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NSW Ombudsman

Strengthening the oversight of workplace child abuse allegations

A special report to the NSW Parliament

In a special report tabled today, the NSW Ombudsman has asked Parliament to consider the implications of legal advice that substantially extends Ombudsman oversight of workplace child abuse allegations to churches and other organisations that run camps for children.

In 2013, alleged sexual abuse of a child at a camp prompted the Ombudsman to request legal advice about whether his jurisdiction over agencies providing 'substitute residential care' to children extends to organisations running camps.

'Hundreds of child abuse allegations being handled by the Ombudsman under the reportable conduct scheme are also being investigated by police, so the scheme's reach has direct relevance to critical issues being considered by the Royal Commission into Institutional Responses to Child Sexual Abuse,' the Acting Ombudsman said.

'This report brings to Parliament's attention the practical implications of advice we received from the Solicitor General that substantially expands the number and type of agencies and individuals that now fall within our reportable conduct jurisdiction,' Professor McMillan said.

'Since receiving the Solicitor General's advice, we have consulted with a broad range of affected organisations – including religious denominations, the recreational camping sector, and sporting associations. Stakeholders have generally indicated their strong support for the Ombudsman's role, but believe equally that there would be merit in Parliament reconsidering how the reportable conduct scheme should apply to organisations.'

Significantly, both the NSW Catholic and Anglican Archbishops and Bishops wrote to the NSW Attorney General late last year requesting legislative changes to ensure that the scheme's jurisdiction has coverage over their denominations' work with children,' Professor McMillan said.

Under the scheme, already thousands of agencies that provide services to children – including substitute residential care – are required to notify the Ombudsman about alleged child abuse by employees and certain volunteers.

In fact, the Ombudsman handles annually about 1,400 notifications. Currently, this includes 400 open cases in which police are conducting further investigations. In those cases, 134 individuals have been charged with criminal offences against children, mostly sexual offences.

‘The wide range of organisations now deemed to be within the scheme has significant public policy and practical implications that warrant Parliament’s consideration,’ the Acting Ombudsman said.

‘The special report to Parliament also discusses other reasons why there is a compelling case to review the reach of the reportable conduct scheme.

- **Different organisations which essentially perform the same role in working with children will either fall within or outside of the current scheme based on their particular legal structures, rather than because of the nature of their work with children.**
- **The impact of the Solicitor General’s advice means our jurisdiction is being determined by distinctions that are extraneous to risks to children, such as whether camps use tents or fixed structures, and are held for a weekend or longer.**
- **Our consultations with stakeholders have highlighted the disjunct between the coverage of the reportable conduct and Working With Children Check schemes. The special report discusses the risks to children associated with this lack of alignment.’**

Professor McMillan also said that if Parliament considers that a broader range of organisations should fall within the reportable conduct scheme, there will be a need to examine whether affected organisations – particularly those with low revenue streams – are adequately resourced to fulfil their responsibilities under the scheme.

‘The demand on the Ombudsman’s supervisory resources will also be influenced by the number of organisations deemed to fall within our jurisdiction,’ he said.

On 26 February, representatives of the leading government and non-government organisations involved in the care and protection of children will gather at a major conference hosted by the Ombudsman in Sydney to examine the strengths and challenges of the reportable conduct scheme.

Further information about the Ombudsman’s Reportable Conduct Forum on 26 February will be issued to media separately.