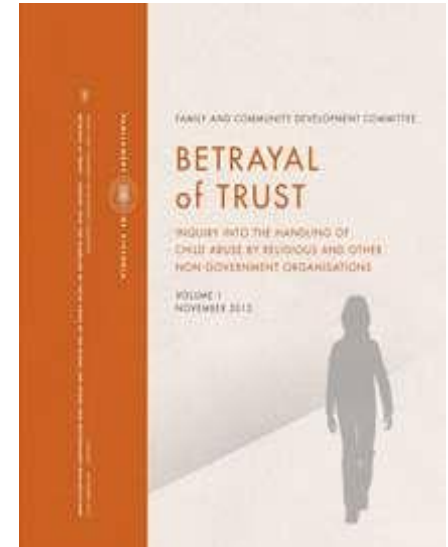


Betrayal of Trust and the Royal Commission

Presenter: Kylie Kilgour
Title: Deputy Secretary
Date: 31 October 2017

The Betrayal of Trust report

- The Betrayal of Trust report was tabled in November 2013, making 15 recommendations in relation to:
 - Criminal offences
 - Civil law reforms
 - Reportable conduct schemes
 - Child safe organisations
 - Redress
- The Government committed to implementing all of the report's recommendations.
- Work is continuing on 4 remaining recommendations.



Royal Commission

- The Royal Commission will deliver its final report on 15 December 2017.
- The Royal Commission has already made recommendations on:
 - Working with Children Checks
 - Redress and Civil Litigation
 - Criminal Justice
- The Victorian Government is implementing these recommendations alongside Betrayal of Trust where possible.

Criminal offences

- In 2014, three new criminal offences were created to further protect children from abuse:
 - a grooming offence, which targets all communication with a child, parent or carer with the intent of committing abuse;
 - a failure to disclose offence, which requires adults to report child abuse to police; and
 - a failure to protect offence, which requires adults in relevant institutions to reduce or remove risks of child abuse.
- The Royal Commission also recommended:
 - Other jurisdictions implement a similar grooming offence
 - A reporting offence targeted at institutions
 - An offence for negligently failing to reduce or remove risks of child abuse in organisations

Working with Children checks

- In 2014, the Victorian Government strengthened its working with children check scheme, so that all ministers of religion are required to get a check.
- The Royal Commission has recommended a national model for WWC Check Schemes:
 - Jurisdictions should work to establish nationally consistent Working with Children Check schemes;
 - Facilitate the sharing of information about criminal history checks between states and territories; and
 - Establish a centralised database of working with children check decisions, that can be accessed by every jurisdiction.
- Victoria has made improvements to its scheme to better align with schemes in other jurisdictions.
- The Commonwealth Government is leading work to implement the Royal Commission's recommendations.

Reportable conduct scheme

- A new reportable conduct scheme commenced a phased implementation on 1 July 2017.
- The implementation of this scheme will be completed in January 2019.
- The presentation by the Principal Commissioner for Children and Young People provided a detailed overview of the function of the scheme and the role of the CCYP.

Child safe standards

- The Government has introduced the *Child Wellbeing and Safety Amendment (Child Safe Standards) Act 2015*, which requires certain organisations to adopt minimum standards to create child safe environments.
- As of 1 January 2017, it is compulsory for all organisations that provide services or facilities for children to adopt minimum child safe standards.
- These standards ensure that organisations have appropriate and consistent measures in place to prevent and respond to allegations of abuse – organisations within scope of this reform include the out-of-home care sector, religious organisations, schools, and disability service providers.

Royal Commission recommendations

- The Royal Commission has not yet made any recommendations on child safe standards and reportable conduct schemes.
- These recommendations will be included in the final report.
- The Royal Commission may also make recommendations on:
 - Information sharing arrangements
 - Mandatory reporting

Statute of limitations

- On 1 July 2015, the Victorian Government removed the limitation periods that applied to civil claims founded upon child sexual or physical abuse by introducing the *Limitation of Actions Amendment (Child Abuse) Act 2015*.
- This means that time limits do not apply to a victim of child abuse and they can bring a civil action in court.
- Victoria was the first jurisdiction to implement this reform.
- The Royal Commission agreed that limitation period laws are a barrier for survivors of child sexual abuse crimes in seeking compensation through civil litigation.
 - The Royal Commission recommended that limitation periods should be removed in all jurisdictions.

Duty of care

- On 1 July 2017, a new statutory duty came into effect under the *Wrongs Amendment (Organisational Child Abuse) Act 2017* to ensure that organisations take reasonable precautions to prevent the abuse of a child.
- This means a child abuse survivor will have a clear cause of action when commencing legal proceedings against an organisation for the sexual and/or physical abuse of a child. It is then up to the organisation to prove that it took reasonable precautions to prevent the abuse.
- The Royal Commission recommended:
 - A non-delegable duty for institutional child sexual abuse
 - Liability with a reverse onus – institutions must take reasonable precautions to prevent abuse

Redress for survivors of abuse

- Since the release of the Betrayal of Trust report, the Victorian Government has been considering options to implement a redress scheme.
- On 4 November 2016, the Commonwealth Government announced that it will establish a national redress scheme for survivors of institutional child sexual abuse – States and NGOs can ‘opt in’ to the scheme.
- The Victorian Government is working with the Commonwealth Government on the design of the national redress scheme.
- On 9 May 2017, the Commonwealth announced \$33.4 million in funding to establish a national redress scheme and provide ongoing support to survivors.
- **Scheme commencement:**
 - A dedicated telephone helpline and website will operate from March 2018
 - The scheme will accept applications from 1 July 2018

Redress Scheme Details

- The national scheme will offer:
 - A financial payment of up to \$150,000
 - Access to counselling services
 - A direct and personal response from the responsible institution
- The Commonwealth will be funding community-based Redress Support Services to assist survivors applying to the scheme.
- The scheme will also provide legal services at relevant points of the application process and will assist survivors to understand the implications of releasing responsible institutions from further liability.

Redress scheme – next steps

- The Victorian Government is committed to providing redress in Victoria.
- The Government needs to see the full details of the scheme before it can decide whether it should opt in to the national scheme.
- The Victorian Government wants to make sure that the scheme will provide a sufficient and appropriate response to Victorian survivors.

Other recommendations

- The government is progressing outstanding Betrayal of Trust recommendations:
 - removing the two year time limit on applications for assistance to the Victims of Crime Tribunal for applications that relate to child sexual or physical abuse;
 - requiring certain government funded organisations to be incorporated and appropriately insured against child abuse; and
 - requiring unincorporated organisations that control property trusts to nominate an entity that is capable of being sued to act as a proper defendant in child abuse proceedings.
- Information about the recommendations is available on the Betrayal of Trust page at www.justice.vic.gov.au

Betrayal of Trust and the Royal Commission

- Questions?
- Further information:
 - Betrayal of Trust implementation:
www.justice.vic.gov.au
 - National redress scheme:
<https://www.dss.gov.au/families-and-children/programs-services/children/commonwealth-redress-scheme-for-survivors-of-institutional-child-sexual-abuse>
 - Independent Advisory Council on Redress:
<https://www.attorneygeneral.gov.au/Mediareleases/Pages/2016/FourthQuarter/Redress-for-survivors-of-institutional-child-sexual-abuse-members-of-independent-advisory-council-announced.aspx>