able to canvass a variety of experiences and advice from young people.

In addition to the proposed legislated requirement for consultation with young people in care, the Minister is presently able to call upon a range of advisory bodies and committees for advice on the issues for children and young people in care. Some – for example, the Guardian for Children and Young People – are there to advocate and provide advice on the issues of children and young people in care or in custody of the Minister, and the Guardian in turn receives advice from a group of young people who have been in care. The Council for the Care of Children provides more general advice to the Minister on issues that impact upon children and their families. There are two youth advisors appointed to the Council and a Children's Care and Protection Working Group has been established to advise specifically on care and protection issues. In addition, the Office for Youth and the Minister for Youth's Youth Advisory Council can provide advice on broader youth issues. The Youth Advisory Council has given advice to Government in the past on issues relating to abuse and exploitation of young people. The CREATE Foundation also makes representations to government on issues that impact upon children and young people who are, or have previously been, in care.

Recommendation 10:

That resources be allocated to ensure that the participation of children and young people on the Youth Advisory Committee appointed by the Guardian of Children and Young People (see recommendation 8) and on the Minister's Youth Council ( see recommendation 9) is not limited by financial barriers.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The Minister for Families and Communities is required to provide the Guardian with the staff and other resources that the Guardian reasonably needs for carrying out the Guardian's functions under section 52B of the *Children's Protection Act 1993*. The Government will also provide additional funding to the Guardian to appoint two advocates to provide support and advocacy to children in care, as suggested in recommendations 11 and 19. These resources are anticipated to be sufficient to ensure the participation of children and young people on the Youth Advisory Committee.

Recommendations 8, 9 and 10 (this one) seek to ensure that the voice of children and young people in care is able to inform government processes and decisions. The Government believes that a positive response to these recommendations will strengthen existing processes for consultation and participation by young people under the guardianship of the Minister and will develop strategies for encouraging collaboration between currently existing advisory bodies.

Recommendation 11:

That there be a special position created in the office of the Guardian for Children and Young People to assist the GCYP in addressing s52C(2)(b) of the *Children's Protection Act 1993* and ensuring that both individual and systemic advocacy is provided for children with disabilities in care.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The creation of a position specialising in advocacy for children with disabilities will increase the Guardian's capacity to monitor the circumstances of children with disabilities in care and help ensure their specific needs are identified and met.

This recommendation will be implemented in conjunction with the response to recommendation 19, which proposes a new position within the office of the Guardian to assist Aboriginal young people in care. The creation of two new specialist positions will significantly increase the Guardian's capacity to make contact with individual children in care and advocate for them. It will also ensure that advice provided by the Guardian is based on a broader range of contacts with children.

Recommendation 12:

That an extensive media campaign be implemented to educate the community about child sexual abuse – its prevalence, existing misconceptions, perpetrators' tactics, services for victims, and treatment of offenders – and highlight that child protection is a community responsibility.

### **South Australian Government Response**

The South Australian Government will make available research funds and request the Council for the Care of Children, working with the Australian Centre for Child Protection, to examine the most effective approach for educating the community about the issue of child sexual abuse and child protection as a community responsibility.

The Government is in no doubt that responsibility for keeping children safe and ensuring their well-being must be shared by the whole community. Systemic change of attitude is a long-term goal that requires community education efforts by Government, community organisations and agencies working in the child protections arena. Education which can be targeted to particular groups is also important.

Media campaigns must be continued over long periods to have an impact. In receiving expert advice on what type of campaign or education strategy may be effective, the Government will be able to ensure that any resources available to be applied will be put to the most effective use for tackling the issue of child sexual abuse.

Recommendation 13:

That the Sexual Behaviour Clinic of the Rehabilitation Programs Branch, Department for Correctional Services, be expanded so that all child sex offenders may attend the program while in custody and at any stage of their sentence.

### **South Australian Government Response**

The South Australian Government will continue to support current arrangements which aim to provide access to the Sexual Behaviours Clinic for all child sex offenders during their sentence.

In 2003, the Government provided funding to establish the Sexual Behaviours Clinic in the Department of Correctional Services. This important initiative aims to reduce recidivism through the provision of specific and targeted programs for sex offenders. The Clinic is now funded on an ongoing basis and funding has been increased over the last two years to expand service delivery. The Clinic now operates 3 intensive programs to sex offenders on an almost continuous basis and 4 maintenance programs to those who have completed an intensive program. The Clinic operates at Yatala and Port Augusta prisons, and in the community at the Adelaide Community Corrections Centre. Access to the program is through a system of risk-based prioritisation and offenders receive treatment services as available.

To expand this program to reach *all child sex offenders at any point in their sentence* would require significant new resources and the establishment of programs in all regional facilities. This is not operationally feasible at this time. The Government will continue to fund treatment and maintenance programs for both metropolitan and rural child sex offenders through the Sexual Behaviours Clinic.



Recommendation 14:

That the following be formalised in, and implemented as part of, the *Keeping Them Safe* reform agenda:

- Every child and young person in care has an allocated social worker
- Every child and young person in care has regular face-to face contact with their allocated social worker, the minimum being once a month, regardless of the stability or nature of the placement
- The primary guiding principle in determining the workload of each social worker is quality contact between each child and young person in care and their social worker, which includes face-to-face contact at least once a month and the ability to respond within 24 hours if contact is initiated by the child or young person.

As part of implementing the above, it is recommended that:

- Sufficient resources are allocated to recruit and retain qualified social workers
- Emphasis is placed on the professional development and support of social workers including –
  - The reduction of team sizes to a maximum of seven or eight, to increase the capacity for better supervision of social workers and their own professional development
  - Mandatory training in supervision for all social workers employed in supervisory roles

The introduction of a system of registration or accreditation for social workers which requires ongoing professional development and training.

### **South Australian Government Response**

The South Australian Government accepts the recommendation of the Commission of Inquiry, acknowledging that “quality of contact” between workers and children and young people in care should be the primary guiding principle for the Department for Families and Communities’ workload planning and practice and an integral part of the *Keeping Them Safe* reform agenda.

The South Australian Government acknowledges the importance of regular contact between workers and child and young persons in care. The Government will ensure that every child and young person in care will have an allocated care worker.

The Department for Families and Communities will work to ensure “quality contact” by managing the allocation of social workers and contact frequencies with consideration to the child’s age, needs and nature of the care placement. This policy of “differential response” accepts that there are different contact needs: for example, for children and young people newly in care; those

whose circumstances are more problematic; and for those with long-term settled and stable placements. An assessment of the contact needs of the child will be made, and will be reviewed annually.

The Department for Families and Communities will work to achieve the best level of contact possible between children and social workers within available resources. \$34.0 million of the Government's recent additional funding commitment (see Recommendation 16) will be available for the provision of social workers and other staff to manage the expected increase in children in State care. The department will also improve practices and relieve some of the administrative pressures on social workers in the field, thus freeing more staff time to provide valuable face-to-face contact with children and young people. Where there is an urgent need, the department will respond to contact from a child or young person within 24 hours.

The Government is also implementing other initiatives which will indirectly provide better quality care for young people in care by providing additional case workers to support relatives and foster carers who are caring for children. An amount of \$8.3 million over four years will provide increased support to relatives caring for children whose parents are unable to (including more caseworkers for these carers) and an amount of \$7.3 million over four years will be provided to non-government organisations to provide increased support to foster carers through home visits and more intensive case management.

The Government also accepts the advice of the Commission's Inquiry on the issue of the recruitment, retention and professional development of social workers. The Department for Families and Communities recognises these issues and has developed a strong workforce planning approach which regularly seeks to support staff and improve effectiveness in this area.

Social workers employed by the Department for Families and Communities (Families SA) are fully qualified (except as explained below) and supported in their professional development. The Department for Families and Communities faces particular challenges in keeping experienced and fully trained staff in a line of work that is intensive and at times, extremely difficult. Like all government departments, there are also challenges in maintaining staff in country areas. In some locations where employment of staff is particularly difficult, some less qualified staff can be employed to undertake duties normally undertaken by social workers. (These staff members are supervised and engage in professional learning programs including those offered through the Department for Families and Communities' College of Learning and Development. They are also expected to engage in formal tertiary training toward a professional qualification.) The skills shortage is prompting a re-evaluation of the workforce which is likely to see a growth in allied professions such as teaching and nursing in care and protection work.

In line with the Commission of Inquiry recommendation, District Centres have recently been re-structured and have team sizes which average 8 social

workers to each supervisor and supervisors are being required to undertake additional training for this role.

The issue of accreditation and registration of social workers is also under consideration by the Department for Families and Communities. The Government acknowledges the merit in the Commission of Inquiry's proposal for a system of registration or accreditation for social workers, which requires ongoing professional development and training as part of its process. The question of a system of registration or accreditation of a professional group is a complex matter that needs to be addressed on a national basis and with the full support of the profession and the Australian Association of Social Workers (AASW). The Government will support developments in this area as appropriate.

Recommendation 15:

That the training of social workers by Families SA in regard to child sexual abuse be reviewed to include:

- What constitutes child sexual abuse
- That it is a crime and a breach of human rights
- Its prevalence in family and other contexts
- Statistics on different perpetrator groups
- The tactics that perpetrators use to secure silence
- The abuse of power inherent in child sexual abuse
- That perpetrators are solely responsible for the abuse
- That children, by definition, are incapable of giving informed consent to sexual abuse
- That children should be able to tell trusted adults about any abuse to which they are subjected
- What others can do if they suspect that a child is at risk (for example, reporting to police or Families SA)
- That child sexual abuse is a community issue requiring vigilance and appropriate responses
- How to respond to a disclosure
- Understanding the dynamics involved in disclosure (for example, a child disclosing has usually identified some quality in the confidant that they can trust – people who have been abused are often very attuned to ‘reading’ people’s likely responses)
- Understanding needs beyond mandatory reporting protocols and requirements (that is, the needs of the person or child who has been subjected to child sexual abuse)
- Listening to children and young people
- Empowering children and young people
- Caring for a child or young person who has been sexually abused
- The role of the Guardian for Children and Young People generally and specifically as an advocate for a child in care who has been sexually abused
- The role of the Health and Community Services Complaints Commissioner as an independent investigator

Input in regard to the content of the program and its delivery should be received from current and former children and young people in care and professionals working in the area of child sexual abuse.

The training program should be mandatory for all social workers.

## **South Australian Government Response**

The South Australian Government supports this recommendation.

The Government acknowledges that knowledge and skills for working in the area of child abuse, including sexual abuse, are central to the work of Families SA social work staff.

The Department of Families and Communities already provides job specific induction training and formal learning programmes, such as the Diploma of Statutory Child Protection and Certificate IV in Community Services (Protective Care). The Diploma of Statutory Child Protection is a national vocational qualification specifically developed for social workers employed by State and Territory “child protection” agencies who have a Social Work degree. The Department for Families and Communities (DFC) is the only State government department that has fully implemented this qualification. The department is seen as a leader in this area.

The Government will ensure that specific induction training in the area of child abuse (including sexual abuse) will be mandatory for all Families SA social workers. This is a more efficient use of training resources and will ensure consistency of training for all staff and capture both new permanent staff and staff engaged on a short-term contract.

The learning programmes will be reviewed to ensure the recommended topics are included. The Children in State Care Commission of Inquiry Report and recommendations will provide a strong reference for future developmental work in learning programmes. Any review of these learning programs will take into account the views of current and former children and young people in care and from professionals and academics working in the area of child sexual abuse.

Recommendation 16:

That adequate resources are directed towards:

- Ensuring that no child or young person ever needs to be placed in emergency accommodation such as services apartments, bed and breakfast accommodation, hotels and motels
- Placing children and young people according to suitability of placement rather than availability
- The recruitment and retention of foster carers including providing adequate support (such as respite care) and ongoing consultation
- Accommodating a maximum of three children in residential care facilities.

### **South Australian Government Response**

The South Australian Government accepts this recommendation.

In the largest-ever investment in child protection in South Australia, the Government has recently committed an extra \$190.6 million over four years to strengthen the child protection system. The Government's multi-pronged strategy is aimed at intervening early to reduce the number of children being taken from their families, creating greater capacity in all aspects of the alternative care system, and reducing the number of children and young people placed in emergency accommodation.

\$28.2 million will be spent over four years to provide intensive support for families where there are children at risk of abuse or neglect. This additional support is designed to help families to appropriately support their children and thereby enable more children to be safely cared for at home. The "early intervention" intensive family support services will be provided by non-government organisations in close partnership with the Department for Families and Communities and will include:

- targeted early intervention case work services for families
- practical in home assistance and home visits
- strategies to increase the capacity of parents (such as skills development)
- information and links to social supports and community organisations
- access to children's services.

The Government recognises that increasing the numbers of foster and relative carers will be critical to increasing the capacity to provide more appropriate placements for children in care. It has therefore committed \$15.6 million to help ensure carers are better supported in their caring role. This will include:

- the matching of children to care placements;
- increased support to relatives caring for children whose parents are unable to; and

- increased funding to non-government organisations to provide increased support to foster carers through home visits and more intensive case management.

An additional \$4.6 million over four years has also been committed to boost foster and relative carer payments over and above the average 26 per cent increase to carer payments for the State's 864 carers in 2007-08.

The Government also recognises that increasing the capacity of non home-based care is critical to the provision of more appropriate placements. In addition to the \$190.6 million package, the Government has approved the construction of two Community Residential Care Facilities to provide 24 places for children in need of care (at a cost of \$13.6 million over four years). The Government has also recently committed \$124.5 million over four years to place and support children in care in appropriate accommodation – including home-based care placements and community residential care facilities. This funding will provide for more carers and carer support workers, and more flexible accommodation options and staffing arrangements for children.

Through these measures the Government intends to provide better quality placements for the children and young people who would otherwise be placed in emergency accommodation.

The Government accepts in principle that part of the recommendation on accommodating a maximum number of three children in residential care facilities. Most care facilities managed or funded by the Department for Families and Communities accommodate three or fewer children or young people. However there are circumstances in which it may be desirable that larger groups be accommodated together (e.g. large sibling groups). Future planning for accommodating children in residential facilities will take into account the need for flexible design to ensure that smaller or larger groups can be accommodated in a facility depending on assessed needs.

Recommendation 17:

That Families SA and relevant stakeholders develop relevant training programs about child sexual abuse for all carers of children and young people in care (foster, relative/kin and residential carers).

That the programs be developed in consultation with current and former children in care, and professionals working in the area of child sexual abuse.

The particular training programs must address aspects of child sexual abuse, including:

- what constitutes child sexual abuse
- that it is a crime and a breach of human rights
- its prevalence in family and other contexts
- statistics on different perpetrator groups
- the tactics that perpetrators use to secure silence
- the abuse of power inherent in child sexual abuse
- that perpetrators are solely responsible for the abuse
- that children, by definition, are incapable of giving informed consent to sexual abuse
- that children should be able to tell trusted adults about any abuse to which they are subjected
- what others can do if they suspect that a child is at risk (for example, reporting to police or Families SA)
- that child sexual abuse is a community issue requiring vigilance and appropriate responses
- understanding the dynamics involved in disclosure (for example, a child disclosing has usually identified some quality in the confidant they can trust – people who have been abused are often very attuned to “reading” people’s likely responses)
- understanding sexual abuse of children and young people in care with disabilities and the difficulties with disclosure
- identifying and understanding cultural issues relating to supporting disclosures by Aboriginal children and young people in care
- listening to children and young people
- empowering children and young people
- understanding needs beyond mandatory reporting protocols and requirements (that is, the needs of the person or child who has been subjected to child sexual abuse)
- caring for a child or young person who has been sexually abused, taking into account the need for a therapeutic response and understanding their vulnerabilities
- protective behaviours for carers
- the role of the Guardian for Children and Young People generally and specifically as an advocate for a child in care who has been sexually abused
- the role of the Health and Community Services Complaints



### Commissioner as an independent investigator

The training program should be mandatory and accredited.

There should be a system of registration/accreditation of carers with registration being contingent on completion of this training, and the completion of updated training programs on this topic every three years.

### **South Australian Government Response**

The South Australian Government supports this recommendation and recognises the importance of all carers receiving high-quality and compulsory training in aspects of child sexual abuse.

In recognition of the need to better support and train carers, the Government has committed an additional \$7.3 million over the next four years for non-government agencies to recruit, train and support foster carers and an additional \$8.3 million to provide support and services (including training) to relative and kinship care-givers. This funding will help reduce the ratio of support workers to carers and will increase the capacity for relevant agencies to provide quality training and ongoing support to carers. (See also the Government's response to Recommendation 14 and 18.)

Government and non-government services provide training to carers under agreement with the Department for Families and Communities. In response to this recommendation, the Department for Families and Communities has instructed all current government and non-government service providers who assess and support carers to immediately review their training programs and ensure the aspects of child sexual abuse outlined by the Commission of Inquiry are included in these training programs.

The Department for Families and Communities recognises that training for carers should be consistent and comprehensive. The department has begun a review of its existing carer assessment and training policies to develop a standardised training model. The aspects of child sexual abuse outlined by the Commission of Inquiry will be addressed as part of this review. The review will also consider training delivery and issues around the accreditation and registration of carers.

As recommended by the Commission of Inquiry, the Department for Families and Communities will also consult with current and former children and young people in care, and professionals working in the area of child sexual abuse.

Carers are already required to undergo mandatory training (including training about child sexual abuse) as part of the carer registration process. Every carer must successfully complete this training in order to receive a Certificate of Registration. The Government also requires that carers are reviewed on an

annual basis and training attendance forms an important component of this review.

Recommendation 18:

That there be mandatory specialist training for all carers and potential carers of children and young people with disabilities in State care, which includes the topics referred to in Recommendation 17 as well as particular issues concerning the prevalence of sexual abuse of children and young people with disabilities; prevention of sexual abuse of children and young people with disabilities; assessing behaviours as indicators of sexual abuse; supporting disclosure and responding to disclosure.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The Government recognises that children and young people who have a physical or mental disability have specific needs and some may be more vulnerable to abuse because of the nature of their disability. The Government agrees with the Commission of Inquiry that all carers should receive appropriate training and information about the protection of children and young people in care with disabilities (see also the Government's response to Recommendation 17 and 14).

In recognition of the need to better support and train carers, the Government has committed an additional \$7.3 million over the next four years for non-government agencies to recruit, train and support foster carers and an additional \$8.3 million to provide support and services (including training) to relative and kinship care-givers. This funding will help reduce the ratio of support workers to carers and will increase the capacity for relevant agencies to provide quality training and ongoing support to carers.

Government and non-government services provide training to carers under agreement with the Department for Families and Communities. In response to this recommendation, the Department for Families and Communities has instructed all current government and non-government service providers who assess and support carers to immediately review their training programs and ensure that the aspects of child sexual abuse outlined by the Commission of Inquiry, including particular issues relating to children and young people with disabilities, are included in these training programs.

The Department for Families and Communities recognises training for carers should be consistent and comprehensive. The department has begun a review of its existing carer assessment and training policies to develop a standardised training model. The specific issues relating to the care and protection of children and young people with disabilities outlined by the Commission of Inquiry will be addressed as part of this review. The review will also consider methods of training delivery and issues around the accreditation and registration of carers.

As recommended by the Commission of Inquiry, the Department for Families and Communities will also consult with current and former children and young people in care, and professionals working in the area of child sexual abuse.

Carers are already required to undergo mandatory training (including training about child sexual abuse) as part of the carer registration process. Every carer must successfully complete this training in order to receive a Certificate of Registration. The Government also requires that carers are reviewed on an annual basis and training attendance forms an important component of this review.

Recommendation 19:

That there be a special position created in the Office of the Guardian for Children and Young People to assist in carrying out the guardian's functions pursuant to section 52C *Children's Protection Act 1993* in relation to Aboriginal children and young people under the guardianship or in the custody of the Minister.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

As at 30 June 2007, there were 1 678 children in out-of-home care in South Australia, and 405 of these children identified as Indigenous. Implementing this recommendation will increase the Guardian's capacity to monitor the circumstances of individual Aboriginal children and young people in care and help ensure that their specific needs are identified and met.

This recommendation will be implemented in conjunction with recommendation 11, which recommends establishing a new position within the office of the Guardian to assist children with disabilities.

The creation of two new specialist positions will significantly increase the Guardian's capacity to make contact with individual children in care and advocate for them. It will increase the Guardian's capacity to identify potential issues at an early stage and intervene before a situation escalates. It will also ensure that advice provided by the Guardian is based on a broader range of contacts with children.

Recommendation 20:

That the practice guidelines of the Special Investigations Unit (SIU) be amended to include specific guidelines concerning notifications and investigations of alleged sexual abuse of children and young people in care.

In regard to notifications, it is recommended that the guidelines include requirements for mandatory notification of sexual abuse allegations by SIU to South Australia Police and the Guardian for Children and Young People immediately or within 24 hours, depending on the urgency of the circumstances.

In regard to SIU investigations, it is recommended that the guidelines include requirements for:

- a strategy discussion between SIU and SA Police before the start of any SIU investigation, with the GCYP given prior notification of the discussion and invited to attend
- a written record signed by SIU and SA Police of the strategy discussion, outlining any actions to be taken by each, with a copy provided to the GCYP within 24 hours
- SIU to only take action in accordance with what was agreed in writing at the strategy discussion
- SIU to take no action that would prejudice a police investigation or potential prosecution. In particular, the SIU must not speak to the child, alleged perpetrator, potential witnesses or other potential complainants without seeking, and then gaining, approval in writing from SA Police
- the GCYP to be kept informed by SIU and SA Police of the progress and outcome of the investigation. Both SIU and SA Police to provide the GCYP with information concerning the investigation on request and to respond within 24 hours to any request by the GCYP for information regarding the investigation.

## **South Australian Government Response**

The South Australian Government supports this recommendation.

Under its existing guidelines, the Special Investigations Unit (SIU) of the Department for Families and Communities must refer allegations of sexual abuse to the South Australia Police within 24 hours. The Special Investigations Unit, in consultation with the Guardian for Children and Young People and South Australia Police, will amend the existing practice guidelines to ensure that the Guardian is also notified where a child in care makes an allegation of sexual abuse and will establish an appropriate referral mechanism for this to occur.

The Department for Families and Communities has appointed a highly qualified former UK police officer with extensive experience in child protection

to manage the Special Investigations Unit. A strong working relationship with South Australia Police has been developed. This will be supported by a memorandum of understanding between the Special Investigations Unit and the Police.

The Government will regard the suggested 24 hour timeframe as a “best practice standard” for the department and the Special Investigation Unit. Work practices are being adapted so that in urgent situations, the notification to SAPOL and the Guardian will be made immediately by either Families SA Operational Staff or staff at the departmental Child Abuse Report Line.

Recommendation 21:

That there be a review of therapeutic services to children and young people provided by the Child Protection Services, Child and Adolescent Mental Health Services (CAMHS) and Yarrow Place Rape and Sexual Assault Service.

The review should include the:

- Services' ability to provide counselling and therapeutic services to children and young people in care
- Structures required to increase the number of children and young people to whom counselling and therapeutic services can be provided, in both metropolitan and regional areas
- Resources required to achieve an appropriate level of response, that is, the provision of counselling and therapeutic services to at least 60% of children and young people who have been abused. Child protection services and CAMHS should receive a significant allocation of resources to increase their ability to provide such a level of response.

### **South Australian Government Response**

The Government will undertake a review of the therapeutic services provided to children and young people by Child Protection Services, Child and Adolescent Mental Health Services (CAMHS) and Yarrow Place Rape and Sexual Assault Service. The broad review will be complex to undertake, requiring review of a range of therapeutic services that are spread throughout the State. The review will include assessment of the resource implications. It is estimated that with such a broad scope, the review is likely to take up to twelve months to complete.



Recommendation 22:

That therapeutic support is made available for the relevant carers when a child or young person in care makes a disclosure of sexual abuse.

**South Australian Government Response**

The South Australian Government acknowledges that, where appropriate, it is important to assist families and other caregivers in providing for the needs of a child or young person who has experienced sexual abuse/assault.

The provision of appropriate therapeutic support to relevant carers when a child or young person in care makes a disclosure of sexual abuse, will be considered within the broad review of therapeutic services to be undertaken in response to Recommendation 21. The Government will appropriately respond to this recommendation following that review.

Recommendation 23:

That the *Children's Protection Act 1993* be amended to add a function to the Guardian for Children and Young People, namely to act as an advocate for a child or young person in State care who has made a disclosure of sexual abuse.

That in accordance with section 52B of the Act, the GCYP is provided with sufficient staff and resources to accomplish this function.

**South Australian Government Response**

The South Australian Government supports this recommendation. It will be implemented as part of the package of legislation to be introduced to give effect to this response.

The Guardian for Children and Young People presently often advocates for a child or young person in State care who has made a disclosure of sexual abuse. The formalisation of this role is supported by the Government and welcomed by the Guardian.

Recommendation 24:

That it be mandatory for the chief executive of the Department for Families and Communities or Commissioner of Police to notify the Guardian for Children and Young People when a child or young person under the Guardianship or in the custody of the Minister makes an allegation of sexual abuse.

**South Australian Government Response**

The South Australian Government supports this recommendation.

The Department for Families and Communities and South Australia Police will amend their policies and procedures to ensure that there is a mandatory requirement on all relevant staff to notify the Guardian if a young person in care makes an allegation of sexual abuse.

Recommendation 25:

That Families SA's new C3MS (Connected Client and Case Management System) include a separate menu for allegations of sexual abuse of a child in State care, which would collate the names of all such children.

That the system include a separate field in relation to each child in State Care, which is dedicated to recording any information about allegations of sexual abuse, including when that information had been forwarded to the Guardian for Children and Young People.

### **South Australian Government Response**

The South Australian Government supports this recommendation. The Department for Families and Communities (DFC) will implement this recommendation as part of their implementation of the Connected Client and Case Management System (C3MS), which is in an early stage of development.

Once implemented, C3MS will include a separate field for each child in State care, which is dedicated to recording any information about allegations of abuse and details of when allegations have been referred to various authorities. The new electronic case management system (C3MS) will also have enhanced capabilities for generating data for reporting and referral purposes.

Recommendation 26:

That consideration is given to changing the name of the Guardian for Children and Young People to avoid confusion with the role of the Minister as legal Guardian of children and young people placed in State care.

### **South Australian Government Response**

The South Australian Government has given careful consideration to the question of the name of the Guardian for Children and Young People as recommended by the Commission of Inquiry. In doing so, the Government has consulted with the Guardian, who has urged the Government not to change the title, which is now well-established in South Australia and recognised by children and young people in care.

Since the Government established the role of the Guardian in 2006, the Guardian and the Government have made strenuous efforts to publicise the role with children and young people in care, to develop appropriate branding and to explain the role to stakeholders. Approximately one in twelve children in care have some form of contact with the Guardian and experience is showing that young people in care see the Guardian as a person who they can talk to for support or if something goes wrong.

The Government has concluded that the risk of confusion with the statutory guardianship of the Minister over children in care is slight, and that amending the Guardian's title at this stage will cause unnecessary confusion for the children and young people who have become familiar with the Guardian and/or use her services.

Recommendation 27:

That section 52A of the Children's Protection Act 1993 is amended to delete section 52A(5)(f), powers of removal of the Guardian for Children and Young People, and replace it with provisions similar to the powers of removal relating to the Health and Community Services Complaints Commissioner and Employee Ombudsman.

**South Australian Government Response**

The South Australian Government supports this recommendation.

The recommendation will be implemented as part of the package of legislation to be introduced to give effect to this response.

This legislation will align the powers of removal relating to the Guardian with those of similar independent statutory offices such as the Health and Community Services Complaints Commissioner and Employee Ombudsman.

Recommendation 28:

That the Children's Protection Act 1993 be amended to expressly refer to the independence of the Guardian of Children and Young People; that the GCYP must represent the interests of children and young people under the guardianship or in the custody of the Minister; and that the Minister cannot control how the GCYP is to exercise the GCYP's statutory functions and powers—subject to section 52C(1)(f).

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The recommendation will be implemented as part of the package of legislation to be introduced to give effect to this response.

The Government already regards the Guardian for Children and Young People as a statutory officer at “arm’s length” from executive government. A high degree of actual independence is necessary for the Guardian to perform her present statutory functions, such as representing the interests of young people in care or custodianship to executive government and its agencies; monitoring the care system; and providing advice to the Minister on systemic issues.

The present terms of the *Children’s Protection Act 1993* (at section 52A(6) and (7)) make it clear that the Guardian is not subject to any direction of the Minister that may inhibit inquiries or investigations, prevent or restrict communications or which limit the content of advice, reports or recommendations made in fulfilling the statutory functions.

The Government welcomes the recommendation which will further strengthen the statutory role and bring the Guardian’s independence in line with that of similar statutory offices, such as the Health and Community Services Complaints Commissioner and the Employee Ombudsman.

Recommendation 29:

That the *Children's Protection Act 1993* is amended to allow the Guardian for Children and Young People to prepare a special report to the Minister on any matter arising from the exercise of the GCYP's functions under the Act. The amendment should require the Minister to table the special report in parliament within six sitting days of receipt.

It should be expressly stated in the Act that the Minister may not direct the Guardian to change the contents of the report.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The recommendation will be implemented as part of the package of legislation to be introduced to give effect to this response.

Under section 52C of the *Children's Protection Act 1993*, the Guardian can already initiate advice to the Minister, for example on reform measures and on the quality of the provision of care for children under the guardianship or custodianship of the Minister. The Guardian also reports to the Minister on topics referred to her by the Minister. To date, the Guardian has reported to the Minister on a range of issues. These are mentioned in annual reports of the Guardian.

The Guardian also represents the interests of children in care and custody by making submissions to other important stakeholders, for example, to the Commissioner for Social Inclusion, and by publishing articles and "opinion pieces" on important topics. These documents are generally available to the public on the Guardian's website.

Implementing this recommendation will set beyond doubt that the Guardian may initiate and prepare "special reports" to the Minister on any matter arising from her powers and functions. It will explicitly provide that the content of such reports is completely immune from any ministerial direction. It will also provide that these reports are brought to Parliament's attention. The Government supports these objectives.



Recommendation 30:

That the *Children's Protection Act 1993* is amended to provide the Guardian for Children and Young People with powers to obtain information *from any person* in connection with the GCYP's functions under the Act. This power should be coupled with a penalty for failure to comply. It should also be an offence for a person to persuade or attempt to persuade another by threat or intimidation not to provide information.

There should be general provision making it an offence to obstruct the GCYP.

It is recommended that the amendment be modelled on similar provisions to those of section 47(2)–(6) and sections 78–81 of the *Health and Community Services Complaints Act 2004*.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The recommendation will be implemented as part of the package of legislation to be introduced to give effect to this response.

Implementing this recommendation will strengthen the Guardian's powers and ensure that she is not obstructed in the performance of her statutory functions.

Government departments and non-government organisations involved in the *provision of services to children* are already required by legislation to respond to information requests from the Guardian. No penalty exists for non-compliance, although the Guardian reports that in practice she has experienced no difficulty in obtaining information from any organisation.

This legislation would be precautionary. Situations could exist where the Guardian might quite properly need information from an organisation that does not provide services to children and might need the support of the law in obtaining that information. The Government supports closing that potential gap.

Recommendation 31:

That the *Health and Community Services Complaints Act 2004* be amended to allow all children and young people to make a complaint directly to the Health and Community Services Complaints Commissioner.

### **South Australian Government Response**

The South Australian Government supports appropriate complaints mechanisms for children in state care that are confidential, protected and impartial. For this reason, the Government has also supported recommendation 23 – that the Guardian for Children and Young People act as an advocate for a child or young person in State care who has made a disclosure of sexual abuse.

However, the Government will delay its final decision on this recommendation and on recommendations 32 and 33 until it receives the report of the review of the *Health and Community Services Complaints Act 2004* currently underway.

The *Health and Community Services Complaints Act 2004* requires that that legislation be reviewed three years after the commencement of the Act. A review of the Act has begun and the independent reviewer is due to report by November 2008. The Minister has asked the independent reviewer to examine the implications and policy issues raised by this recommendation and by recommendations 32 and 33 as part of her consideration of the whole operation of the *Health and Community Services Complaints Act*.

The Health and Community Services Complaints Commissioner supports recommendations 31, 32 and 33 being considered in the context of the review of the Act.

Recommendation 32:

That the child protection function of the Health and Community Services Complaints Commissioner be promoted by permitting the Commissioner to adopt an additional title as 'Child Protection Complaints Commissioner'. This should be enacted in the *Health and Community Services Complaints Act 2004*.

That within a reasonable time after the delivery of the Inquiry's report to the Governor, there be a public awareness campaign concerning the role of the HCSC Commissioner to receive complaints from people (including current and former children and young people in State Care) about child protection service providers.

### **South Australian Government Response**

The South Australian Government supports appropriate complaints mechanisms for children in state care that are confidential, protected and impartial. However, the Government will delay its final decision on this recommendation and on recommendations 31 and 33 until it receives the report of the review of the *Health and Community Services Complaints Act 2004* currently underway.

The *Health and Community Services Complaints Act 2004* requires that that legislation be reviewed three years after the commencement of the Act. A review of the Act has begun and the independent reviewer is due to report by November 2008. The Minister has asked the independent reviewer to examine the implications and policy issues raised by this recommendation and by recommendations 31 and 33 as part of her consideration of the whole operation of the *Health and Community Services Complaints Act*.

The Health and Community Services Complaints Commissioner supports recommendations 31, 32 and 33 being considered in the context of the review of the Act.

Recommendation 33:

That an amendment to the *Health and Community Services Complaints Act 2004* provides that a relevant consideration for extending the two-year limit in the child protection jurisdiction is that the complaint arises from circumstances since the launch of the *Keeping them safe* reform agenda in May 2004.

### **South Australian Government Response**

The South Australian Government supports appropriate complaints mechanisms for children in state care. However, the Government will delay its final decision on this recommendation and on recommendations 31 and 32 until it receives the report of the review of the *Health and Community Services Complaints Act 2004* currently underway.

The *Health and Community Services Complaints Act 2004* requires that that legislation be reviewed three years after the commencement of the Act. A review of the Act has begun and the independent reviewer is due to report by November 2008. The Minister has asked the independent reviewer to examine the implications and policy issues raised by this recommendation and by recommendations 31 and 32 as part of her consideration of the whole operation of the *Health and Community Services Complaints Act*.

The Health and Community Services Complaints Commissioner supports recommendations 31, 32 and 33 being considered in the context of the review of the Act.

It is already within the discretion of the Health and Community Services Complaints Commissioner to extend the time limit on any complaint.

Recommendation 34:

That the Criminal Justice Ministerial Task Force gives special consideration to the backlog of cases of sexual abuse involving child complainants and developing measures to prioritise the listing of those trials.

**South Australian Government Response**

The Criminal Justice Ministerial Taskforce is already considering this recommendation.

The prioritisation of cases within the criminal justice system is a complex matter and the Government recognises the merit of ensuring that sexual abuse cases involving child complainants are heard as quickly as possible. This has advantages for both victims and witnesses. However, some consideration will need to be given as to how prioritisation may be implemented taking into account the number of such cases.

The Government will be in a position to further report on this issue when it reports to Parliament on implementation of the Commission of Inquiry's recommendations in September 2008.

Recommendation 35:

That the Criminal Justice Ministerial Task Force, or another committee specially established for the purpose, develop appropriate guidelines to ensure that trials involving child complainants of sexual abuse are fast-tracked.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The Government has approved a dual system for fast-tracking the committal and trial of cases of sexual offences against children. A two-year pilot is proposed to be conducted in the Adelaide Magistrates Court and the District and Supreme Courts to test the proposal.

The trial will include a separate list in the Magistrates Court for sexual offence proceedings where the complainant is a child; the fast-tracking of that list to committal through the imposition of time limits that take into account the needs of prosecution and defence; and the fast-tracking of such proceedings once committed to a superior court.

The pilot is to be evaluated by the Office of Crime Statistics and Research in terms of its effectiveness in reducing the time between instigation and disposal of proceedings for child sexual offences. The evaluation report will be provided to the Attorney-General.

Recommendation 36:

That specialist training is undertaken by police, prosecutors, defence counsel and the judiciary in regard to working in the criminal justice system with (child) victims of sexual abuse who have a disability.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

A program of training will be developed for relevant police, prosecutors, defence counsel and the judiciary. The program will be developed in the Attorney-General's Department and implemented in consultation with the Office of the Director of Public Prosecutions, South Australia Police, the Courts Administration Authority, the Legal Services Commission and the Law Society.

In the first instance, the training will address:

- methods of communicating with children with an intellectual disability who are victims of sexual abuse;
- evaluation of the reliability of evidence of children with an intellectual disability who are victims of sexual abuse; and
- recognising assumptions about the reliability of child witnesses with an intellectual disability who are victims of sexual abuse.

The aim of that program is to improve the understanding of participants of the special issues presented by children with a disability that have been sexually abused. The end outcome is to improve the treatment of these victims in the criminal justice system.

It is intended to develop programs that are directly relevant to the needs of police, judicial officers, prosecutors and prosecution solicitors and defence counsel and solicitors. For example, the courses for the police will need to address the issues from the perspective of approaches to investigation. That for prosecutors will need to deal with issues of evaluation of evidence.

The program will be delivered in conjunction with a related program of education arising from recent changes in the criminal law of rape and sexual offences. That program is for those involved in handling child sexual offences within the criminal-justice system, and focuses on the development, cognition and behaviour of children generally, and the behaviour and development of children who have been sexually abused. The aim of that program is to improve the participants understanding of, and communication with, children who are the alleged victims of sexual offences.

Recommendation 37:

That a panel of appropriately qualified people consider and establish a model for restorative justice in regard to complaints of child sexual abuse made by victims.

### **South Australian Government Response**

The South Australian Government supports the general intent of this recommendation. The recommendation is directed at considering whether it is appropriate in certain cases to develop and implement a system of restorative justice for past victims of sexual abuse whilst in State care, and possibly, the appropriateness of its extension to other cases of child sexual abuse.

Restorative justice is a model of justice that focuses on the harms that are caused by offending conduct and seeks to restore or repair damage caused by the offender's conduct. For example, one of the components of restorative justice may comprise a meeting between an abuser and a victim. There is considerable debate amongst experts and the community regarding the circumstances in which a restorative justice model may be appropriate, including whether it is appropriate at all in cases of child sexual offences.

The Government will establish a panel of suitably qualified persons to consider the issue of restorative justice for victims of sexual abuse whilst in State care and the appropriateness of an arrangement of restorative justice for victims of sexual abuse (and if so in which cases and in what circumstances). That panel will address the possible extension of its scope to other cases of child sexual abuse and provide advice on a suitable model for restorative justice (if appropriate).

It is proposed that if restorative justice is considered appropriate in some cases and a suitable model is developed, that model will be presented to interested stakeholders in the community for comprehensive consultation and comment.



Recommendation 38:

That the South Australian Government makes a formal acknowledgement and apology to those people who were sexually abused as children in State care.

**South Australian Government Response**

This recommendation has already been publicly accepted by the Premier on behalf of the South Australian Government.

As an immediate response to the release of the report of the *Children in State Care Commission of Inquiry* on 1 April 2008, the Premier in a Ministerial Statement advised that the Government would move a resolution in the Parliament apologising to those who were abused as children while in State care.

A formal acknowledgement and apology to those who were abused as children will be made in Parliament on 17 June 2008 as part of the Government's broader response to the Inquiry.

Recommendation 39:

That the South Australian Government fund a free specialist service to adult victims of child sexual abuse (while in State care) as was provided by Respond SA.

That the service is provided by an organisation that is independent of government and church affiliation, and has never provided institutional or foster care. That the organisation employs practitioners specially trained in the therapeutic response to adult victims of child sexual abuse.

### **South Australian Government Response**

The Government will ensure adults who have experienced child sexual abuse while in care are provided with free, specialist counselling and related support services. The Government will fund a free service for the next 3 years, and review both the take-up and method of delivery at the end of that time.

Under the proposal, adult victims will be linked to counselling and related support that will be at no cost to the adult seeking assistance. Services will be provided by trained therapists, such as psychologists, that are independent of government or church affiliation.

Recommendation 40:

That a task force be established in South Australia to closely examine the redress schemes established for victims of child sexual abuse in other Australian jurisdictions for victims of child sexual abuse, to receive submissions from individuals and organisations on the issue of redress and to investigate the possibilities of a national approach to the provision of services.

**South Australian Government Response**

The South Australian Government supports this recommendation.

The Government will establish a task force with appropriate experience to closely examine redress schemes for victims of child sex abuse, taking into account the redress schemes implemented in Tasmania, Queensland and Western Australia. The task force will also investigate and report on the possibility of a national approach to the provision of services.

Recommendation 41:

That the Paedophile Task Force, the Office of the Director of Public Prosecutions, the Legal Services Commission and the courts be allocated sufficient resources to investigate, prosecute, defend and conduct trials concerning the allegations of child sexual abuse arising from this Inquiry.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The Government announced on 31 March 2008 that it will provide a further \$2.24 million to the Director of Public Prosecutions over the next three years to ensure there are sufficient resources to provide advice to SAPOL and prosecute alleged perpetrators.

The Paedophile Task Force within SAPOL has been provided with resources to address the referrals of allegations from 170 people to the Police ultimately received from the Commission of Inquiry.

A recent funding increase to the Legal Services Commission of an additional \$8.3 million over the next four years was made to ensure the Commission kept pace with additional resources previously provided to other areas of the criminal justice system, including SAPOL and the Office of the Director of Public Prosecutions. That funding was directed at supplementing the current funding base of the Commission based on existing demand for services.

The full extent of the matters in which charges will be laid is not yet known. Accordingly, the Government will address any future resourcing issues for the Legal Services Commission and the Courts as and when those questions are clarified.

Recommendation 42:

That the provision of therapeutic and other intensive services for children in State care who abscond as envisaged in *Keeping them safe – in our care*, action six: 'Children with complex care needs', be implemented and developed as a matter of urgency and be adequately resourced.

That a group of care workers with suitable training and experience for such intensive therapeutic services be established and assigned to work on a one-on-one basis with children in State care who have complex needs and frequently abscond from placements.

That a specialist team be engaged to examine the benefits of establishing a specific therapeutic intervention program in South Australia that identifies, assesses, assists and treats children at high risk, similar to those in place in Victoria and the United Kingdom.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

There are a small number of children and young people in State care exhibiting challenging behaviours and with complex needs that require assertive specialised therapeutic services to assist them to deal with their traumas and to help them to transition successfully to adulthood. The issues that these young people present with may include physical and intellectual disabilities, mental health issues, drug and alcohol issues, and a range of behaviours that include frequent absconding, and unsafe sexual or aggressive behaviours.

Traditional therapeutic services cannot adequately deal with such young people. Having a range of individualised services, flexibly and informally delivered, and with care workers who can contribute to the therapeutic process is critical.

The Government will create a specialist team drawn from the Department of Health and the Department for Families and Communities and consisting of a small number of highly-skilled professionals who are experienced in working with young people with difficult and complex needs. The team will operate as a pilot for 15 months and will develop and trial a model of therapeutic care for these young people. The work of the team will inform future practice in this difficult area.

Recommendation 43:

That a secure care therapeutic facility to cater for children exhibiting behaviour placing them at high risk be established as a last-resort placement.

That the Minister appoints a panel of suitably qualified persons to select and design the secure care therapeutic facility and determine the therapeutic services to be provided.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The Government is committed to providing an appropriate form of protective secure care and intensive therapeutic services to children who frequently abscond from care and place themselves at high risk. The Government will seek expert advice to determine the nature of the “secure care” which is most appropriate. As part of this process, the Minister for Families and Communities has requested that the Guardian for Children and Young People prepare initial advice to the Government on this subject.

The Government will also establish a specialist team of health experts and care workers to design and trial an intensive therapeutic service to this group of children and young people. (See also the Government’s response to recommendation 42.)

Recommendation 44:

That a missing persons protocol between the South Australia Police local service areas and the Department for Families and Communities be implemented in all regions where residential care facilities are located (including transitional accommodation houses).

That a contact officer be established in each SA Police local service area where residential care facilities are located (including transitional accommodation houses) to facilitate the development and implementation of the missing persons protocol and to facilitate the flow of information concerning children and young people who frequently abscond and are 'at risk' of sexual exploitation.

### **South Australian Government Response**

The South Australian Government supports this recommendation, which is being implemented by the South Australia Police (SAPOL) and the Department for Families and Communities (DFC).

The "missing persons protocol" and associated structures for information flow and liaison are well developed and work on them is ongoing. The relevant Police Local Service Areas (LSA) and the SAPOL Missing Persons Investigation Section have been in communication with Families SA over this issue for some time.

Recommendation 45:

The South Australia Police computer system (PIMS) create separate fields to record if a child is in State care, and if a child is 'at risk' due to frequent absconding, to enable that information to be readily available.

That the SA Police local service areas and Missing Persons Unit maintain specific files about children in State care who are considered to be 'at risk' due to frequent absconding. The files should contain information about each time a child absconds, including where he or she has been located.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The recommendation has been implemented by the South Australia Police (SAPOL) through its review of the Missing Persons Investigation Section practices and processes.



Recommendation 46:

That section 16 of the *Children's Protection Act 1993* be amended to provide for a more general power to recover children in State care by deleting the requirement of a reasonable belief as to 'serious danger' and inserting a lesser standard such as 'a risk to the well being of the child'.

### **South Australian Government Response**

The South Australian Government accepts the recommendation to provide for a more general power to recover a child in State care who is at risk (but not in "serious danger"). The Government will therefore amend the legislation.

Section 16 of the Act confers power on social workers and police officers to remove children from situations of "serious danger". It applies to all children, whether or not in State care. It is the only source of power in the Act to remove children not in State care from danger. Given that the taking of a child from a family situation is an extremely serious act by the State, the Government accepts that the requirement for a reasonable belief as to "serious danger" is an appropriate one.

When recovering a child who is already in State care from some undesirable place or situation of risk, both police and social workers are in effect enforcing the order of the Youth Court by which the child was placed in the custody or under the guardianship of the Minister. Once a child is in the Minister's custody or under his guardianship, pursuant to an order of the Youth Court, the Minister and those who do his work have wide-ranging powers to direct the care of the child under section 51 of the Act. For example, section 51(4) provides that "an authorised police officer may for the purposes of enforcing any order of the Youth Court, without warrant, remove from any place a child who is under the guardianship of the Minister or of whom the Minister has custody, using such force (including breaking into premises) as is reasonably necessary for that purpose". These powers are additional to those provided in Section 16 of the Act, and so enable action even where the child is not perceived to be in "serious danger".

However, while the Act may technically provide sufficient power to recover children in State care, it is desirable that the Act be amended to make clear what these powers are and in what circumstances they may be exercised. This will assist police and child protection workers in responding to situations of concern regarding children in State care.

Recommendation 47:

That the following offences be created:

- (1) Harboursing a child in State care contrary to written direction.
- (2) Communicating with a child in State care contrary to written direction.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The recommendation is likely to be implemented as part of the package of legislation to be introduced to give effect to this response.

The government will implement a package of legal mechanisms directed at child protection, the core elements of which would:

- authorise the Chief Executive of the Department for Families and Communities to direct a person by written notice not to:
  - harbour or attempt to harbour or arrange for another person to harbour a named child who is the subject of a placement arrangement;
  - communicate with a child who is the subject of a placement arrangement.

Failure to comply with that direction would be an offence.

- create two other offences:
  - harbouring a child who is the subject of a placement arrangement if the person knows that the child has left or has been removed from the child's place of residence without lawful authority;
  - preventing the return of a child to the child's place of residence if the person knows that the child has left or has been removed from that place without lawful authority.
- provide for the making of a child protection restraining order against an individual.

The Government's proposal extends beyond the terms of the recommendation. It will implement a range of comprehensive legal mechanisms to ensure that powers exist to provide for the safety of children in State care.

Recommendation 48:

That the South Australia Police undertake an operation in relation to Veale Gardens and other known beats to detect sexual crimes against children and young persons in State care, apprehend perpetrators and develop further police intelligence.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The matters raised in the recommendation are ongoing policing issues which are being addressed by the South Australia Police (SAPOL).

SAPOL through the Child Exploitation Investigation Section and the Adelaide Police Local Service Area has undertaken specific policing initiatives focusing on criminal activity and, most particularly, sexual crimes against children in the area of Veale Gardens. The need for specific police operations targeting such offending at this and other locations is constantly under assessment with operations instigated as required.

SAPOL's General Order relating to 'Homosexual Beats' is in the process of being amended to include direction to police of the need for a general presence in the area of beats and of the need to undertake specific operations when intelligence indicates that children or young people are frequenting the area.

In addition to SAPOL acting in its own right, SAPOL will continue to liaise with Local Government and Gay Men's Health to develop and initiate other appropriate intervention strategies.

Recommendation 49:

That the Department for Families and Communities creates a central database of children who die while in State Care as part of its new C3MS.

The database should contain:

- The child's name and date of birth
- When the child was placed in custody or under the guardianship of the Minister; or the details of the voluntary agreement
- The child's last place of care
- The name of the child's last carers
- The date of death
- The cause of death (as initially advised by the department)
- The circumstances of death (as initially advised to the department)
- The source of the initial advice about the cause and circumstances of death
- Confirmation that the death was reported to the State Coroner and when
- If an inquest was not held, the cause of death as found by the Coroner and when that finding was made
- If an inquest was held, the cause of death as found by the Coroner's Court and when that finding was made
- If an inquest was not held because of a criminal prosecution, the name of the investigating police officer and the outcome of the criminal prosecution.

### **South Australian Government Response**

The South Australian Government supports this recommendation. The Department for Families and Communities (DFC) will create a single central database of children who die while in State care, as part of its implementation of the Connected Client and Case Management System (C3MS) being developed for Families SA. Once established, the central database will be capable of recording all the key information available to the department regarding children who die in care.

The Government will support the development of more streamlined inter-agency processes to ensure that the information outlined by the *Children in State Care Commission of Inquiry* is made available to the database.

Recommendation 50:

That where a child dies in State care, the Department for Families and Communities maintains a physical file, which contains:

- Information about when the child died and in what circumstances, including reference in the file to where the information has come from
- Information from the State Coroner as to whether an inquest is to be held
- The coroner's finding as to cause of death
- A copy of the coroner's reasons in the event that a coronial inquest is held.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

The Department for Families and Communities maintains a physical file for every child who is in state care. Where a child dies while in state care, the department documents all available information in the child's physical file, including notes of discussions with foster carers, family members, medical staff, police and any other agencies, as well as any reports that are available at the time. The Commission of Inquiry emphasises that such information should be as complete as possible.

The Government is exploring the various options, such as legislative amendment or memorandum of understanding with the Coroner and with the Registrar of Births Deaths and Marriages, to ensure key legal data is always available on the primary file in the Department for Families and Communities.

Recommendation 51:

That the South Australian Government provides financial assistance to a family member of any child who dies in State care to enable that family member to be legally represented at a coronial inquest into that child's death.

### **South Australian Government Response**

The South Australian Government believes that a reasonable system already exists to provide financial assistance to family members in a coronial inquest.

It is already possible for a member of the community to seek an *ex gratia* payment from Government in a variety of circumstances. This process is sufficiently broad to accommodate requests for financial assistance for legal representation at Coronial inquests arising from the death of a child in State care. It is not necessary to establish a separate scheme relating to this form of request.

The present process allows requests to be considered on a case by case basis. The Government considers this appropriate because in not all cases will the Coroner grant a right of representation, and in not all cases will it be appropriate to provide assistance for representation. It will be appropriate to have regard to the circumstances in which the child came to be in care or of the circumstances of the child's death, in determining whether an *ex gratia* payment should be granted.

For this reason, the Government will maintain the present arrangement that a family member may seek financial assistance in the form of an *ex gratia* payment for representation at a Coronial inquest. Applications would be approved by the relevant Minister or the Treasurer.

Recommendation 52:

That departmental client sub-files have a 105-year retention period.

### **South Australian Government Response**

The South Australian Government supports this recommendation.

In recognition of the personal, historic and legal value of client files and sub-files, the Department for Families and Communities (DFC) will amend its disposal schedules to require that all client files and sub-files relating to children in care are retained permanently or for at least the 105-year retention period as suggested by the Children in State Care Commission of Inquiry. All of the usual protections that apply in Government to the keeping of personal records will continue to apply.

Recommendation 53:

That the Department for Families and Communities implement an appropriate electronic document and records management system (EDRMS), including file tracking, to appropriately manage paper and electronic records, including client and administration files. The EDRMS should interface with C3MS.

### **South Australian Government Response**

The South Australian Government supports this recommendation while recognising that its achievement requires a body of work which is significant and complex. An incremental approach is required.

It is already part of Government policy under the *State Records Act 1997* that government agencies procure an electronic document and records management system (EDRMS) by 2009. The Department for Families and Communities is moderately advanced in complying with this requirement, having purchased 1,000 licences for the 'Objective' EDRMS system in 2005 and a further 1,000 licences in 2008. The department is also well progressed in implementing the system to manage physical records of an administrative nature.

It is anticipated that full compliance with the recommendation will take at least three years.

The Government recognises the wisdom of the electronic document and records management system interfacing with the C3MS (that is, with the new electronic case management system being developed for Families SA.) The Connected Client and Case Management System – or C3MS – is still in its early stages. It is being customised for South Australian use from the Victorian department's case management system. Integration with the EDRMS will be necessary, but will be achieved at a later stage in the process.



Recommendation 54:

That the Department for Families and Communities continues with the discovery and consignment listing of any records relating to children in State care held permanently at State Records of South Australia or at other temporary storage providers where the department is the agency responsible.

**South Australian Government Response**

The South Australian Government supports this recommendation.

The Government agrees that the continued discovery and consignment listing of records relating to children in State care is an important task.

The Department for Families and Communities and State Records of South Australia will continue this work over time. In particular, the discovery and consignment listing of records relating to children in State care will be developed as a return-to-work rehabilitation project for injured employees with the Department for Families and Communities who are unable to return immediately to their substantive positions after returning from injury.