



COMMISSION FOR CHILDREN
AND YOUNG PEOPLE

Submission to the Victorian Law Reform Commission

Improving the Response of the Justice System
to Sexual Offences

Acknowledgment of Country

The Commission respectfully acknowledges and celebrates the Traditional Owners of the lands throughout Victoria and pays its respects to their Elders, children and young people of past, current and future generations.

The Commission recognises that the over-representation of Aboriginal children and young people in the child protection and youth justice systems is in part a devastating consequence of colonisation, intergenerational trauma and ongoing experiences of systemic racism.

Language used in this submission

The term 'Aboriginal' used in this submission refers to both Aboriginal and Torres Strait Islander individuals, people and communities.

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1. Introduction

The Commission for Children and Young People (the Commission) welcomes the opportunity to make this submission to the Victorian Law Reform Commission's reference (the reference) into Improving the Response of the Justice System to Sexual Offences.

1.1 About the Commission

The Commission is an independent statutory body that promotes improvement in policies and practices affecting the safety and wellbeing of Victorian children and young people. We have a particular focus on vulnerable children and young people.

The Commission's statutory functions include:

- providing independent oversight of Victoria's child protection, out-of-home care and youth justice systems including monitoring reports of serious incidents such as sexual harm
- conducting inquiries into services provided to any child or young person who has died and who was involved with child protection in the 12 months before their death
- conducting individual, group and systemic inquiries into services provided to children and young people
- regulating and supporting organisations that work with children and young people to prevent abuse and ensure organisations have child-safe practices, including by administering the Child Safe Standards and Reportable Conduct Scheme.

1.2 About this submission

This submission is informed by insights and expertise drawn from the Commission's oversight, inquiry and regulatory functions. These functions are centred around the voices and experiences of children and young people. In preparing this submission, the Commission spoke with one young person with lived experience of sexual abuse and engaging with the justice system, whose feedback to the reference is embedded throughout the submission.

There is a considerable body of research and evidence about:

- particular forms of sexual harm to which children and young people are exposed¹
- barriers for children and young people in raising complaints and allegations, and being heard and believed²
- aspects of community understanding about children and young people, their memory and cognitive capacity, and child development generally that impede responses to sexual offending against children and young people by professionals in the service system, including police, legal professionals and the courts.³

¹ See: Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report, Volume 2: Nature and cause*, Commonwealth of Australia, 2017; Australian Institute of Health and Welfare, *Sexual assault in Australia*, Commonwealth of Australia, 2020; Australian Institute of Criminology, *Brief review of contemporary sexual offence and child sexual abuse legislation in Australia: 2015 - update*, 2016; and materials at the Australian Institute of Family Studies 'Child sexual abuse' database at www.aifs.gov.au/cfca/bibliography/child-sexual-abuse.

² See: Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 4, Identifying and disclosing child sexual abuse*, Commonwealth of Australia, 2017. pp 77–109; Commission for Children and Young People, *Including children and young people in reportable conduct investigations*, 2019.

³ See: Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 3, Impacts, Volume 6, Making institutions child safe, Volume 9, Advocacy support and therapeutic treatment services, Criminal Justice report: Parts III to VI*, Commonwealth of Australia, 2017; Bendall,

This submission does not seek to reproduce points from this body of research and evidence; rather it shares information we hold by virtue of our unique functions relevant to the reference.

1.3 Outline of issues discussed in this submission

Data collected by the Commission about children and young people who have been sexually harmed

Section 2 outlines data collected by the Commission's child death inquiry (CDI), out-of-home care incident monitoring, and regulatory functions about children and young people who have been sexually abused.

Although evidence of the extent of sexual offending against children and young people who experience sexual harm continues to emerge, there is no comprehensive understanding of this offending. While national studies (such as efforts led by Australia's National Research Organisation for Women's Safety) have sought to establish a picture of offending against adults, there is currently nothing equivalent to assist us to understand the extent of under-reporting in relation to offending against children and young people. The Commission notes that the Australian Child Maltreatment Study aims to identify for the first time the prevalence of child abuse and neglect (including sexual abuse) in Australia. Final results are projected to be released in 2023.

The Commission also notes that there are specific barriers to disclosure which are likely to lead to under-reporting of sexual harm experienced by children and young people, with particular cohorts facing additional barriers to disclosure, such as children and young people with disabilities, including intellectual disability. Exposure to sexual harm and system responses to disclosure may also be compounded by other aspects of a child or young person's identity, such as gender, disability, being Aboriginal and/or LGBTIQ+.

As set out in this submission, the Commission has observed through the performance of its various functions that sexual harm experienced by children and young people in a range of settings is substantially more prevalent than commonly considered. There is also a clear need to improve data, research and evaluation in relation to sexual offending.

Key issues in service system responses identified through the Commission's work

Section 3 outlines key issues identified through the Commission's work impacting children and young people seeking and receiving effective justice responses including:

- negative attitudes towards children and young people
- inconsistent responses to children and young people in out-of-home care
- inconsistent responses to children and young people by Victoria Police
- inadequate identification and responses to sexual harm in the Child Protection, child and families and family violence service systems.

Section 3 also sets out the Commission's views on service system improvements to respond to the issues identified. In improving service system responses so that children and young people are safe and supported to heal and recover and to seek justice responses, it is essential to:

S., Phelps, A., Browne, V., Metcalf, O., Cooper, J., Rose, B., Nurse, J. & Fava, N. *Trauma and young people. Moving toward trauma-informed services and systems*, Melbourne, Orygen, The National Centre of Excellence in Youth Mental Health, 2018; World Health Organization, *Responding to children and adolescents who have been sexually abused: WHO Clinical Guidelines*, Geneva: World Health Organization, 2017.

- recognise the distinct needs of children and young people who experience sexual harm
- understand the dynamics of disclosure and improve identification and responses to disclosure
- provide targeted and strengthened responses to children and young people who are exposed to greater disadvantage and vulnerabilities
- improve risk assessments, information sharing and collaboration across service systems
- provide accessibility to specialist therapeutic responses.

Considerations for children and young people who exhibit problem sexual behaviours

Section 4 briefly describes information collected by the Commission about children and young people who exhibit problem sexual behaviours through our out-of-home care incident monitoring function and outlines our views on the suggestion to expand the eligibility of the Therapeutic Treatment Order regime.

Matters relating to civil jurisdictions

Section 5 describes how some civil jurisdictions have less guidance in place for how parties and the judicial or tribunal body should approach highly personal information about abuse or misconduct suffered by children and young people that may emerge in certain civil proceedings. This includes employment matters or administrative decisions related to the perpetrator of the sexual harm.

1.4 Opportunities for reform

In this submission, the Commission has identified the need for:

1. improved data collection to better understand the prevalence of sexual harm experienced by children and young people and the capacity and responsiveness of the service system in supporting victims and survivors to seek a justice response
2. a community awareness strategy to increase understanding of the nature and impacts of sexual harm on children and young people, address myths, and provide information about how to support and promote the rights of children and young people who have been sexually harmed
3. a differentiated, trauma-informed service system response to children and young people in out-of-home care who have been sexually harmed
4. improved Victoria Police responses to children and young people who have been sexually harmed, including through workforce development and training for specialist and generalist police members
5. specialist Victoria Police resources to guide responses for children and young people in out-of-home care who have been sexually harmed
6. tailored information for children and young people who have been sexually harmed to understand sexual harm and navigate the justice system
7. a free support service for children and young people who have experienced sexual harm to help them navigate the service network and justice system
8. improve identification, investigation, service collaboration and support responses, including specialist therapeutic support, to sexual harm in the Child Protection and broader child and family service systems
9. increased guidance in civil jurisdictions where sexual harm suffered by a child victim is in issue in the proceeding, to ensure the child's rights and dignity are protected throughout the process.

2. Data reported to the Commission about children and young people who have been sexually harmed

Sadly, our work frequently involves vulnerable children and young people who have experienced sexual harm in different settings, including in their families, in out-of-home care and in institutional contexts.

As noted in section 1, accurate statistics about the prevalence of sexual harm experienced by children and young people is unknown. Notwithstanding that recorded data of sexual harm underestimates prevalence, the Commission's data indicates that sexual harm is a disturbingly common experience for some of the most vulnerable children and young people in Victoria who come into contact with the Child Protection and out-of-home care systems. The Commission notes that data we collect in respect of these children and young people is limited to an identified sample of children and young people and is not a representative of the broader community.

2.1 Experiences of sexual harm identified in child death inquiries

In preparing this submission, the Commission reviewed the 59 CDIs completed between 1 July 2018 and 30 June 2020 (32 from 2018–2019 and 27 from 2019–2020). Twelve, or one fifth, of these cases involved sexual exploitation and abuse and/or evidence of children or young people in the care of sex offenders. Of these:

- eight involved children or young people who had been victims of sexual abuse or exploitation
- one involved a child who displayed sexualised behaviour towards a younger sibling
- five cases where a child or young person was in the care of a suspected or confirmed sex offender.⁴

The Commission's 2016 inquiry into issues of family violence in child deaths '*Neither seen nor heard*', examined a sample of twenty child deaths where children and young people had experienced family violence.⁵ Sexual abuse, sexual exploitation or risk of sexual exploitation was evident in almost half of the cases.⁶

The Commission's 2019 inquiry into children who died by suicide and were known to Child Protection, '*Lost, not forgotten*' also uncovered a tragic pattern of sexual harm experienced by children and young people. In this inquiry, the Commission found that 51 per cent of the children and young people (n=18) were reported to have been sexually abused by a family member or person known by the family.⁷ Aboriginal children and young people were over-represented in the children reviewed. All of the Aboriginal children and young people reported sexual abuse in early childhood and half of the Aboriginal children and young people reviewed were also recorded as having disabilities.⁸

In these two systemic inquiries, sexual harm occurred in the context of children and young people's exposure to high levels of vulnerability and risk of other types of harm.

⁴ Two of the 12 cases involved two categories of issues.

⁵ Commission for Children and Young People, '[Neither seen nor heard': inquiry into issues of family violence in child deaths](#), 2016.

⁶ *Ibid.*, p 32.

⁷ Commission for Children and Young People, '[Lost, not forgotten': inquiry into children who died by suicide and were known to Child Protection](#), 2019, p 15.

⁸ *Ibid.*, p 54.

2.2 Incidents of sexual harm in out-of-home care

The Commission receives reports from the Department of Health and Human Services (DHHS) of all serious incidents affecting a child or young person in out-of-home care.⁹ These incidents can include situations where the child or young person in out-of-home care has been sexually harmed by a carer, an adult in the community, or another child or young person (either in out-of-home care or in the community).¹⁰ Notwithstanding significant limits to incident data,¹¹ sexual harm is commonly reported in formal incidents in out-of-home care.

In 2019–2020, Victoria’s out-of-home care system recorded 305 sexual abuse incidents, approximately one-sixth of all major impact incidents.¹² Approximately two-thirds of these incidents related to children and young people in residential care, which reflects broader incident patterns.¹³ Children under 10 years of age were involved in 43 per cent of foster care incidents and 30 per cent of kinship care incidents. Children aged 14 to 15 years were most commonly identified in residential care sexual abuse incidents.

In 99 per cent (194) of the residential care incidents, the child or young person was identified as the victim (in the other cases the child or young person was the ‘participant’ or ‘witness’). Of the children and young people identified as the victim, 76 per cent were female and 19 per cent were Aboriginal. Of these residential care incidents, the sexual abuse was alleged to be committed by a staff member in six per cent of cases, another client in 23 per cent of cases, and ‘other persons’ (i.e, neither a co-client nor staff member) in 71 per cent of cases.

The Commission has found that a significant proportion of sexual harm experienced by children and young people in out-of-home care occurs when they are absent or missing from their placements. The Commission is currently finalising a systemic inquiry into children and young people who are absent or missing from residential care. The inquiry draws on consultations with young people in residential care and key out-of-home care stakeholders, and a review of case files, incident reports and administrative data. The report is expected to be tabled in mid-2021 and will provide further insight into the experiences of children and young people who experience sexual assault and/or sexual exploitation while living in residential care.

2.3 Allegations of sexual misconduct and sexual offences in reportable conduct matters

The Commission administers Victoria’s Reportable Conduct Scheme (Scheme). The Scheme requires organisations that work with children and young people to report, investigate and respond to allegations of child abuse made against their workers or volunteers. **Attachment 1** contains further information about the Scheme.

In the first three years of the Scheme, between 1 July 2017 and 30 June 2020, the Commission received 2,546 notifications of 4,825 reportable allegations from heads of organisations.¹⁴ In the same period, the Commission was notified of 848 allegations of sexual

⁹ This oversight is established under section 60A of the *Commission for Children and Young People Act 2012*, which requires the Secretary of DHHS to provide information to the Commission about ‘adverse events’ relating to children and young people in out-of-home care.

¹⁰ The incidents also include reports of instances where the child may be the alleged perpetrator.

¹¹ In previous Annual Reports and tabled inquiries, the Commission has identified concerns about incident categorisations, under-reporting of some incident categories. Detailed analysis of sexual abuse incidents in out-of-home care is complicated in the incident reporting framework used by DHHS, which reports all ‘sexual abuse’ as one category, encompassing historical and current matters alike, and does not easily differentiate alleged abuse by a peer, a member of the public or a staff member.

¹² Commission for Children and Young People, *Annual report 2019–20*, 2020, p 38.

¹³ *Ibid.*

¹⁴ Each mandatory notification can contain multiple reportable allegations and multiple alleged victims.

misconduct and 377 allegations of a sexual offence.¹⁵ Looking at finalised investigations, 26 per cent of sexual misconduct allegations and 19 per cent of sexual offence allegations were substantiated.¹⁶

Between 2018-19 and 2019-20 there was a 46 per cent increase in allegations of sexual misconduct received by the Commission and a nine per cent increase in allegations of sexual offences.¹⁷ Some of this increase aligned with media coverage of alleged misconduct by teachers and other staff at a prominent Melbourne school in February and March 2020.

Community awareness and education is still required to facilitate proper reporting of misconduct and offending against children. The increase generated by the media coverage mentioned above suggests the likely extent of underreporting, and the need for ongoing education.

In any event, the Commission expects to see an increase in reportable conduct notifications over time as awareness of inappropriate conduct towards children grows and as agencies become more familiar with their reporting obligations under the Scheme.

Opportunity for reform: Improving data collection and reporting about children and young people who have been sexually harmed

There is a clear need for improved data collection to better understand the prevalence of sexual harm experienced by children and young people and the capacity and responsiveness of the service system in supporting victims and survivors to seek a justice response.

The Commission supports the suggestion to develop a set of publicly available shared outcomes for the justice system to respond to sexual harm. This should include specific areas of accountability for service delivery to children and young people, including children and young people who are Aboriginal, have disabilities, are culturally and linguistically diverse, and/or LGBTIQ+.

The Commission also supports developing publicly available data relating to the provision of support services to children and young people who have experienced sexual harm. This includes waiting times for access to counselling and drug and alcohol services. This data should be disaggregated by regional distribution to monitor equitable access to services across the state.

¹⁵ Commission for Children and Young People, [Annual report 2019–20](#), 2020, p 83.

¹⁶ *Ibid.*, p 93.

¹⁷ It is too early in the life of the Scheme to robustly identify trends and drivers underpinning this data.

3. Issues in service system responses to sexual harm identified through the Commission's work

3.1 Attitudes towards children and young people

Across our functions, the Commission has observed Child Protection, out-of-home care services and other organisations providing inadequate responses to children and young people who disclose or report sexual harm and to behaviours and circumstances related to experiences of sexual harm. Negative attitudes and poor systemic responses can prevent children and young people who have experienced sexual harm from being identified and receiving an appropriate response and support. These failings can also deter children and young people who have experienced sexual harm from seeking a justice response.

In *Lost, not forgotten*, the Commission found that all of the children and young people reviewed, including those who had experienced sexual harm, had presented with multiple, often chronic, risk indicators that brought them into contact with different service systems.¹⁸ Many of the children and young people had been known to Child Protection since early childhood, however once they reached the point of adolescence they were frequently characterised as 'hard to help', 'difficult to engage', 'out of control', 'needy' and in one case 'damaged'.¹⁹ In many cases the Commission found that children and young people flew 'under the radar' – and indicators of risk were not identified or addressed.²⁰

Children and young people in the out-of-home care system, particularly in residential care, are at significant risk of sexual exploitation, abuse and assault. At times, they face responses from residential care providers that appear to hold them responsible for making choices which put themselves in harm's way. In some instances, the severity of sexual harm is diminished by adults responding to an incident, for example a sexual assault being recorded in incident reports as sexual exploitation, or not recorded at all. This demonstrates a cultural issue in the out-of-home care service system and is subject to examination in the Commission's current systemic inquiry into children who are absent or missing from residential care.

Similar concerns can impact all children who experience sexual harm and seek to complain or seek help. We see this through our Reportable Conduct Scheme regulatory function, in which we oversight investigations conducted by a broad range of organisations that work with or provide services to children. In some instances, when responding to allegations of sexual harm, we observe that organisations or investigations:

- are reluctant to interview children and young people who disclose sexual harm
- are reluctant to make substantiated findings for sexual misconduct allegations even where a pattern of overly intimate and personal behaviour by the subject of the allegation is evident and proven. At times responses from organisations suggest this is due to the perceived impact on the subject of allegation of such a finding being made.
- give greater weight to the evidence of adults over the evidence of children.

Our experience administering the Reportable Conduct Scheme suggests that many of the myths identified by the Royal Commission into Institutional Responses to Child Sexual Abuse as contributing to poor justice responses to children who experience sexual abuse remain prevalent. These myths, each of which the Royal Commission found not to be supported by available research and evidence, include:

¹⁸ Commission for Children and Young People, *'Lost, not forgotten': inquiry into children who died by suicide and were known to Child Protection*, 2019, p 12.

¹⁹ *Ibid.*, p 18.

²⁰ *Ibid.*

- that children routinely fabricate allegations of abuse, and that some groups of children are especially prone to fabrication
- that children’s evidence is inherently less reliable than that of adults
- that sexual abuse of children is rare
- that certain types of adults perpetrate child abuse, and that other types of adults are unlikely to perpetrate abuse.

One of the benefits of the Reportable Conduct Scheme and, with it, the independent oversight function, is the ability to directly address attitudes and myths with organisations and therefore improve investigatory practice over time.

We have observed some organisations struggling to effectively support children and young people’s participation in investigations. The Commission encourages, and supports, organisations to train their staff and investigators to build skills and confidence in this area, particularly if service delivery to children and young people is a significant part of the organisation’s operations. To this end, the Commission released dedicated resources on interviewing children and young people in December 2019.²¹

Opportunity for reform: Improving attitudes towards children and young people

As recognised within Victoria’s Child Safe Standards, organisational culture is a critical component determining the capacity to provide for children and young people’s safety, including from sexual harm.²² Improving broader community awareness and understanding is equally important to counter problematic attitudes and practices that increase risks to children and young people, build capacity for services and the community to effectively respond and address barriers to disclosure.²³

Progress towards a more inclusive and effective justice response to sexual offences against children would be advanced by a community awareness strategy to increase understanding of what constitutes inappropriate sexual conduct with children and young people, and the impacts of sexual harm on children and young people. Such a strategy should address myths and provide information about how to support and promote the rights of children and young people to be safe.

3.2 Inconsistent responses to children and young people in out-of-home care

Community service organisations supporting and accommodating children and young people in out-of-home care do not consistently provide an effective, trauma-informed response to disclosures of sexual harm.

There are approximately 9,200 children and young people living in out-of-home care in Victoria.²⁴ The majority of these children and young people have been removed from the care of their parents by court order for their protection. They have commonly experienced significant emotional, physical or sexual abuse, neglect and exposure to family violence. Most are living with a relative in ‘kinship care’ (most commonly with grandparents), around 20 per cent are in foster care and around five per cent live in residential care facilities.

²¹ Commission for Children and Young People’s website [Including children and young people in reportable conduct investigations: interviewing children and young people as alleged victims or witnesses](#).

²² Commission for Children and Young People, [A Guide for Creating a Child Safe Organisation](#), 2018.

²³ Royal Commission into Institutional Responses to Child Sexual Abuse, [Final Report: Volume 6, Making institutions child safe](#), Commonwealth of Australia, 2017, p 63.

²⁴ Department of Health and Human Services, [Annual Report 2019–2020](#), ‘Additional data: Child protection and family services’, Victorian Government, 2020, accessed 16 January 2021, p 3.

As identified by the Royal Commission into Institutional Responses to Child Sexual Abuse, out-of-home care presents risks to children and young people whose vulnerability is exacerbated by isolation from their families, communities and peers and the instability of the settings in which they live.²⁵

The Commission's 2019 *'In our own words': systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system* highlighted the often volatile and unsafe environment for children and young people living in these settings.²⁶

Children and young people connected to Child Protection may have experienced sexual harm at several points:

- by parents or siblings in their home setting, triggering or continuing their involvement with Child Protection²⁷
- by carers (kinship, foster or residential care staff)
- by other children and young people in care settings
- by other people outside of care settings (children, young people, peers, adults).

A review of incidents over the past two years indicates that disclosures of sexual harm are met with varying responses by staff. In some cases, the child or young person is proactively provided with support and engaged with other relevant agencies and services. In other instances, the response is limited to providing children with phone numbers for support agencies, with little or no indication of ongoing support or efforts if the child or young person is not ready to immediately engage.

In some instances, the Commission has found that children and young people in out-of-home care will make a disclosure to a trusted staff member, however will not want to progress the matter in the short term.

While recognising that this is a common and understandable response for victims of sexual abuse, children and young people in out-of-home care may have experienced harm by trusted family and authority figures, meaning they are likely to be cautious about engaging with Victoria Police and other professionals. Children and young people in out-of-home care may also lack a consistent long-term support network typical for children and young people living within a stable family environment.

Opportunity for reform: Differentiated and trauma-informed response to children and young people in out-of-home care who have been sexually harmed

Children and young people in out-of-home care require differentiated, trauma-informed responses to disclosures of sexual harm. This may include providing the child or young person with immediate comforts and supports with people they trust. After the child or young person has re-settled, they can be supported to engage with professionals involved in sexual assault responses. It is important to follow through with these efforts and implement a service system response that recognises that a decision to progress a complaint may take time.

²⁵ Royal Commission into Institutional Responses to Child Sexual Abuse, *Final report: volume 12, contemporary out-of-home care*, Commonwealth of Australia, 2017, accessed 16 January 2021, p 12.

²⁶ Commission for Children and Young People, *'In our own words': Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019.

²⁷ In 2018–2019 approximately 10 per cent of the 62,700 children in the Child Protection system who were the subject of substantiated abuse were the victims of sexual abuse: Australian Institute of Health and Welfare, *Child protection Australia 2018–19*, Australian Institute of Health and Welfare, 2020, accessed 16 January 2021, p 21.

The need to improve responses to sexual harm in an out-of-home care context is situated within the need for a range of policy and practice reforms to the out-of-home care system to better support vulnerable children and young people. The Commission will also make a raft of recommendations relevant to improving responses to sexual harm in our forthcoming systemic inquiry into children and young people who are absent or missing from residential care.

3.3 Victoria Police responses to reports of sexual assault

Factors influencing the decision of children and young people to report sexual offences to Victoria Police

Some children and young people who have reported sexual abuse incidents in out-of-home care subsequently elect not to report the assault to Victoria Police. An analysis of the incidents reported to the Commission for the quarter January–March 2020 identified 39 sexual abuse incidents that mentioned Victoria Police in the incident report. Of the 39 incidents, the Commission identified that in 15 instances (38 per cent), the child or young person elected not to progress allegations further.

Several factors deter children and young people who have been sexually harmed from making a police report. The Commission analysed sexual abuse incidents involving children and young people who elected not to engage further with Victoria Police. The reasons identified included concern that they would not be believed and fear of retaliation from the perpetrator or the perpetrator's associates.

The example of 'Jill'²⁸ below illustrates barriers experienced by children and young people seeking a justice response. In this case, the young person was not provided with comprehensive support and information when she reported a sexual assault.

Jill attended a police station and reported a sexual assault to an officer from the SOCIT team.

The officer gave Jill three options: to make a statement, get counselling, or do nothing. The officer explained that if Jill did not proceed with charges, then probably nothing would happen, however, they would keep the information in case she changed her mind later. Jill decided not progress with the police report. She also elected not to meet with sexual assault support agencies.

A young person, 'Sam'²⁹, shared her experience with the Commission about engaging with the Police when she was 14 years old after she was sexually assaulted. Sam told us she did not feel comfortable to report to police because she was afraid of repercussions relating to her use of drugs, was unable to speak in private and also had a complete lack of understanding of sexual assault:

'Two police officers came to my house, I was 14 at the time, they tried to almost like guilt me into talking, they said this guy is known to police and known to doing it to other young girls, they tried to guilt me. I felt horrible that this had happened to other young girls, but I was also coming down off ice, in my experience he had baby fed me ice and I didn't know what would happen since I was on drugs. I didn't want to get in trouble, and I also didn't really fully understand what had happened, what sexual assault was, it had been normalised for me. My friend was also there, and I didn't feel comfortable talking to them in front of my friend and my mum.'

Sam also talked about previous experiences of her own and her family with Victoria Police that deterred her from reporting the sexual assault:

²⁸ Out of home care Incident report. 'Jill' is not the young person's real name.

²⁹ Commission for Children and Young People consultation with a young person with lived experience, 20 January 2020. 'Sam' is not the young person's real name.

'Also, I've had bad experiences with police before, so police in uniforms that have treated me like shit before, I'm not going to feel comfortable talking to them. It's a big flaw, like cops who work on high profile drug cases and with murderers go to a kid's home and talk about sexual assault? There need to be special police for this stuff, in different uniforms.'

'I think it's important to look at how sexual abuse and sexual assault impacts intergenerationally. I've been sexually assaulted, and my mom was sexually abused, and her mum was sexually abused. There's a lot of rape in my family and it needs to be looked at: how it can be passed from generation to generation. And how the police respond to your family will influence how you respond to the justice system. My mom tried to tell the police what was happening to her and her brothers and sisters and they told her there wasn't enough evidence and that there was nothing they could do about it. So, when it happened to me, I was like why would I want to go through all that pain and relive everything when nothing will happen? It's such a barrier, when you want to go to the police, but you think "well nothing will fucking happen".'

Sam also talked about not being ready to report because of the other significant matters she needed support with that were more important at the time:

'At that time, it was hard because I honestly didn't know what had happened to me. I needed help getting off drugs and needed help with homelessness. I needed that overall support, like a constant person that was waiting for me to feel comfortable and to feel ready.'

'I feel like in the service system it's very much like [one service says] "we help with homelessness" and [another service says] "we help with drugs", it needs to be more holistic, not a young person needing to see 15 different people, it's hard enough to see one worker.'

Responses by Victoria Police to children and young people who have been sexually harmed

Unfortunately, the Commission's work suggests that a child or young person who has been sexually harmed cannot currently expect a consistently positive and supportive response from Victoria Police.

The Commission has seen incident reports in which it appears officers have provided perfunctory engagement, ill-adapted for the specific needs of children and young people in out-of-home care who have been sexually harmed. One example raised by the Commission with Victoria Police suggested lack of compassion and understanding of children's responses to trauma:

In 2019, the Commission received an incident report about an apparent assault by Victoria Police of a 10-year-old child in secure welfare services. The child was being interviewed as a victim of serious sexual offences at the time.

The Department of Health and Human Services provided the Commission with relevant information including CCTV footage. The Commission's preliminary assessment identified a number of deeply concerning aspects to the incident including the use of significant physical force against the child, as well as threatening and intimidating language. The Commission raised the matter formally with the Chief Commissioner of Victoria Police.³⁰

Victoria Police subsequently advised that the complaint was reviewed and no misconduct by the officers was identified. The Commission was also advised that no additional training needs had been identified as a result of this review.

Information about police investigations obtained through the Reportable Conduct Scheme

The Commission is required to notify Victoria Police of reportable allegations that may involve conduct that is criminal in nature.

³⁰ Commission for Children and Young People, [Annual Report 2018-19](#), 2019, p 38.

Data published by the Commission from the 2019–20 financial year shows that of all notifications of reportable allegations reported to Victoria Police during 2017–20, only seven per cent resulted in criminal charges being laid (as at 30 June 2020).³¹

Opportunity for reform: Improving Victoria Police responses to children and young people who have been sexually harmed

Workforce training and development

The Commission welcomes the inclusion of ‘child safety is front of mind’ as one of four strategic priorities in Victoria Police’s strategy for family violence, sexual offences and child abuse. The Commission also notes Victoria Police’s strategic goal to develop a child trauma-informed framework to underpin education and training, building on the Sexual Offences and Child Abuse Investigative Team’s Whole Story Investigative Framework. The successful implementation of this initiative will be an important step for children and young people in Victoria.

It is important that Victoria Police workforce training and development includes a specific focus on the impacts and dynamics of disclosure of sexual harm and the unique needs of children and young people who have been sexually harmed so that reporting is effectively encouraged and supported.

When reporting sexual abuse, children and young people interact with different groups of Victoria Police members, from general duties officers to specialist police teams. There is a need for all members of Victoria Police to be required to participate in specific training in how to engage with, and support, children and young people who have been sexually harmed. The involvement of children and young people with lived experience in designing and delivering this training should be a key component.

Targeted responses to children and young people in out-of-home care

Many children and young people placed in out-of-home care have experienced significant levels of trauma and disadvantage and are exposed to increased vulnerability. These experiences and stressful living situations are not always well understood by Victoria Police. Children and young people in out-of-home care typically lack a network of trusted adults and often distrust authority figures including Victoria Police. This combination of vulnerability, isolation and distrust is a particular risk in the context of reporting sexual offences.

There is a need for specialist Victoria Police resources and training to guide responses to children and young people in out-of-home care who have been sexually harmed.

³¹ See Commission for Children and Young People, [Annual report 2019–20](#), 2020, p 96. Of the notifications of reportable allegations reported to Victoria police during 2017–20, as at 30 June 2020, Victoria Police had closed 85 per cent with no further police action being taken after being assessed or investigated. Eight per cent of notifications remained active and were still subject to police investigation or awaiting an update from Victoria Police as at 30 June 2020. These figures do not reflect matters where criminal charges were laid after 30 June 2020.

Information for children and young people

Children and young people need targeted and developmentally appropriate information to understand sexual harm and their rights, seek support and make decisions about seeking justice responses. Resources are most effective when co-designed together with children and young people and promoted and shared on platforms commonly accessed by them.

There is a need for the development of child- and youth-centred and accessible information resources by Victoria Police, with and for children and young people about sexual harm, what to expect when making a report to Police and seeking a justice response, and where to go for support.

Support for children and young people to navigate the justice system

Having a consistent support person who can assist with navigating the service system and advocating when appropriate is important for many children and young people who have experienced sexual harm. The service system can be complex and particularly difficult to navigate when dealing with the impacts of sexual harm. Assistance navigating the system can minimise the impact of victim survivors having to re-live/re-tell their experience multiple times.

The Commission strongly encourages the establishment of a free support service dedicated for children and young people who have experienced sexual harm, to inform, and support their navigation through the service network and justice system.

3.4 Inadequate identification and responses to sexual harm in Child Protection, child and families and family violence service systems

Early identification and positive responses to sexual harm are key steps to seeking a justice response. However, many child death inquiries involve failures by the Child Protection and broader child and family service systems to identify and respond to sexual harm in family contexts. These include poor risk assessments, inadequate information gathering, a lack of collaboration between different service providers and inadequate therapeutic responses.

Poor risk assessments

In 2016 *Neither seen nor heard* found several practice issues related to understanding, identifying and responding to child sexual abuse.³² Allegations or concerns of child sexual abuse were identified in almost half the cases studied in that Inquiry, however they were frequently overlooked by service providers. In each of these cases, there was inadequate information gathering, investigation, risk assessment, safety planning, counselling and psychological support.

We also found that interventions in these cases were limited and ineffective.³³ One child attended only one counselling session related to sexual abuse, four children were interviewed by a Sexual Offences and Child Abuse Investigation Team but none of the interviews resulted in charges, and cases alleging sexual abuse were often closed at intake or after minimal investigation.

³² Commission for Children and Young People, '[Neither seen nor heard': inquiry into issues of family violence in child deaths](#)', 2016, p 54.

³³ Commission for Children and Young People, '[Neither seen nor heard': inquiry into issues of family violence in child deaths](#)', p 32.

Poor assessments and early case closures were also highlighted in the Commission's analysis of CDIs for this submission.³⁴ For example, in one case where a child was in regular contact with an alleged child sex offender, Child Protection closed a report prematurely at the Intake phase. In doing this they had not adequately assessed the child's exposure to sexual abuse and its impact on her, or her carer's ability to monitor the child's exposure to the alleged sexual predator through social media and in person. This meant that the child was not supported around her experiences of sexual assault and trauma, and that the sexual abuse and exploitation may have continued.

In four of the five cases concerning children and young people in contact with confirmed or suspected sex offenders, Child Protection's risk assessment and information gathering was insufficient. As a consequence, children and young people were vulnerable to sexual abuse as their contact with confirmed or suspected sex offenders went unchecked.³⁵

Fragmented service system responses

The Commission found in both *Neither seen nor heard* and *Lost, not forgotten* that sexual harm often occurs in combination with other risk factors and harmful situations for children and young people and their parents. The children and young people in these inquiries were exposed to harm because their parents were absent and/or unable to protect them. Most of the children and young people had also experienced other forms of abuse and neglect, substance use, mental health conditions and unstable housing or homelessness.

The presence of multiple, often chronic, risk indicators bring children and young people into contact with different service systems. *Lost not forgotten* revealed a fragmented service system that missed important opportunities to intervene and support some of the most vulnerable children and young people in Victoria. Inadequate information sharing and collaborative practice meant that opportunities for timely and escalated intervention were missed.

Lost not forgotten identified a range of barriers to effective information sharing and collaborative practice, including:

- an absence of assertive information sharing by the Child Protection and mental health service systems
- a failure to understand the significance of information potentially held by the respective service systems
- a lack of clarity or understanding regarding the role of each service system in respect of child safeguarding.³⁶

In the cases reviewed in *Lost, not forgotten*, the Commission made the following findings relevant to the child and family system:

- There was no evidence that any of the children and young people who were referred to Child FIRST were successfully engaged with family services.³⁷
- The statutory child protection system lacked a child-focussed practice. This resulted in children and young people's voices not always being heard by services, and their experiences often not being taken into account.³⁸

³⁴ Commission for Children and Young People analysis of Child Death Inquiries.

³⁵ Ibid.

³⁶ Commission for Children and Young People, [‘Lost, not forgotten’: inquiry into children who died by suicide and were known to Child Protection](#), 2019, p 90.

³⁷ Ibid., p 75.

³⁸ Ibid., p 79.

Lack of specialist therapeutic responses for children and young people to recover from childhood abuse and trauma

Victims of child sexual abuse are at increased risk of experiencing suicidal behaviour and psychiatric disorders.³⁹ In *Lost, not forgotten*, the Commission found that for the majority of children and young people reviewed, there was an absence of effective early mental health intervention.⁴⁰ The inquiry found a lack of targeted support to help children and young people recover from childhood abuse and trauma.⁴¹

It is unclear to what extent the Victorian Government has increased the accessibility of specialist therapeutic services for children and young people who have been sexually abused. In the latest Annual Report about progress made in implementing recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse, the Victorian Government notes that it has 'strengthened the capacity of sexual assault support services to respond to an increase in demand for their services' however, it does not specify the extent of increased service capacity to respond to children and young people, including to Aboriginal children and young people.⁴²

In monitoring progress made against the Commission's *Neither seen nor heard* inquiry, we continue to see a lack of progress made to respond to children and young people who have experienced sexual harm in the family context, including a failure to increase specialist therapeutic support for children and young people. Further, noting the overlap between family violence and child sexual abuse, despite the unprecedented investment in responding to family violence in the years since the Royal Commission, children and young people who have experienced family violence continue to be overlooked as primary victims with their own independent needs. Children and young people continue to be considered as secondary in adult-focused service responses.⁴³

Improving identification and responses to sexual harm in the child and family system

There is a clear need to improve identification, investigation, service collaboration and support responses, including specialist therapeutic support, to child sexual abuse in the Child Protection and broader child and family service systems. Failure to make these improvements means children who are engaged in these systems and have been sexually harmed will be unlikely to seek or receive an effective justice response.

The Commission has previously made a raft of recommendations to the Victorian Government to address these issues through various systemic inquiries including in *Neither seen nor heard* and *Lost not forgotten*. We will make further recommendations for service system reforms in our forthcoming inquiry into children and young people who are absent or missing from residential care.

³⁹ Australian Institute of Health and Welfare, '[Sexual assault in Australia](#)', 2020, p 12.

⁴⁰ Commission for Children and Young People, '[Lost, not forgotten: inquiry into children who died by suicide and were known to Child Protection](#)', 2019, p 87.

⁴¹ Ibid.

⁴² Victorian Government, '[Victorian Government Annual Report 2020, Royal Commission into Institutional Responses to Child Sexual Abuse Annual Report](#)', 2020, pp 7 – 8.

⁴³ Commission for Children and Young People, '[Submission to the Family Violence Reform Implementation Monitor](#)', 27 July 2020.

4. Children and young people who exhibit harmful sexual behaviour

4.1 Incidents of children and young people who exhibit harmful sexual behaviour in out-of-home care

The occurrence of harmful sexual behaviour among children and young people in Victoria cannot be determined by currently available data.⁴⁴ Approaches to understanding the extent of harmful sexual behaviours primarily draw from crime and administrative data and these sources rely on disclosures and effective service system responses and recording. These matters are hindered by current service system limitations as well as stigma, misunderstanding, under-reporting and mischaracterisation of the issue.⁴⁵

Notwithstanding these issues, incident report data provided to the Commission demonstrates that the occurrence of children and young people exhibiting harmful sexual behaviours in out-of-home care is not uncommon.

The Commission's analysis of 650 sexual abuse out-of-home care incidents in 2019 and 2020 found that 139 cases (21 per cent) were 'client to client'. That is, they were perpetrated by another child or young person in care. In 22 of the incidents (eight per cent), at least one of the children was under 10 years of age.

Reflecting a similar proportion, the Commission's *In our own words* inquiry found that in 2018–2019, 25 per cent of sexual abuse incidents in residential care were 'client to client'.⁴⁶

Among a range of significant systemic issues identified in this inquiry found that the out-of-home care system lacks a sufficient supply of suitable carers and placements, especially for children and young people who exhibit challenging behaviours, including sexualised behaviours.

A lack of available placement options and an overstretched system leads to poor placement mixes in residential care driving unsafe situations, including circumstances where children and young people at risk of sexually harmful behaviours are placed with other vulnerable children and young people.⁴⁷

Opportunity for reform: Improving responses to children and young people who exhibit harmful sexual behaviour in out-of-home care

Issues that prevent effective responses to children and young people who exhibit harmful sexual behaviour in the out-of-home care system are linked to a range of significant systemic issues. The Commission has previously made recommendations to the Victorian Government to address these issues through various systemic inquiries including through *In our own words*.

These reforms are critical in supporting a whole-of-system approach to preventing and responding to children and young people who exhibit harmful sexual behaviour in the out-of-home care system.

⁴⁴ Quadara et al., [Good practice in delivering and evaluating interventions for young people with harmful sexual behaviours](#), ANROWS, 2020.

⁴⁵ Ibid.

⁴⁶ Commission for Children and Young People, ['In our own words': Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system](#), 2019, p 296.

⁴⁷ Ibid., p26.

4.2 Expanding the eligibility of Therapeutic Treatment Orders

We understand that the Victorian Law Reform Commission is considering whether there is scope to extend the availability of the Therapeutic Treatment Order (TTO) regime to young people aged 18 to 25 years.

There is value in making the TTO regime available to young people aged 18 to 25 years, to help prevent ongoing and more serious sexual offences and prevent entry of vulnerable young people into the criminal justice system.

The acceptance that there are opportunities to positively intervene during child and adolescent brain development is a core consideration for a differentiated response for children and young people with sexually harmful behaviours. However, excluding young people aged 18 years and over does not reflect a modern understanding of brain maturity. This age-based distinction can be seen to be formed on legislative and service design provisions, rather than the specific developmental maturity of an individual or the evidence that brain development can continue into a person's twenties.

Age-based distinctions can also limit the justice system's capacity to acknowledge and account for behaviours of children and young people who have cognitive disability, intellectual impairment or other developmental issues.⁴⁸

Exploring alternatives for young people aged 18 to 25 years

There would be significant value in expert examination and testing into whether the acceptable range of appropriate and harmful sexual behaviours and the therapeutic approaches for children are applicable to young people aged 18 to 25 years.

Any extension to the scope of Therapeutic Treatment Orders would also need to consider:

- the views of and impacts on victim survivors
- the principles to determine a person's eligibility for a TTO
- building evidence on effectiveness of therapeutic approaches and frameworks for young people aged 18 to 25 years
- whether the Children's Court and Child Protection system are the appropriate jurisdictions/systems for young people aged 18 to 25 years.

⁴⁸ Royal Commission into Institutional Responses to Child Sexual Abuse, [Final Report: Volume 10, Children with harmful sexual behaviours](#), Commonwealth of Australia, 2017, p 34.

5. Responses to sexual harm through civil proceedings

5.1 Victoria's Reportable Conduct Scheme

The Commission administers Victoria's Reportable Conduct Scheme (Scheme). The Scheme requires organisations that work with children and young people to report, investigate and respond to allegations of child abuse made against their workers or volunteers. **Attachment 1** contains further information about the Scheme.

At times, information or documents gathered by organisations conducting an investigation into reportable conduct are used in proceedings in civil jurisdictions. This may include materials from an investigation into allegations of sexual misconduct against a child.

For example, workplace disputes related to an employee's alleged abuse of children may result in proceedings in Fair Work or the Federal Court. Evidence about the alleged abuse, including the victim's evidence, may be relevant in such a proceeding.

Another example involves a situation where an individual has found to have engaged in reportable conduct against a child for the purposes of the Scheme. The Commission usually then refers the individual, and information about their reportable conduct, to the Department of Justice and Community Safety. This allows the individual's capacity to hold a Working With Children Check to be reassessed. If the Department of Justice and Community Safety issues a negative notice and withdraws the individual's Working With Children Check, the individual may appeal the decision in the Victorian Civil and Administrative Tribunal. Details of the reportable conduct, including evidence of any child victims or witnesses, will be relevant to the proceeding.

The Commission is not usually a party to proceedings of the kind described above, nor is the child victim or witness.

Specific practice directions, protocols or legislative guidance with respect to the treatment of children and young people who are witnesses or victims of abuse or misconduct differ throughout the different court and tribunal jurisdictions.

For example, in the Children's Court of Victoria, except with the permission of the President, s 534 of the *Children, Youth and Families Act 2005* prohibits publication of a report of a proceeding that contains any particulars likely to lead to the identification of:

- the particular venue of the Children's Court in which the proceeding was heard
- a child (as defined in s 3) or any other party to the proceeding
- a witness in the proceeding
- a picture that includes a child, other party, or witness in a proceeding
- any matter that contains any particulars likely to lead to the identification of a child as being the subject of an order made by the Court.

Likewise, the Victorian Court of Appeal requires neutral summaries in cases where a pseudonym has been allocated so that a child or witness involved in a criminal proceeding or a victim of a sexual offence cannot be identified. This involves modifying identifying information like their date of birth, school, acquaintances and the names of other persons linked to them who have given evidence in the court.⁴⁹

Commonwealth legislation also affords broad protection to child witnesses or complainants.⁵⁰

⁴⁹ Supreme Court of Victoria, Court of Appeal, *Anonymisation Protocol for Criminal Applications and Appeals*, 2017.

⁵⁰ *Crimes Act 1914 (Cth)* s 15YR.

The Commission is concerned that some civil jurisdictions provide less dedicated guidance for how parties and the judicial or tribunal body should approach children and young people and the often highly personal information about the abuse or misconduct they were subjected to that may emerge in a proceeding. The following examples illustrate where this can contribute to a concerning outcome:

- child victims' direct evidence, not previously accessed by the perpetrator of abuse, can be provided to the perpetrator as part of an exchange of documents in a proceeding without the knowledge or input of those child victims
- insufficient de-identification of child victims in a proceeding can result in victims being identified by their peers and community, particularly in circumstances (not uncommon in civil proceedings involving child abuse) where the proceeding is reported in the media.

The Commission is concerned that there is inadequate protection for children and young people where abuse or inappropriate conduct against them is the subject of proceedings but where they are not a party. There are often no practice notes, protocols or legislative guidance provided on these issues to assist the judicial or tribunal body or the parties.

The Commission is concerned that there is insufficient attention given to:

- alerting child victims or witnesses to the existence of proceedings enabling their views to be sought or for them to consider taking their own action
- responsible practices concerning the release of information or documents that contain highly personal details about the abuse or inappropriate behaviour suffered by a child
- suppression orders, orders that achieve de-identification and restrictions on access to documents held on court or tribunal files in order to protect the privacy of children and young people who are not parties to the proceedings.

In most cases, the Commission will not be a party to such proceedings and may not be made aware of them. Accordingly, the Commission is unable to reliably bring these issues to the attention of the court or tribunal. Such secondary civil proceedings are a common occurrence once criminal investigations or prosecutions have concluded.

Improving civil jurisdictions' responses to child victims of sexual harm

There is an opportunity for increased guidance to be provided in civil jurisdictions where sexual harm suffered by a child victim forms part of the proceeding. This includes, for example, employment matters or administrative decisions related to the perpetrator of the sexual harm.

Guidance would assist the court or tribunal and the parties to responsibly and respectfully treat with information and documents related to the child's experience and promote privacy for the child, particularly in circumstances where the child is not a party.

Attachment 1: Background information – Commission for Children and Young People’s Reportable Conduct Scheme

Victoria is still the only jurisdiction nationally to have introduced both Child Safe Standards (the Standards) and the Reportable Conduct Scheme (the Scheme) as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission).

Reportable Conduct Scheme

The Reportable Conduct Scheme helps to improve organisations’ responses to allegations of child abuse. There are five types of ‘reportable conduct’ listed in the *Child Wellbeing and Safety Act 2005*:

- sexual offences (against, with or in the presence of, a child)
- sexual misconduct (against, with or in the presence of, a child)
- physical violence (against, with or in the presence of, a child)
- behaviour that causes significant emotional or psychological harm
- significant neglect.

Sexual offences

In Victoria, it is an offence to engage in certain sexual behaviours against, with or in front of, a child. Many of these behaviours are reportable conduct under the Reportable Conduct Scheme. This includes:

- sexual assault
- indecent acts
- possession of child abuse material
- ‘grooming’ a child in order to commit a sexual offence.

A full list of the relevant sexual offences is set out in clause 1 of Schedule 1 to the *Sentencing Act 1991*. A worker or volunteer does not need to be charged with, or found guilty of, a sexual offence for their behaviour to be reportable conduct.

Sexual misconduct

‘Sexual misconduct’ captures a broader range of inappropriate behaviours of a sexual nature that are not necessarily criminal. Sexual misconduct refers to conduct that:

- amounts to misconduct
- is of a sexual nature, and
- occurred against, with, or in the presence of, a child.

This can also include grooming behaviour. Detailed guidance can be found in CCYP’s information sheet.⁵¹

In 2019–20, the highest number of allegations (46 per cent) related to physical violence. However the largest increase in conduct type was sexual misconduct allegations, with 103 more notifications when compared with 2018–19.⁵²

Across all types of reportable conduct in 2019–20, there was a 17 per cent increase in notifications, notwithstanding a reduction during the lockdowns which closed schools and

⁵¹ Commission for Children and Young People, [Information sheet 9: sexual misconduct under the Reportable Conduct Scheme](#), 2018.

⁵² It is too early in the life of the Scheme to robustly identify trends and drivers underpinning this data.

other organisations due to COVID–19. In particular, the year saw a 17 per cent increase in notifications from the education sector.

The increase in notifications in the education sector, and an increase in members of the public notifying the Commission of potential child abuse allegations, was partly driven by the February 2020 *Four Corners* report, ‘Boys Club’, and subsequent media coverage related to the handling of sexual abuse allegations in schools.

Reportable allegations by sector and type of reportable conduct

Different types of allegations appear more prevalent in some sectors. For example, there is a higher proportion of sexual offence allegations in religious bodies than any other sector, and a higher proportion of physical violence allegations in the early childhood education sector.

In previous years, physical violence has been the most common allegation type in the education sector. In 2019–20, the highest number of allegations were received for sexual misconduct. There was a 44 per cent increase in sexual misconduct allegations in the education sector in 2019–20 when compared with 2018–19.⁵³

Notifications to Victoria Police

Organisations and the Commission are required to notify Victoria Police of reportable allegations that may involve conduct that is criminal in nature.

Of the 939 notifications of reportable allegations made to the Commission in 2019–20, 56 per cent were reported to Victoria Police by either the organisation or the Commission due to possible criminal conduct.

For the period 1 July 2017 to 30 June 2020, Victoria Police conducted an investigation into 58 per cent of notifications disclosed to them; 53 per cent have been completed and five per cent remain in progress.

For the period 1 July 2017 to 30 June 2020, the Commission referred 320 notifications that had not previously been reported to police. In addition, the Commission referred 40 matters that involved conduct that may be criminal in nature that were not within the jurisdiction of the Scheme. Where a notification has been investigated and charges laid, outcomes since the start of the Scheme have included:

- terms of imprisonment, including suspended sentences
- good behaviour bonds
- intervention orders, including family violence intervention orders granted
- community correction orders
- diversion
- adjournment without conviction

Referrals to Working with Children Check Unit

The Working with Children Check (WWCC) helps protect children from physical and sexual harm by screening criminal history records and professional conduct to prevent people who pose an unjustifiable risk to children from working or caring for them.

An important part of the Commission’s role in supporting safety for children is to refer substantiated allegations of reportable conduct to the Secretary to the Department of Justice and Community Safety (DJCS). This enables DJCS to assess whether the person should retain a Working with Children Check under the *Working with Children Act 2005*.

⁵³ Ibid.

In 2019–20, 267 unique individuals found to have committed substantiated reportable conduct were referred to DJCS in relation to 575 substantiated allegations of reportable conduct.

Since the start of the Scheme, a total of 485 unique individuals found to have committed reportable conduct have been referred to DJCS in relation to 1,036 substantiated allegations of reportable conduct.

Referrals to Victorian Institute of Teaching

On becoming aware that a registered teacher is the subject of a reportable allegation, the Commission must notify VIT pursuant to the *Education Training and Reform Act 2006*.

The Commission must also refer any findings of substantiated reportable conduct to VIT at the completion of an investigation. In practice, the Commission referred all findings from completed reportable conduct investigations to VIT in 2019–20.

In 2019–20 the Commission advised VIT of 191 notifications of reportable allegations in relation to registered teachers. Since the start of the Scheme, the Commission has advised VIT of 520 notifications relating to 503 unique registered teachers.