

Royal Commission into Institutional Responses to Child Sexual Abuse

Explaining the Letters Patent and Terms of Reference

This document explains the Letters Patent and Terms of Reference for the Royal Commission into Institutional Responses to Child Sexual Abuse.

The 'Letters Patent' is the legal document from the Governor-General that gives instructions to the Commissioners about the scope of the inquiry and what the Commissioners should investigate and make recommendations on. The Letters Patent also formally appoint the Commissioners.

The full Letters Patent document is available at www.childabuseroyalcommission.gov.au.

This explanation document should not be taken to in any way replace the Letters Patent document, or to have any legal standing.

Why the Royal Commission has been set up

Child sexual abuse is a crime, and a terrible breach of the right of every child to grow up safe and happy.

Child sexual abuse is often associated with other forms of abuse including physical abuse, exploitation, and neglect.

All have long-term effects on survivors and their families. There are also costs to the economy and society as a whole.

Australia has committed at an international level to do everything it can to protect children from all forms of abuse. This includes taking action to help prevent child abuse from happening and, when child abuse does happen, to help ensure that cases are identified, reported, investigated, and followed up.

It is recognised that public, non-government and private organisations provide important services and support to help children and their families.

These include childcare, cultural, educational, religious, sporting and other organisations, which play an important role in helping children to grow up safe and happy.

But it is important that laws, rules and practices are in place to ensure organisations protect children against the risk of sexual abuse and that claims of abuse and the impacts of abuse are appropriately responded to.

It is important that this inquiry explore claims of systemic failures by institutions to protect children from sexual abuse and related matters.

The inquiry should identify what can be done in the future to better prevent and respond to child sexual abuse, including holding perpetrators to account and providing justice to victims.

People who have been affected by child sexual abuse will be able to share their experiences with the inquiry if they want to, to assist with healing and to inform the Commissioners' recommendations.

The Australian and State and Territory Governments have committed at the most recent Council of Australian Governments meeting to support this inquiry, and giving it their full cooperation.

What the Royal Commission will investigate

The Commissioners will examine past and current child sexual abuse in organisations and may make findings and recommendations on:

- how organisations with a responsibility for children have managed and responded to claims of sexual abuse and other forms of abuse and neglect associated with child sexual abuse
- whether organisations have done enough to respond to child sexual abuse when it has happened
- what organisations can do to better protect children under their care
- what organisations should do to identify child sexual abuse and encourage people to report it
- how organisations should respond when they find out information that suggests that sexual abuse of children under their responsibility is happening, or has happened in the past
- what the barriers and failures have been to reporting, investigating and dealing with cases of child sexual abuse in organisations, and how these barriers can be removed in the future
- what organisations should do to support survivors where child sexual abuse does occur
- what organisations should do to ensure victims receive justice, including through redress by organisations, and investigation and prosecution of perpetrators.

The Commissioners can make any recommendations that they think will help improve the way things are done in the future or help existing survivors.

This includes looking at laws, as well as the policies, rules and structure of organisations.

What the Royal Commission will cover

The Royal Commission is focused on child sexual abuse within organisations and institutions.

The Commission will also look at matters related to child sexual abuse. This means any unlawful or improper treatment of children that is connected or associated with child sexual abuse generally, or in a particular case.

This recognises that other forms of abuse including physical abuse and neglect often happen with sexual abuse, and if connected they can be examined by the Commission.

The Commissioners can look at any public or private organisation that is, or was in the past, involved with children, including non-government organisations and government agencies (including police and justice), schools, sporting clubs, orphanages, foster care, and religious organisations.

This includes where they consider an organisation caring for a child is responsible for the abuse or for not responding appropriately, regardless of where or when the abuse took place.

The Commission will not specifically examine child sexual abuse outside organisations, such as in the family. However, any recommendations made by the Commissioners are likely to improve the response to child sexual abuse wherever it happens.

How the Commissioners will conduct their inquiry

To carry out the inquiry, the Commissioners will:

- consider the experiences of people affected by child sexual abuse in organisations
- look at archives, records and documents and consider submissions and statements from public, non-government and private organisations
- look at the laws, as well as policies and practices of institutions, organisations and governments to prevent and respond to child sexual abuse
- take into account the findings, recommendations, and information from past and existing inquiries, where appropriate. This can include drawing on the stories of witnesses from other inquiries (with their consent).

The Commissioners will make sure that people telling their stories have appropriate support in dealing with any trauma that might come up from discussing their abuse.

The Commissioners will also make sure that people with special needs can participate fully in the inquiry. For example, this could include interpreters for people who speak a language other than English, assistance for people with disabilities, and help preparing submissions for people who need assistance with reading and writing.

The Commission will make sure that organisations are given enough time to search and respond to requests for documents and records.

Handling of individual cases

The Royal Commission cannot prosecute individuals.

The Commission can refer individual cases to relevant law enforcement bodies, such as police, for investigation and, where appropriate, prosecution in a timely fashion.

The Commissioners will consider appropriate mechanisms for how the Commission might inquire into and investigate particular cases, including past cases, as appropriate.

Mechanisms might include examining archives and records and working with relevant law enforcement bodies such as police.

This includes establishing investigative units to support their inquiry.

In handling evidence about specific cases, the Commissioners will take care not to do anything that could disrupt a current or future criminal prosecution or compensation case.

Timing and reporting

The Commissioners will begin their inquiry as soon as possible.

The Commission will prepare an interim report by 30 June 2014 so that governments and organisations can start taking action on the Commission's early findings and recommendations.

In this interim report, the Commissioners will identify when their final report will be completed. The Terms of Reference will set an end date for the Royal Commission of 2015, but this date will be subject to the advice of the Commissioners in their interim report.

The Prime Minister can extend the final reporting date which has happened in previous Commissions.

The Commissioners will also be able to provide other interim reports throughout the life of the Royal Commission as appropriate.