Implementation of recommendations arising from previous inquiries of relevance to the Royal Commission into Institutional Responses to Child Sexual Abuse

Final Report

Parenting Research Centre

Commissioned by the Royal Commission into Institutional Responses to Child Sexual Abuse

Parenting Research Centre

raising children well

This document is the final report for the project titled 'Implementation of recommendations arising from previous inquiries of relevance to the Royal Commission into Institutional Responses to Child Sexual Abuse'.

Established in 1997, the **Parenting Research Centre** (PRC) is Australia's only national, independent non-profit research, development and implementation specialist organisation with an exclusive focus on parenting and families. The PRC is dedicated to gathering scientific knowledge of effective parenting and developing practical programs to help all parents raise happy, healthy children. The PRC's work focuses on supporting the efforts of practitioners, managers, organisations and governments to effectively and sustainably adopt and implement evidence-informed practices and programs.

Preface

On Friday 11 January 2013, the Governor-General appointed a six-member Royal Commission to inquire into how institutions with a responsibility for children have managed and responded to allegations and instances of child sexual abuse.

The Royal Commission is tasked with investigating where systems have failed to protect children, and making recommendations on how to improve laws, policies and practices to prevent and better respond to child sexual abuse in institutions.

The Royal Commission has developed a comprehensive research program to support its work and to inform its findings and recommendations. The program focuses on eight themes:
1. Why does child sexual abuse occur in institutions?
2. How can child sexual abuse in institutions be prevented?
3. How can child sexual abuse be better identified?
4. How should institutions respond where child sexual abuse has occurred?
5. How should government and statutory authorities respond?
6. What are the treatment and support needs of victims/survivors and their families?
7. What is the history of particular institutions of interest?
8. How do we ensure the Royal Commission has a positive impact?

This research report falls within theme eight.

The research program means the Royal Commission can:
- Obtain relevant background information
- Fill key evidence gaps
- Explore what is known and what works
- Develop recommendations that are informed by evidence and can be implemented, and respond to contemporary issues.

For more information on this program, please visit
www.childabuseroyalcommission.gov.au/research

Contents

List of tables

List of figures

Acronyms

AISQ: Association of Independent Schools Queensland

ALRC: Australian Law Reform Commission

ANCOR: Australian National Child Offender Register

APY: Anangu Pitjantjatjara Yankunytjatjara (SA)

CCS Act: *Children and Community Services Act 2004* (WA)

CCSS: Client and Community Services System

CCTV: Closed-circuit television

COAG: Council of Australian Governments

CPC Act: *Care and Protection of Children Act 2007* (NT)

CYP Act: *Children, Young Persons and Their Families Act 1997* (Tas)

DHS: Department of Human Services

DI(G): Department of Defence

DoCS: Department of Community Services (former name of Community Services NSW)

JIRT: Joint Investigation Response Teams (NSW)

KiDS: Key Information and Directory System (NSW)

NGOs: Non-government organisations

NSWLRC: New South Wales Law Reform Commission

NTER: Northern Territory National Emergency Response

OOHC: Out-of-home care

QPS: Queensland Police Service

SAPOL: South Australia Police

SART: Sexual Assault Response Teams (Vic)

SCLJ: Standing Council on Law and Justice

SMART: Specific, Measureable, Attainable, Relevant and Time-bound

SNAICC: Secretariat of National Aboriginal and Islander Child Care

UN: United Nations

VLRC: Victorian Law Reform Commission

WAS: Witness Assistance Service

List of inquiries from which recommendations were selected

ACT: The rights, interests and well-being of children and young people, Report Number 3, Standing Committee on Community Services and Social Equity, August 2003

ACT: The Territory as Parent, Review of the Safety of Children in Care in the ACT and of ACT Child Protection Management, 14 May 2004

ACT: The Territory's Children, Ensuring safety and quality care for children and young people, Report on the Audit and Case Review, Gwenn Murray, July 2004

Commonwealth: Bringing them home, National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, 1997

Commonwealth: ALRC Report 84: Seen and heard: priority for children in the legal process, 1997

Commonwealth: Management response to allegations of paedophile activity within the Foreign Affairs portfolio: report to the Public Service Commissioner, Pamela O'Neil, May 1997

Commonwealth: Welfare of Former British Child Migrants, House of Commons (UK), Health Committee Publications: Health – Third Report, 1998

Commonwealth: Lost Innocents: Righting the Record – Report on child migration (2001)

Commonwealth: Inquiry into Immigration Detention Procedures (Flood Inquiry), 2001

Commonwealth: Complaint by a young person (under the age of 18) of an incident involving unacceptable behaviour at a Navy training establishment in mid–1996 (2004)

Commonwealth: Forgotten Australians: A Report on Australians who experienced institutional or out-of-home care as children (2005)

Commonwealth: Australian Defence Force: Management of Service Personnel under the age of 18 years (2005)

Commonwealth: Protecting Vulnerable Children – A National Challenge, second report of the inquiry into children in institutional or out-of-home care (2005)

Commonwealth: Uniform Evidence Law Report: ALRC Report 102; NSWLRC Report 112; VLRC Final Report – December 2005, Australian Government Law Reform Commission; NSW Law Reform Commission and Victorian Law Reform Commission

Commonwealth: Lost Innocents and Forgotten Australians Revisited (2009)

Commonwealth: ALRC Report 114, NSWLRC Report 128: Family Violence: A National Legal Response (2010)

Commonwealth: 2011 Immigration detention at Villawood. Summary of observations from visit to immigration detention facilities at Villawood (Australian Human Rights Commission)

Commonwealth: Report on the Review into the Treatment of Woman in the Australian Defence Force Academy - Phase 1, October 2011, Australian Human Rights Commission

Commonwealth: Report of the Review of allegations of sexual and other abuse in Defence - Facing the problems of the past: Volume 1 – General findings and recommendations, Rumble; McKean & Pearce, October 2011 (prepared for the Department of Defence)

Commonwealth: Disability Care and Support: Productivity Commission Inquiry Report Volume 1, No. 54, 31 July 2011, Australian Government Productivity Commission

Commonwealth: Report on the Review into the Treatment of Woman in the Australian Defence Force: **Phase 2** Report – 2012, Australian Human Rights Commission

NSW: The Hon Justice JRT Wood Royal Commission into the New South Wales Police Service: Final Report – Volume V: The Paedophile Inquiry (1997)

NSW: NSW Ombudsman – Handling of Child Abuse Allegations Against Employees (May, 2000)

NSW: Review of the Child Protection Register Report under s25(1) of the Child Protection (Offenders Registration) Act 2000 (CP Register Review) (2005)

NSW: NSW Joint Investigative Response Team (JIRT) Review, November 2006 (NSW Health; NSW Police & NSW Department of Community Services)

NSW: Special Commission of Inquiry into Child Protection Services in NSW (Wood Inquiry) (2008)

NSW: NSW Ombudsman (December 2010) Improving probity standards for funded organisations

NSW: NSW Ombudsman Report – The need to better support children and young people in statutory care who have been victims of violent crime (June, 2010)

NSW: NSW Ombudsman Report – Responding to Child Sexual Assault in Aboriginal Communities (2012)

NSW: Prevention of abuse and safeguarding mechanisms in Ageing Disability and Home Care (21 January 2013)

NT: Report on the Law Relating to the Investigation and Prosecution of Sexual Assault in the Northern Territory, Northern Territory Law Reform Committee (1999)

NT: Ampe Akelyernemane Meke Mekarle Little Children are Sacred (2007)

NT: Growing them strong, together: promoting the safety and wellbeing of the Northern Territory's Children (2010)

NT: A Life Long Shadow. Report of a partial investigation of the child protection authority (2011)

NT: Department of Justice (2011) Report: Review of Vulnerable Witness Legislation

Qld: Briton, J., Gordon, P., Parker, S., & Airo-Farulla, G. (1999). Review of the Queensland Children's Commissioner and Children's Services Appeals Tribunals Act 1996: Report and Recommendations.

Qld: Project AXIS (Volume 2) Child Sexual Abuse in Queensland: Responses to the Problem (November 2000)

Qld: Seeking Justice: an inquiry into how sexual offences are handled by the Queensland Criminal Justice system (June 2003)

Qld: Inquiry into Abuse of Children in Foster Care – Protecting children: An Inquiry into Abuse of Children in Foster Care (2004)

Qld: Queensland Child Protection of Inquiry – Taking Responsibility: A Roadmap for Queensland Child Protection – June 2013, Queensland Child Protection of Inquiry

SA: Review of Child Protection in South Australia (Layton review) (2002)

SA: Report of the Joint Committee on Immunity from Prosecution for Certain Sexual Offences: Second Session, Fiftieth Parliament 2002–2003, Parliament of South Australia (28 May 2003, Hon. G.E. Gago, Chairperson) (2003)

SA: Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct (Mullighan Inquiry) (2008)

SA: Children on Anangu Pitjantjatjara Yankunytjatjara (APA) lands Commission of Inquiry (Mullighan Inquiry) (2008)

Tas: Memorandum of Advice to Minister of Health and Human Services: Part Two: Complaints Process for Abuse of Children in Care (Patmalar Ambikapathy, Commissioner for Children Tasmania, September 2003)

Tas: Review of Claims of Abuse from Adults in State Care as Children (O'Grady Report) (2004)

Tas: Who is listening to the children now: the Commissioner for Children's response to recommendations 8 and 9 of the Tasmanian Ombudsman's report/Commissioner for Children 2006.

Tas: Report on Child Protection Services in Tasmania (Jacob-Fanning Report) (2006)

Tas: Inquiry into the circumstances of a 12 year old child under Guardianship of the Secretary (Mason Report) (2010)

Tas: Select Committee on Child Protection Final Report, Parliament of Tasmania (2011)

Vic: Parliamentary Crime Prevention Committee Inquiry into Sexual Offences Against Children and Adults (1995)

Vic: Victorian Auditors General's Office (VAGO) (1996). Protecting Victoria's Children: The Role of the Department of Human Services (special Report 43)

Vic: Victorian Law Reform Commission: Sexual Offences Final Report (2004)

Vic: Ombudsman Victoria: Improving responses to allegations involving sexual assault (2006)

Vic: Ombudsman Victoria: Own Motion Investigation into the Department of Human Services Child Protection Program (2009)

Vic: Ombudsman Victoria: Whistleblowers Protection Act 2001: Investigation into the failure of agencies to manage registered sex offenders (2011)

Vic: Sexual Assault Reform Strategy: Final Evaluation Report, prepared for Department of Justice, January 2011

Vic: Victorian Law Reform Commission (2011) Sex offenders registration – Final Report

Vic: Protecting Victoria's Vulnerable Children Inquiry (Cummins inquiry) (2012)

WA: Western Australia Case Review Board, The Duty of Care Inquiry, An Examination of the Case Decisions in Relation to Two Children Placed Under the Control of the Department, 1993

WA: Putting the picture together: Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities (Gordon Inquiry) 2002

WA: Dr Marie Harries and Associate Professor Mike Clare, Mandatory Reporting of Child Abuse: Evidence and Options, Report for the Western Australian Child Protection Council, Discipline of Social Work & Social Policy, University of Western Australia, 2002

WA: Gwen Murray, A duty of care to children and young people in Western Australia: Report on the quality assurance and review of substantiated allegations of abuse in care – 1 April 2004 to 12 September 2005

WA: Report on Allegations Concerning the Treatment of Children and Young People in Residential Care, Ombudsman Western Australia (2006)

WA: Review of the Department of Community Development (Ford Review) (2007)

WA: Community Development and Justice Standing Committee, Inquiry into the Prosecution of Assaults and Sexual Offences, Report No.6 in the 37th Parliament, 2008

WA: The Hon Peter Blaxell, St Andrew's Hostel Katanning: How the System and Society Failed Our Children, A Special Inquiry into the response of government agencies and officials to allegations of sexual abuse (2012)

Acknowledgements

Executive summary

Scope and purpose of this report

The Royal Commission into Institutional Responses to Child Sexual Abuse is required to inquire into where systems have failed to protect children, and how to improve laws, policies and practices to prevent and improve responses to child sexual abuse in institutions.

The Letters Patent direct the Royal Commission to avoid unnecessary duplication and consider the adequacy of changed law, policy, practices and systems over time. The Parenting Research Centre (PRC) was commissioned to evaluate the extent to which 288 recommendations from 67 inquiries selected by the Royal Commission had been implemented, and the possible factors that determined, contributed to, or were barriers to successful implementation.

The research aimed to answer three questions:

- To what extent were previous inquiry recommendations, nominated by the Royal Commission, implemented?

- What were the factors that determined or contributed to, or were barriers to, the successful implementation of recommendations?

- Was there any relationship between these factors?

The project had three components: a scoping review of the methods of previous implementation evaluations, methodology design and the research itself. An exploration of the impact, or effectiveness, of the implementation of recommendations was beyond the scope of this project.

Scoping review

To design the methodology for this project, the Project Team undertook a systematic scoping review of existing published implementation evaluations. The aim of the scoping review was to identify the methods used in previous evaluations of the implementation of recommendations arising from inquiries or commissions. A summary of the findings is in Chapter 2: Design of methodology. The scoping review is in Attachment A.

Methodology

The research was conducted using a mixed-methods design consisting of:

- an audit of reports and documentation provided by governments to determine the extent of the implementation of the recommendations under review

- verification of whether legislation was introduced or amended in accordance with those recommendations

- a survey of current public servants to explore the facilitators of and barriers to the implementation of recommendations in general

- interviews with key stakeholders to elicit detailed information and opinions on the factors that may affect the implementation of recommendations in general.

Data collection and analysis methods are described in Chapter 3: Methodology. An overview of the methods used to answer the research questions is provided in Table 5.

Major findings

The extent to which recommendations were implemented

The Project Team developed a four-point rating scale describing the extent to which recommendations were implemented (implemented in full, partially implemented, not implemented, undetermined). Evidence used to obtain these ratings was derived from government reports and legislation. The key findings were as follows:

- The majority of recommendations were rated as implemented either in full (48%) or partially (16%). Twenty-one percent were rated as not implemented, and the implementation status of 14% could not be determined.[1]

- In relation to the recommendations rated as not implemented, the implementation of 39% was in progress or under consideration.

- Recommendations from earlier inquiries were more likely to be rated as implemented in full than those from more recent inquiries. Governments commonly reported that recommendations from more recent inquiries were under consideration or in progress.

An assessment of the *type* of recommendation (as categorised by the Royal Commission) found that recommendations with the highest proportion rated as implemented in full related to systems. Recommendations relating to legislation were most likely to be rated as partially or not implemented. In relation to the *subject* of the recommendation (also categorised by the Royal Commission), recommendations with the highest proportion rated as implemented in full related to employment screening. Recommendations relating to training in child protection had the greatest proportion rated as not implemented.

A summary of the implementation ratings for each jurisdiction is provided in Table 6.

Governments reported a range of reasons for the partial implementation or non-implementation of recommendations. A summary of the themes arising from government responses is in Section

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[1] Percentages are rounded.

[4.6](#). The most common reasons were:

- **Policy concerns about the recommendation.** Specific issues included:

    o   concerns about the potential impact of the recommendation on other government priority areas, on children and families, or on resource allocation

    o   concerns that recommendations were not evidence-based

    o   a perceived adequacy of existing arrangements, including existing court powers and legislation, and existing services; there were concerns that implementation could lead to a duplication of existing functions or policies

    o   a preference for an alternative approach to address the intention of the recommendation.

- **Recommendations were beyond the government's jurisdiction.** This particularly applied to the Commonwealth Government, and related not only to recommendations that targeted other jurisdictions but also non-government and religious organisations.

- **Implementation was in progress or under consideration.** This particularly applied to recommendations from more recent inquiries. One reason for this was the attempt to correlate recommendations from other recent and ongoing inquiries. In some cases, individual recommendations were being implemented as part of a package of reforms.

- **Recommendations were no longer relevant.** This included recommendations being made redundant by other reforms, and technological advances superseding recommended approaches.

- **Resource and capacity issues.** Insufficient or short-term funding was an issue, as was high staff turnover.

Factors that contributed to, or were barriers to the implementation of recommendations

The following findings were derived from a survey of 44 current public servants and in-depth interviews with 43 key stakeholders.

The major factors seen to contribute to implementation were:

- **Establishing processes and structures to facilitate implementation.** Some of these could be addressed during the drafting of recommendations. These included governance and coordination mechanisms ranging from whole-of-government strategies to project teams. Implementation planning with timeframes and responsibilities was also important.

- **Strong leadership and stakeholder engagement.** These were considered critical to successful implementation. The risk of a loss of momentum due to a change in leadership should be addressed by broadening leadership and championship to more than one individual.

- **An accountability framework and monitoring process.** These should be built in to recommended reforms. Monitoring needs to be transparent, independent and sustainable.

The major factors seen as barriers to implementation were:

- **Practical constraints.** These included budgetary constraints, a lack of human resources, existing workloads and time constraints.

- **Organisational culture.** This was seen as having a powerful influence on reform, including resistance to change, lack of collaboration and a struggle to maintain a child focus.

- **Structural constraints.** National reform can be affected by cross-jurisdictional differences and the length of time taken to pass national laws. Effecting change across non-government organisations with no centralised authority was also seen as a barrier to implementation.

- **Narrow or prescriptive recommendations.** These, and others focusing on activity rather than outcome, can unintentionally fail to address the real drivers of a problem and bring about systemic change. Over-regulation can foster a culture of compliance rather than change.

The main strategies inquiry bodies can use to address the barriers to implementation include:

- consult with stakeholders before recommendations are handed down, and articulate the 'vision' of the reforms to gain support

- develop recommendations that focus on outcomes and are evidence-based, realistic, feasible and tailored to different jurisdictions and agencies

- take resourcing implications into account.

Governments and agencies can also establish strategies such as ensuring strong leadership, and centrally coordinating and monitoring implementation.

Relationships between the factors that affected implementation

The findings from across data sets indicate a number of relationships and interconnections

between factors. Stakeholder engagement is critical both for the formulation of acceptable reform and to ensure a commitment to implementing that reform. Clarity of vision can translate into community and political will, but needs to be communicated by the media. Effective interagency work depends on cooperative working partnerships, but may break down without shared data systems and adequate communication channels. An external oversight body may be necessary for the effective monitoring and evaluation of implementation, ensuring accountability.

A summary of the factors that contribute, or are barriers to, implementation is presented in Table 1. These were drawn from across three data sets: government responses, a survey and interviews.

Table 1 Summary of findings across the three data sets

Factors that contribute to successful implementation	Factors that are barriers to implementation
• Clarity of vision • High-level leadership • Engagement with media • Early and ongoing consultation with stakeholders • Alignment between the intent of the inquiry, the spirit of the recommendations and the implementation process • A holistic approach to drafting recommendations • Recommendations drafted with specificity and flexibility • Recommendations that are outcome-focused and achievable • Evidence-based recommendations • Mindfulness of capacity issues • Jurisdictional collaboration • Agency collaboration and coordination • Government oversight bodies • Staged implementation • Tracking and evaluation of implementation	• Policy concerns • Difficulty implementing whole-of-government recommendations • An inability to implement reforms across or outside jurisdictions • Challenges in implementing multiple reforms • Conflicting legislation • Organisational culture • Resource limitations • Political resistance to long-term/preventative/early intervention strategies

PART 1: SCOPE AND METHODOLOGY

1.   INTRODUCTION AND AIMS

1.1   Introduction

This report details findings of the research: Implementation of recommendations arising from previous inquiries of relevance to the Royal Commission into Institutional Responses to Child Sexual Abuse.

1.2   Background

In January 2013, the Governor-General of the Commonwealth of Australia, appointed a six-member Royal Commission to investigate institutional responses to child sexual abuse. The Royal Commission is to inquire into various matters set out in the Letters Patent concerning how institutions with a responsibility for children have engaged and responded to allegations and instances of child sexual abuse. This includes investigating where systems have failed to protect children, and recommending how to improve laws, policies and practices to prevent and improve responses to child sexual abuse in institutions.

The Letters Patent directs the Royal Commission to avoid unnecessary duplication and consider the adequacy of changed law, policy, practices and systems over time. Central to these aspects is consideration of findings and recommendations of previous inquiries and the subsequent implementation of these recommendations.

The Parenting Research Centre (PRC) was commissioned to examine the extent to which 288 recommendations from 67 inquiries selected by the Royal Commission had been implemented, and the possible factors that determined or contributed to their successful implementation. It sought to contribute to the Royal Commission into Institutional Responses to Child Sexual Abuse Terms of Reference (I):

> "… the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses …"

The project had three components. The first involved conducting a scoping review to investigate the methods and processes used in evaluating the implementation of recommendations from previous inquiries and commissions (see Attachment A). The second was the design of a methodology informed by the findings from the scoping review, and in line with the project timeline, resources and scope. The final component was conducting the research itself using the methodology developed in the second stage of the project.

1.3   Aims of the research

The overall aim of the research was to assess the extent to which 288 recommendations from 67 previous inquiries had been implemented and identify factors that determined or contributed to successful implementation. The research aimed to answer three questions:

- To what extent were previous inquiry recommendations, nominated by the Royal Commission, implemented?

- What were the factors that determined or contributed to, or were barriers to, the successful implementation of recommendations?

- Was there any relationship between these factors?

An exploration of the impact, outcomes and effectiveness of the implementation of recommendations was beyond the scope of this research, as was an assessment of the relevance of the recommendations to the findings they sought to address.

1.4   Structure of this report

This report is divided into three parts.

PART 1 Scope and methodology

Section 1 provides an overview of this project and its objectives.

Section 2 outlines how the methodology was designed.

Section 3 presents the research methodology and its limitations.

PART 2 Extent of implementation

Section 4 reports the results in relation to the research question: *To what extent were previous inquiry recommendations, nominated by the Royal Commission, implemented?* The Project Team developed a four-point rating scale describing the extent to which recommendations were implemented, ranging from 'not implemented' to 'implemented in full'. Evidence used to obtain these ratings was derived from government reports and legislation.

PART 3 Facilitators of and barriers to implementation

Section 5 reports the results of a government survey in relation to the research question: *What were the factors that determined or contributed to, or were barriers to, the successful implementation of recommendations*?

Section 6 reports the results of interviews with key stakeholders involved in, or connected to, the implementation of recommendations. The results were in relation to the research question: *What*

were the factors that determined or contributed to, or were barriers to, the successful implementation of recommendations?

Section 7 discusses the implications of the results overall. It outlines factors that facilitated or were barriers to the successful implementation of recommendations. It reports results in relation to the research question: *Was there any relationship between these factors*?

2.   DESIGN OF METHODOLOGY

To inform the design of the methodology for evaluating the implementation of recommendations, the Project Team conducted a systematic scoping review to investigate the methods and processes used by previous implementation evaluations. See Attachment A for the scoping review.

2.1   Scoping review

Scoping reviews are increasingly popular approaches for exploratory projects that systematically and rapidly map the literature available on a specific topic or methodology (Levac, Colquhoun & O'Brien 2010). They entail the systematic selection, collection and summarisation of published work in a broad thematic area. The Project Team followed a methodological framework for undertaking scoping reviews developed by Arksey and O'Malley (2005).

Standard systematic scoping review procedures were followed. The Project Team identified studies and reports that were relevant to the research questions, which guided searches for sources. Data from these sources were then extracted and plotted based on a data-charting form. Results from the extraction were summarised and reported. A thematic construction provided an overview of the breadth of the literature and was complemented by a thematic analysis, tables and charts. These steps are detailed in the scoping review in Attachment A. The scoping review was submitted to the Royal Commission in October 2013.

2.2   Scoping review findings

Searches of electronic bibliographic databases and selected websites identified 764 possible papers. Based on a range of inclusion and exclusion criteria, 17 of those were eligible for inclusion. Of those 17, all but two related to Australian inquiries and commissions.

All of the relevant evaluations (*n*=17) used multiple methods and multiple informant groups to measure implementation. The most commonly used methods were invitations for written submissions (*n*=9), document/policy reviews (*n*=8) and discussions/consultations (*n*=8). All of the evaluations relied on information supplied by government departments, nine sought information from non-government service providers, and six evaluations drew on informants from specific communities or groups.

Drawing on these methodologies, the current project used a mixed-method approach with multiple informant groups (see Chapter 3: Methodology). The Project Team also drew on the substantive findings of the scoping review to design the survey and interview questions.

The Project Team prepared a report outlining the proposed methodology that was informed by the findings from the scoping review; was in line with the project timeline, resources and scope; and followed consultation with the Royal Commission's Team Leader Research.

3. METHODOLOGY

3.1 Introduction

This chapter outlines the methods used in this research. This section identifies how the research questions, outlined in Section 1.3 Aims of the research, were addressed by each component of the mixed methodology.

The mixed-method approach included:

- an audit of documentation provided by governments to determine the extent of implementation – employing quantitative analysis

- verification of whether legislation was introduced or amended in accordance with the recommendations – in order to contribute to the quantitative data

- a survey of key government stakeholders to explore the facilitators of and barriers to implementation of recommendations in general – using a qualitative assessment

- interviews with key stakeholders and acknowledged experts to elicit detailed information and opinions on the context of an inquiry and factors that may have affected implementation of recommendations – through qualitative analysis.

3.2 Selection of recommendations

The Royal Commission selected 334 recommendations of interest. Senior staff at the Royal Commission selected recommendations that were considered important to the Royal Commission at the time. This selection process occurred prior to the Project Team's engagement with the Commission. The Project Team was unable to obtain a more detailed rationale for recommendation selection.

The Project Team was instructed to assess 287 of the selected recommendations, and not to include 32 recommendations from the *Royal Commission 2012–2013: Report of Independent Education Inquiry*, Bruce M. Debelle (June 2013) due to its recent completion. This was also the case for 15 recommendations from the 2013 Victorian inquiry *Betrayal of Trust: Inquiry into the Handling of Child Abuse by Religious and other Non-Government Organisations*. An additional recommendation from the Victorian Law Reform Commission's *Sex offenders registration, Final Report* (2011) was also assessed when the Victorian government provided information about its implementation. The total number of recommendations assessed was 288.

3.3 Ethics and record management

The methodology for this project was approved by the Royal Commission into Institutional Responses to Child Sexual Abuse in September 2013. The approach to the conduct of the project changed over time, affected the approach to ethical considerations. Initially, the PRC was contracted to develop and test (in the state of Victoria) a methodology for assessing the implementation of recommendations

from previous Australian inquiries of interest to the Royal Commission. It was understood that the PRC would conduct this work in collaboration with, and on behalf of, the Royal Commission. The project was conceptualised as a desktop analysis and consultation with key stakeholders, not as a research study. It was envisaged that the project would result in a report for internal purposes and that it would not be externally communicated. Project decision-making rested with the Royal Commission. It was therefore determined that review by a Human Research Ethics Committee (HREC) was not warranted. In designing the methodology, the PRC Project Team was mindful of ethical research practices and took utmost care to minimise any risks to the participants. Steps were taken to ensure that the identities of participants in interviews were kept anonymous in the reporting of results, and the preparation of the report remained protected and confidential. Participants were informed of the project's purpose, its scope and its readership. Participation by interviewees and survey respondents was voluntary. Participants did not include minors or vulnerable persons.

Over the course of the project, the Royal Commission changed the nature of its management role, which resulted in the PRC finalising the project and reporting findings autonomously. The Royal Commission indicated that given the methodological rigour and novelty of the project findings, the project merited external publication. If this approach had been established from the outset, the project would have been subject to HREC review. In order that ethical issues were addressed and the report could be published by the Royal Commission, interviewees were given the opportunity to read relevant quotations used and withdraw any comments that they felt would put them at risk.

In relation to record management, confidential jurisdictional responses to Royal Commission Notices to Produce, including data requests, were placed by the Royal Commission in a password-protected account on a secure, password-protected server hosted by the Royal Commission. The Project Team received notification of their arrival via email. Confidential responses, anonymous survey results and identifiable interview transcripts were stored in electronic formats (text and audio documents) on a secure, password-protected server. Database access was password-protected. Hard copies of the anonymous survey were stored in a secure compactus on the premises of the PRC. Files will be retained securely for five years after the completion of the research.

3.4   Data collection

A combination of qualitative and quantitative data collection methods was used to answer the research questions. These are described below.

3.4.1   Requests for government information

All communication with public servants in relation to the implementation of the specific recommendations under review was conducted by the Royal Commission, with information then forwarded to the Project Team.

In 2013, the Royal Commission requested that the Commonwealth and all state and territory governments provide information about the implementation status of the recommendations under

review, including documentary evidence of implementation. Information about the purpose and scope of the inquiry was provided but explicit consent to participate was not sought since information was obtained under the powers of the Royal Commission to issue a Notice to Produce. The questions presented to governments by the Royal Commission were as follows:

1. Whether the recommendation has been implemented (see Limitations Section 3.7.5 Inconsistent methods of determining implementation).

2. If the recommendation has been implemented in full:

   a. what changes have been made as a result; and

   b. provide any evaluation or assessment done as to the effect of the changes made.

3. If the recommendation has been implemented in part:

   a. which part of the recommendation was implemented;

   b. what changes have been made as a result;

   c. provide any evaluation or assessment done as to the effect of the changes made.

4. If the recommendation has not been implemented either in full or part, the reasons for that decision.

Documentary evidence authorised by senior public servants was received from each state and territory and the Commonwealth Government, and then provided to the Project Team. Where the information supplied was insufficient, further requests for data were made to the relevant government using the same protocol.

3.4.2 Government survey

A survey of key government stakeholders investigated the opinions of senior officials about the factors that facilitate or hinder the implementation of recommendations. The Project Team's original methodology proposal to the Royal Commission included a survey of senior staff from government agencies relevant to the recommendations under review. The purpose was to clarify the governments' responses to previous relevant inquiries, thus informing the assessment of the extent to which recommendations had been implemented, and to seek government representatives' insights into the facilitators of, and barriers to, implementation. The Project Team was instructed to focus the survey on exploring the facilitators of, and barriers to, the implementation of recommendations in general, rather than tailoring questions specifically to those recommendations under review.

The survey targeted current public servants who had previously overseen the implementation of recommendations from inquiries or commissions, or were overseeing implementation at the time of completing the survey. Snowball sampling was used to recruit participants. The Royal Commission sent the survey to its jurisdictional contacts, with information about the purpose of the survey, how information provided would be used and eligibility criteria. Those contacts were asked to forward the

survey to relevant eligible informants. It is not known how many public servants were invited to complete the survey.

The survey consisted of two closed-ended questions, using a five-point rating scale, about the significance of factors that facilitate or hinder the implementation of recommendations. The factors were based on common barriers and facilitators identified in previous evaluations that were synthesised in the scoping review. Two open-ended questions were also asked about unintended consequences of inquiries and commissions, and how they could be addressed. The only demographic data collected was the informant's jurisdiction. See Appendix 1 for the full survey.

The number of completed surveys was 44, received in January and February 2014. Table 2 provides a breakdown of the number of responses for each government jurisdiction. The number of surveys received was based on the voluntary participation of the respondents. All jurisdictions were contacted in relation to filling out the survey and the response rate was contingent on the staff in the individual jurisdiction, without any control on the part of the Project Team.

Table 2 Survey response by jurisdiction

Jurisdiction	Number of surveys received
Western Australia	10
Victoria	10
New South Wales	5
Queensland	5
South Australia	5
Commonwealth	4
Tasmania	3
Australian Capital Territory	2

3.4.3 In-depth interviews with key stakeholders

Interviews were conducted with 44 key stakeholders across all Australian jurisdictions, except for Tasmania.[2] Of these, 43 interviews were used. One was not incorporated because the interviewee did not directly address the questions. The purpose of the interviews was to elicit detailed information and opinions on the context of an inquiry, resources available, and economic, political and service systems issues, as well as other factors that may have affected the implementation of recommendations. This information was elicited through broad discussion rather than specific questioning, with the aim of gaining an overview of opinions about a specific topic that may not be able to be expressed in response to specific questions.

A stakeholder mapping tool was developed to identify potential participants (see Appendix 2). The stakeholders had experience in one or more of the following: inquiry process/formulation of recommendations (inquirer); the implementation of recommendations (implementer); monitoring or reviewing recommendations (reviewer); or commenting on recommendations/ implementation from the standpoint of an academic or expert in the field (commentator). Attempts were made to achieve a balance of these roles among interviewees.

The stakeholder mapping process ensured that the pool of participants spanned government jurisdictions as well as a range of roles in the implementation process. Stakeholders were invited, in writing, by an authorised representative of the Royal Commission, to participate in the research (see Appendix 3 for the interview information sent to potential participants). The Project Team sought interviews with a number of current (at the time) senior government department representatives. However, none were forthcoming.

Snowball sampling was used to recruit participants. That is, initial informants were asked during interview to nominate other potential participants with acknowledged expertise in the field. Final inclusion of participants was based on individual expertise, participant distribution across jurisdictions, their role in implementation and their availability to participate in an interview.

Data collection through interviews took place between October 2013 and February 2014. Table 3 provides an overview of interviewees across each role as some individuals had a number of roles.

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[2] At the request of the Royal Commission, stakeholders from Tasmania were invited to participate in this component of the study. However the two interviewees identified were unable to participate.

Table 3 Stakeholders' jurisdictional representation and role in implementation

	ROLE				
	Inquirer	**Implementer**	**Reviewer**	**Commentator**	**Total**
ACT	1	–	1	–	**2**
Commonwealth	3	2	3	1	**9**
NT	1	1	1	–	**3**
NSW	3	2	3	1	**9**
Qld	1	3	2	1	**7**
SA	–	1	1	–	**2**
Tas	–	–	–	–	**0**
Vic	1	2	2	3	**8**
WA	1	1	1	–	**3**
Total	11	12	14	6	**43**

Interviews were semi-structured and took place over 60–90 minutes. An interview guide was developed to address political and systemic factors that have been shown to affect the implementation of recommendations. It was based on an existing validated interview tool, the *USAID Health Policy Initiative for examining the implementation of policy* (Bhuyan, Jorgensen & Sharma 2010) and was informed by the findings of the project scoping review. The guide is included in Appendix 4. The interviews were conducted by members of the Project Team and by a researcher from the Royal Commission, either by phone or face to face, as preferred by the participant. Interviews were recorded (with participants' informed, and written and verbal consent) and transcribed for analysis (see Appendix 5 for the participant consent form).

3.5   Data analysis

A data-driven inductive approach was used for four of the five methods involved in the content analysis. Data from the survey, document audit, pre-existing data analysis and legislation verification were analysed with a view to identify patterns and associations in the data. The thematic analysis of the interview data was not solely data-driven but was informed by research on factors impacting implementation (which structured the interview).

Data in the form of text from the survey, document audit, pre-existing data analysis and legislation verification were analysed using descriptive statistics. Data were tabulated and frequencies calculated to enable clear presentation of results and a systematic process of comparison and contrast, including all available variables and perspectives. Evidence of any patterns in associations between variables was examined, and similarities and differences between perspectives were analysed to form a picture of implementation events and influences. Relationships between the implementation status of recommendations, the type and subject of recommendations, the inquiry they stemmed from and the conditions potentially influencing implementation were examined. Findings about material and individual factors, as well as the recommendation-level, organisation-level and system-level factors that may influence implementation, were derived from the patterns in associations between variables.

Results from the above methods were tabulated and frequencies calculated, where appropriate, to facilitate systematic comparison of data. The findings contribute to a numerically descriptive and narrative picture of the implementation of recommendations.

3.5.1 Audit of documents provided by governments

Governments' official responses to the Royal Commission together with supporting documentation were provided; including internal policies and procedures, interagency agreements and guidelines, codes of practice, letters and interdepartmental memoranda, ministerial briefings and published reports.

The Project Team reviewed all documents provided by governments to identify and analyse evidence of implementation relevant to the scope of the recommendations under review. Documents were reviewed in the context of the recommendation for which they were provided as evidence. Inclusion criteria for the audit process required a direct relationship between the evidence provided and the explicit terms of the recommendation. Documents providing evidence directly relevant to the explicit terms of each recommendation were audited and data extracted for analysis. Formal requests for further information were made to all jurisdictions on matters where the material provided was deemed insufficient to verify implementation status. These requests and the responses from governments were coordinated through the Royal Commission.

3.5.2 Data coding

Information from the documents submitted by governments was extracted and coded by individual members of the Project Team using a data extraction form (see Appendix 6). This information included the extent to which the recommended government portfolios or positions were involved in the implementation; the extent to which actions that were included and excluded in the recommendation were undertaken; and when the action was performed, and any reasons provided for delayed, partial or non-implementation. The Project Team was trained to appraise the reliability of the supporting documentation and the governments' perceived degree of implementation (see the reliability criteria in Appendix 7). Members of the Project Team were trained to a minimum of 80% agreement in assessing data before independently coding the data.

3.5.3   Ratings of implementation

The Project Team developed a four-point rating scale describing the extent to which recommendations were implemented, including 'implemented in full', 'partially implemented', 'not implemented' or 'undetermined'. Evidence used to obtain these ratings was derived from the document audit (see Appendix 8 for the document audit method) and verification of legislation. Where verification of legislation was used in addition to the document audit, data were combined to provide an overall implementation rating. Table 4 outlines how each category was defined.

Table 4 Implementation rating criteria

Implemented in full	The recommendation was implemented in a way consistent with directions
Partially implemented	The recommendation was implemented in a significantly modified or incomplete way
Not implemented	Documentary evidence indicates that the recommendation was not implemented; including recommendations currently under consideration
Undetermined	Unclear or insufficient relevant evidence was provided

Following the interim report (December 2013) and feedback from the Royal Commission, one change was made to these rating criteria. Recommendations reported by government as being currently under consideration were originally given an 'undetermined' rating. For this final report, those recommendations have been categorised as 'not implemented'.

3.5.4   Legislation verification

Of the 288 identified recommendations, more than 70 proposed that legislation be reviewed, amended or created. The purpose of legislation verification was to ascertain whether the legislation met the intention of the recommendation, and/or to consider the legislation in the context of the governmental response in relation to the implementation of the recommendation.

Two individuals with legal credentials conducted the legislation verification (see Appendix 9 for a blank legislation verification form). The data extracted related to included and excluded legislation content. The legislative aspect of the recommendation was given an implementation rating using the standardised rating criteria set out above. This was then combined with the document audit to produce an overall categorisation of implementation.

3.5.5   Analysis of survey data

A total of 44 survey responses were received, of which 43 were on paper and one was conducted via

telephone. Data from the survey were analysed using descriptive statistics. Data were tabulated and frequencies calculated to enable a clear presentation of results and to facilitate a systematic process of comparison and contrast, including all available variables and perspectives. Evidence of any patterns in associations between variables was investigated, and similarities and differences between perspectives were triangulated to form a picture of implementation events and influences.

3.5.6 Qualitative analysis of key stakeholder interviews

Data in the form of text from the interviews was analysed by identifying themes in the transcripts, deconstructing the content and coding the text. Themes were outlined in the interview questions, which were structured around the aims and context of the inquiry, factors influencing the implementation of recommendations, leadership and stakeholder involvement, and monitoring and evaluation (see Appendix 4 on the interview guide). A preliminary scan of a sample of interview transcripts explored repeated concepts and phrases, which helped to refine the themes. A draft coding frame was then developed as a means of organising the deconstructed text for interpretation. In-depth reading of a sample of transcripts from Victoria and New South Wales (n=7) and feedback from all team members allowed for further development of the coding frame. Twenty-nine data fields across seven themes were identified in the final version.

Transcripts were coded electronically using the qualitative data analysis software package, NVivo. Given the interconnected nature of the issues under discussion, sections of text were often given more than one code, including at both the parent node and the child node. In addition, sections of text may be attributed to particular nodes during the bedding down of the coding table, which may have been subsequently modified. Given the degree of overlap of some codes, the computer software assisted in uncovering patterns in the data and relationships between factors influencing implementation. Data entry in NVivo provided a third opportunity for checking the integrity of the coding.

Coding was conducted independently by two members of the Project Team on 33 per cent of all transcripts (n=14) to ensure accurate, consistent and comprehensive coding. Any discrepancies arising from the manual coding were discussed and resolved by consensus between the researchers. These discussions informed and refined the coding process. The remainder of the transcripts (n=29) were coded by one team member and all analysis was reviewed by the principal interviewer, providing an overall reliability check.

3.6 Summary of data collection and analysis methods in addressing research questions

To answer the question *To what extent were previous inquiry recommendations, nominated by the Royal Commission, implemented?*, a member of the Project Team would make a determination of the implementation rating based on evidence derived from the document audit and legislation verification. These procedures minimised uncertainty and maximised consistency between decision-makers. Initial determinations were recorded in a table. In cases where the first analyst could not

reach a clear conclusion, a second analyst would verify the finding. Where the second analyst agreed with the rating based on a review of the data and method, its status would be confirmed in the findings. Where the second analyst had doubts or concerns over the assigned rating, this would trigger further analysis of the data by both the first and second analyst. Both analysts would reach a shared conclusion on the process and method applied in order to establish a mutually agreeable implementation rating.

A qualitative analysis of the governments' written responses and stakeholder interviews was used to determine the factors underpinning implementation ratings (and the relationships among these factors). Table 5 summarises methods used to answer the research questions.

Table 5 Methods used to answer the research questions

Research question	Data collection method	Data analysis
To what extent were previous inquiry recommendations, nominated by the Royal Commission, implemented?	Governments' written responses to the Royal Commission's request for information. Documentation submitted by governments in support of written responses.	Document audit
	Relevant legislation or sections of legislation.	Legislation verification
What were the factors that determined or contributed, or were barriers to, the successful implementation of recommendations?	Governments' written responses to the Royal Commission's requests for information.	Document audit
	Survey of current senior executives of government agencies who had current or prior responsibility for overseeing the implementation of recommendations from inquiries or commissions.	Quantitative and qualitative analysis
	Interviews with expert informants identified as having an in-depth professional knowledge of one or more inquiries and/or commissions.	Qualitative analysis
Was there any relationship between these factors?	Governments' written responses to the Royal Commission's request for information.	Document audit
	Interviews with expert informants identified as having an in-depth professional knowledge of one or more inquiries and/or commissions.	Qualitative analysis

3.7   Limitations to the methodology

There were a number of limitations to this research, which are detailed below.

3.7.1   Selection of recommendations for review

The Royal Commission selected a number of individual recommendations for assessment. The selection of individual recommendations removed them from the overall context of the inquiry and from any relationship they may have had with 'neighbouring' recommendations. This may have made it more challenging for governments to respond to the Royal Commission's questions about implementation. It also provided a limited picture of the extent of implementation of recommendations and the factors that may have affected implementation.

3.7.2   Variable nature of recommendations

The recommendations themselves differed considerably in how they had been written. There were marked variations in length, complexity or clarity, scope, number of internal sections and amount of detail. This presented a challenge in assessing implementation across all recommendations as consistently as possible. Where there were a number of sections, it was more difficult for governments to provide requisite information to demonstrate full implementation. By contrast, findings of full implementation could be more easily established for recommendations with one part.

3.7.3   Limited data sources: focus on information supplied by government departments

In order to evaluate the implementation status of each recommendation under review, this project relied on the responses and supporting documentation received from governments. Due to the project timeframe, the methodology did not allow for the sourcing of additional information from a broader range of bodies connected to the implementation of recommendations, such as relevant regulatory bodies or non-profit organisations. Broader sources would have provided additional viewpoints and may also have provided some clarification where the governmental response was unclear. In addition, administrative data were sought from governments, such as the size of staff in out-of-home care facilities, which was not supplied in the main. This may have deepened an understanding of the extent to which services were implemented.

A literature review was not undertaken in relation to the substantive aspects of this research. While there was a scoping review to inform the methodology, it was outside the scope of this project to compare this project's empirical findings with the findings from other literature. This type of analysis would be useful for future research.

3.7.4 Inconsistent quality of the data supplied

The written responses and supporting documentation received from governments across jurisdictions were variable. There were considerable differences in content, style and the amount of information provided. Some governments provided their full response in one instalment. Others sent their responses in a number of instalments, and after several requests for information. This report does not distinguish results based on how the information was received. Nonetheless, where information was provided over several documents in an extended period, it could be difficult to discern a coherent narrative. This sometimes made it difficult to gauge the reasons for non- or partial implementation of recommendations.

Furthermore, a number of jurisdictions did not ultimately provide answers to the Royal Commission's original questions, which led to gaps in the data. In particular, a clear statement as to whether the recommendation had been implemented in full, in part or not at all, and reasons for either part- or non-implementation, were sometimes missing. It was not always clear from governments' responses which documents applied to which recommendation, and which documents related to which part of the government's response to the Royal Commission. Occasionally, documents referred to in the government's response were missing.

Such variation in documentation presented a challenge to conducting the document audits as consistently as possible. The inconsistency and gaps in the data may have contributed to ratings of implementation status that were undetermined. A standardised response format for replying to the Royal Commission's original questions may have gone some way to addressing this issue.

3.7.5 Inconsistent methods of determining implementation

Governments were asked by the Royal Commission whether the recommendation had been implemented and to supply documentary evidence supporting their response. No consistent method of determining implementation was employed across the jurisdictions, which reduced the reliability of government ratings of implementation. The method applied by the Project Team to determine implementation also differed from methods used by governments. In the absence of a consistent rating method, government and PRC ratings of implementation could not be contrasted as part of this project.

3.7.6 Unavailable records

Depending on governments' historical archives and record-keeping systems, governments may not have retained records of implementation of recommendations and reasons for non-implementation from older inquiries. The quality of reporting was contingent on records held by governments. Where records were scarce, the capacity of governments to comment on whether recommendations were implemented may have been affected. This may mean that the level of reporting is uneven among governments, especially for inquiries that date back to the 1990s, and even more recently. This would affect this project's findings on the extent of implementation as well as the reasons for non- or partial implement.

3.7.7 Specificity of questioning

Governments were asked questions specific to individual recommendations. Accordingly, it was not possible to ascertain factors affecting implementation of recommendations as a whole or relationships between the factors affecting implementation. Such a line of questioning may have shed light on some of the broader issues regarding implementation. This report uses inductive analysis to discuss some of these broader issues.

3.7.8 Survey participants from current employees

For the government survey, participants comprised current public servants involved in inquiries. Responses may be affected by the level of seniority of the informant. Given the confidentiality of the responses, this information is unknown.

PART 2: EXTENT OF IMPLEMENTATION

4. RESULTS: IMPLEMENTATION OF RECOMMENDATIONS

This part of the report shows the results in relation to the research question: *To what extent were previous inquiry recommendations, nominated by the Royal Commission, implemented?* The Project Team developed a four-point rating scale describing the extent to which recommendations were implemented, ranging from 'not implemented' to 'implemented in full'. Reference to these ratings is placed in apostrophes throughout this report. Evidence used to obtain these ratings was derived from government reports and legislation. These reports were provided by government at the request of the Royal Commission, and were received between September 2013 and February 2014. It is acknowledged that governments may have taken further action since these dates to implement recommendations.

Following is an overview of the implementation ratings of the 288 recommendations with an analysis of ratings by jurisdiction. This includes a discussion of the relationship between implementation rating and the date of inquiry, and the type and subject of each recommendation. Finally, there is a thematic overview of the reasons provided by governments for the non- or partial implementation of recommendations.

As highlighted in the Limitations section, the Project Team used distinct criteria and means of analysis to rate the implementation of recommendations. Any methods adopted by the jurisdictions for rating implementation are unknown. The responses from government to the Royal Commission's request for information were inconsistent across jurisdictions and there were several gaps in the data. Statements as to the implementation status of recommendations were missing or unclear in more than 25% of cases.

As a result, the Project Team's implementation ratings did not always correspond to government statements of implementation, and the two sets of ratings cannot be contrasted. Attachment B tabulates the government statements of implementation with the Project Team's ratings.

4.1 Implementation status of recommendations: overview

This section presents an overview of the implementation rating of recommendations based on the four-point rating scale ('implemented in full', 'partially implemented', 'not implemented' or 'undetermined'). Table 6 summarises the implementation ratings for each jurisdiction.

Table 6 Overall implementation ratings

Jurisdiction	Implemented in full	Partially implemented	Not implemented	Undetermined	Total recs	Proportion of recs implemented in full
ACT	7	4	1	1	13	54%
CTH	19	8	7	10	44	43%
NSW	17	6	6	0	29	59%
NT	7	1	15	0	23	30%
Qld	27	3	5	8	43	63%
SA	11	10	4	7	32	34%
Tas	8	3	8	9	28	29%
Vic	19	6	13	4	42	45%
WA	24	6	2	2	34	71%
Total	**139**	**47**	**61**	**41**	**288**	**48%**

Overall, 48.26% of recommendations were 'implemented in full' and 16.32% were 'partially implemented'. This provides an aggregate of 65% of recommendations (*n*=186) as either implemented in full or in part. Twenty-one per cent of recommendations (*n*=61) were 'not implemented'. Of those, 39% (*n*=24) were in progress or under consideration. For 14% of recommendations (*n*=41), the implementation status could not be determined due to a lack of evidence.

4.2 Implementation status of recommendations by jurisdiction

This section presents the jurisdictional results in relation to the research question: *To what extent were previous inquiry recommendations, nominated by the Royal Commission, implemented?* Evidence used to answer this question was primarily from an audit of documents provided by government and verification of relevant legislation. See the Methodology section in Chapter 3 for full details of those methods. Section 3.7, outlines the limitations to the methods. The completed document audit for each recommendation can be found in Compendium A. The completed legislation verification for relevant recommendations is in Compendium B.

A summary of implementation ratings is presented for each jurisdiction, followed by an analysis of partially implemented and non-implemented recommendations, as well as those with an undetermined rating.[3] The jurisdictions are presented in alphabetical order. This section also discusses each jurisdiction's narrative on the barriers they faced in fully implementing recommendations. It draws on the written responses of governments, where provided, to explain the reasons for non- or partial implementation.

4.2.1   Australian Capital Territory

Table 7 summarises the implementation rating of recommendations from the three inquiries that relate to the Australian Capital Territory.

Table 7 Implementation ratings of recommendations for the ACT

Implemented in full	Partially implemented	Not implemented	Undetermined	Total	Proportion of recs not implemented
7	4	1	1	13	8%

Recommendations partially implemented and the ACT Government's response

Four recommendations were 'partially implemented'. Two recommendations were from *The Rights, Interests and Well-Being of Children and Young People Report* Number 3 (Standing Committee on Community Services and Social Equity, August 2003):

> *Recommendation 25: The Committee recommends that the Government: i. investigate ways to streamline the procedural mechanisms for mandatory reporting; ii. develop and implement a protocol for responding to instances where mandated persons have failed to report abuse; and iii. review the penalty within the Act for the offence of failing to report a suspected case of abuse.*

Streamlined procedures for mandatory reporting had been put in place (part i), and a review of the relevant penalty had been conducted (part iii). In relation to part ii, dealing with procedures regarding mandatory reporters who fail to report abuse, the government noted that such procedures had not been developed. It commented that while a review of the *Children and Young People Act 1999* took place, the government decided not to change the penalty provisions for mandated reporters.

Recommendation 28 from the same inquiry was also 'partially implemented':

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[3] For a list of the recommendations rated as 'implemented in full' see Attachment C.

> *Recommendation 28: The Committee recommends that the Government expand the "official visitor role" to all children and young people in residential facilities and consult with stakeholders, in particular children and young people in these facilities, about a more appropriate name for this role.*

No changes were made to the roles and functions of the Official Visitor or the name of the position. However, the definition of a "visitable place" was changed to incorporate residential facilities and refuges. The Government reported limited consultation having taken place through the ACT Youth Coalition.

Recommendation 3.7 from the *Review of the Safety of Children in Care in the ACT and of ACT Child Protection Management (Territory as Parent)*, 14 May 2004, ACT was given the rating 'partially implemented':

> *Recommendation 3.7: The Review recommends that a charter of rights be developed within the* Children and Young People Act 1999*; it should encapsulate the rights of children subject to the Act in relation to their health, wellbeing and participation in decisions about their lives.*

This recommendation was 'partially implemented' because the Charter appeared to relate only to children and young people in out-of-home care rather than covering all children "subject to the Act" as recommended. Further, the Charter was not developed within the *Children and Young People Act 2008*.

Recommendation 6.5 from *The Territory's Children: Ensuring safety and quality care for children and young people – Report on the Audit and Case Review* (Gwenn Murray, July 2004) was also 'partially implemented'.

> *Recommendation 6.5: When a document or case note is entered on a client file, it should be automatically linked, or be able to be viewed, in all other sections.*

Implementation of this recommendation was reported as being limited by the existing system. Updates to the system had gradually allowed for enhanced functionality to enable child protection workers to quickly access child protection reports.

Recommendations not implemented and the ACT Government's response

In the ACT, one recommendation was 'not implemented'. This was from the *Review of the Safety of Children in Care in the ACT and of ACT Child Protection Management (Territory as Parent)*, 14 May 2004, ACT.

> *Recommendation 8.6: The Review recommends that the* Children and Young People Act *be amended to provide the Children's Services Council with a specific overview role for care and protection services and to allow the Council to share the Territory Parent responsibility. Council members should be remunerated in accordance with their responsibilities.*

This recommendation was rated by the Project Team as 'not implemented' for three reasons: (1) the role of the Council was not an overview role for care and protection services – rather, reports to the Minister from the Council were limited to matters on which the Minister requests a report; (2) there

was no provision in the Act for the Children and Youth Services Council to "share the Territory Parent responsibility" or similar provision; and (3) there was no reference in the Act to remuneration for members of the Council other than the Chair.

The ACT government reported that it disagreed with the suggestion that the Territory Parent role be shared. It reported concern that the accountabilities and responsibilities of the Chief Executive not be diluted.

Recommendations where the implementation status could not be determined

The implementation status of one recommendation was 'undetermined', due to insufficient evidence provided by the ACT Government. Recommendation 6 from *The rights, interests and well-being of children and young people Report* Number 3 (Standing Committee on Community Services and Social Equity, August 2003) stated:

> **Recommendation 6:** *The Committee recommends that the Government investigate and report on the feasibility of a secure residential treatment facility for young people engaging in sexually offending behaviour, with specialist staffing, by March 2004*.

The ACT Government did not indicate whether it had undertaken a feasibility study for a treatment facility for young people engaging in sexually offending behaviour. Rather, the government noted that Disability ACT had undertaken a feasibility study of a security facility for people with a dual disability (intellectual disability and a mental disorder/dysfunction) who were at risk of entering or re-entering the criminal justice system. The implementation status of this recommendation could therefore not be determined.

Summary of issues regarding the implementation of ACT recommendations

Based on information provided by the ACT Government, the main factors that affected full implementation of recommendations can be summarised as follows:

- policy concerns; for example, in relation to the role of the Territory Parent

- practical constraints relating to child protection data management systems.

4.2.2 Commonwealth

Table 8 summarises the implementation rating of recommendations from the 18 inquiries that relate to the Australian Government.

Table 8 Implementation ratings of recommendations for the Commonwealth

Implemented in full	Partially implemented	Not implemented	Undetermined	Total	Proportion of recs not implemented
19	8	7	10	44	16%

Recommendations partially implemented and the Australian Government's response

The following two recommendations arising from *Forgotten Australians: A Report on Australians who experienced institutional or out-of-home care as children* (2005) were 'partially implemented'.

> **Recommendation 11**: *That the Commonwealth Government seek a means to require all charitable and church-run institutions and out-of-home care facilities to open their files and premises and provide full cooperation to authorities to investigate the nature and extent within these institutions of criminal physical assault, including assault leading to death, and criminal sexual assault, and to establish and report on concealment of past criminal practices or of persons known, suspected or alleged to have committed crimes against children in their care, by the relevant authorities, charities and/or Church organisations; And if the requisite full cooperation is not received, and failing full access and investigation as required above being commenced within six months of this Report's tabling, that the Commonwealth Government then, following consultation with state and territory governments, consider establishing a Royal Commission into State, charitable, and church-run institutions and out-of-home care during the last century, provided that the Royal Commission: be of a short duration not exceeding 18 months, and be designed to bring closure to this issue, as far as that is possible; and be narrowly conceived so as to focus within these institutions, on the nature and extent of criminal physical assault of children and young persons, including assault leading to death; criminal sexual assault of children and young persons; and any concealment of past criminal practices or of persons known, suspected or alleged to have committed crimes against children in their care, by the relevant State authorities, charities and/or Church organisations.*

Some aspects of this recommendation were implemented, including a response to *Forgotten Australians and Protecting Vulnerable Children* being tabled in the Senate; the establishment of the Royal Commission into Institutional Responses to Child Sexual Abuse; facilitation of access to records through the Find and Connect Records Access Documentation Project; and cash grants made available to enable organisations to manage documents relating to children in out-of-home care between the 1920s and 1980s. The Australian Government reported that it did not find a means to require charitable, church-run and out-of-home care institutions to cooperate with authorities.

The Project Team rated Recommendation 8 from the same inquiry as 'partially implemented':

> **Recommendation 8:** *That the Commonwealth establish an external complaints review mechanism, such as a national commissioner for children and young people who would have the power to: investigate and mediate complaints received by complainants dissatisfied with Church processes with the relevant Church authority; review the operations of Church sponsored complaints mechanisms to enhance transparency and accountability;report annually to the Parliament on the operation of the Churches' complaints scheme, including*

> *data on the number and nature of complaints; and publicise the existence of Church-sponsored complaints mechanisms widely throughout the community.*

A National Children's Commissioner was appointed in February 2013. However, while the Commissioner had some scope to address the issues to which the latter three components of the recommendation are directed, the role did not include the handling of any individual complaints. The introduction of this office, some eight years after the recommendation was made, had not resulted in the creation of an external review mechanism for church-related complaints.

Another 'partially implemented' recommendation arose from *Australian Defence Force: Management of Service Personnel under the age of 18 years* (2005):

> ***Recommendation 7:*** *That the ADF review accessibility of support arrangements for minors, including:*
> • *Conducting surveys of the opinions of minors on current arrangements. Surveys should be anonymous, include minors who do not complete their training, and provide the option for free comment on barriers to access. Given that many minors lack broad life experience, it would also be appropriate to suggest options for improvement, on which they can comment. Examples could include greater access to their families (such as more opportunity for telephone contact) and tighter confidentiality when a problem is raised.*
> • *Analysing factors, which contribute to successful support arrangements for minors; and using these as a basis for developing a best practice model for application across the ADF.* • *Regularly seeking feedback from minors to ensure high standards set by the best practice model are maintained. Results from feedback should be consolidated across all services and form the basis of an annual report to the Chief of the Defence Force on the effectiveness of support arrangements for minors.*

Actions to implement this recommendation included two longitudinal retention and resilience studies, cadet surveys, a Learning Culture Inquiry, the Cadet Policy Manual and Cadet Youth Development Framework. The evidence provided suggested that the longitudinal surveys did not record age, and participation was voluntary. Annual reports on consolidated feedback from minors were therefore not available.

Recommendation 1 from *Lost Innocents: Righting the Record — Report on Child Migration (2001)* was 'partially implemented':

> ***Recommendation 1:*** *That the Commonwealth Government: (a) urge the State and Territory Governments to undertake inquiries similar to the Queensland Forde inquiry into the treatment of all children in institutional care in their respective States and Territories; and (b) that the Senate Social Welfare Committee's 1985 inquiry be revisited so that a national perspective may be given to the issue of children in institutional care.*

While part (b) was implemented, the Australian Government stated that it would not encourage state inquiries for two reasons: the recommendation was not re-endorsed by the committee involved in the 2009 *Lost Innocents and Forgotten Australians Revisited Report*, and a number of state inquiries had been held since the recommendation was made.

A recommendation from *Uniform Evidence Law Report: Australian Law Reform Commission Report 102; New South Wales Law Reform Commission Report 112; Victorian Law Reform Commission Final*

Report – December 2005 was 'partially implemented'.

> **Recommendation 15-6:** *The sexual assault communications privilege should apply to any compulsory process for disclosure, such as pre-trial discovery and the production of documents in response to a subpoena and in non-curial contexts including search warrants and notices to produce documents, as well as court proceedings.*

In response to this recommendation, a number of principles were established as a minimum standard for the protection of sexual assault counselling communications. Nonetheless, the recommendation was only partially implemented as the Government reported that the Standing Council of Attorneys-General did not consider it appropriate to provide a single model for sexual assault counselling privilege throughout Australia.

From *Australian Defence Force: Management of Service Personnel under the age of 18 years* (2005):

> **Recommendation 3:** *That, consistent with good administrative practice, each service develop its own Instruction identifying how minors will be managed within service personnel management and training structures. The DI(G) should address risks specifically associated with that service. It should inform the development of procedures to manage those risks within individual training establishments.*

The Australian Government reported that Defence took a different view on this recommendation. Rather than producing unit-level policy, the management and administration of Australian Defence Force members under the age of 18 years was an overarching instruction that applied to the entire Force. This recommendation was therefore given the rating 'partially implemented'.

The following recommendation from *Lost Innocents and Forgotten Australians Revisited* (2009) was 'partially implemented':

> **Recommendation 15:** *The Committee recommends that the Ministerial Council for Police and Emergency Management (Police) develop and implement a national policy on the prosecution of, and data collection and sharing about, historical crimes of sexual and physical abuse of children in care; and that the establishment or further development of specialist State police units be considered as part of this policy development process.*

The Australian Government reported that alternative actions were taken to address the intent of this recommendation. Amendments to legislation were introduced to permit criminal history to be disclosed and considered when an individual applied to work with children. There was also a program in place for inter-jurisdictional exchange of criminal history information for screening individuals working with children. The Government stated that specialist police units were a matter for individual states and territories.

Recommendations not implemented and the Australian Government's response

Recommendation 268 from *ALRC Report 84: Seen and Heard: Priority for Children in the Legal Process* (1997) was 'not implemented'.

> **Recommendation 268:** *The national standards on juvenile justice should provide that an Official*

> *Visitors scheme be attached to every juvenile detention centre and visit detention centres regularly, preferably fortnightly.*

The Government stated that "*a review of the past relevant Communiqués for SCLJ [Standing Council on Law and Justice] do not specifically refer to the implementation of recommendation 268*".[4] It is possible that governments may find it challenging to gain access to records in relation to older recommendations. This is discussed further in Section 4.3: <u>The relationship between implementation of recommendations and date of inquiry</u>. The Australian Government also advised that state and territory jurisdictions might be better placed to comment on the implementation of this recommendation.

Four recommendations were 'not implemented' because the Australian Government stated that redress schemes would be better established by states and territories, and that reparation for victims rests with those who managed or funded the relevant institutions. These were:

- Recommendation 6 from *Forgotten Australians: A Report on Australians who experienced institutional or out-of-home care as children* (2005)

- Recommendations 3, 4 and 5 from *Lost Innocents and Forgotten Australians Revisited* (2009).

The Australian Government expressed some level of concern about one or more aspects of the following recommendations that were 'not implemented'.

From *Bringing them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (1997):

> **Recommendation 14**: *That monetary compensation be provided to people affected by forcible removal under the following headings; 1. Racial discrimination; 2. Arbitrary deprivation of liberty; 3. Pain and suffering; 4. Abuse, including physical, sexual and emotional abuse; 5. Disruption of family life; 6. Loss of cultural rights and fulfilment; 7. Loss of native title rights; 8. Labour exploitation; 9. Economic loss; 10. Loss of opportunities.*

The Government noted that the government of the day did not agree with this recommendation.

From *Forgotten Australians: A Report on Australians who experienced institutional or out-of-home care as children* (2005):

> **Recommendation 4:** *That in recognising the difficulty that applicants have in taking civil action against unincorporated religious or charitable organisations, the Government examine whether it would be either an appropriate or a feasible incentive to incorporation, to make the availability of federal tax concessions to charitable, religious and not-for-profit organisations dependent on, or alternatively linked to, them being incorporated under the corporations act or under state incorporated associations statutes.*

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[4] Australian Government response to the Royal Commission, 2013.

The concern expressed by the Australian Government in relation to this recommendation was that requiring charitable organisations to be incorporated in order to receive tax concessions would not be equitable or administratively feasible.

Recommendations where the implementation status could not be determined

The implementation status of 11 recommendations could not be determined. These were:

- *ALRC Report 84: Seen and Heard: Priority for Children in the Legal Process* (1997) (Recommendation 268)
- *Bringing them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (1997) (Recommendation 14)
- *Forgotten Australians: A Report on Australians who experienced institutional or out-of-home care as children* (2005) (Recommendations 3, 4, 6 and 7)
- *Lost Innocents and Forgotten Australians Revisited* (2009) (Recommendations 3, 4, 5 and 6)
- *ALRC Report 114, NSWLRC Report 128: Family Violence: A National Legal Response* (2010) (Recommendations 6, 25-1, 25-2 and 25-8)
- *Disability Care and Support: Productivity Commission Inquiry Report Volume 1, No. 54, 31 July 2011, Australian Government Productivity Commission* (Recommendation 15.3)
- *Welfare of Former British Child Migrants, House of Commons (UK), Health Committee Publications: Health – Third Report*, 1998 (Recommendations 111 and 113)

In all cases, the recommendation related, to some degree, to issues affecting Australian states and territories, other countries or religious organisations. Notwithstanding that the Royal Commission approached the Australian Government to comment on recommendations from Commonwealth inquiries, it was not in a position to explain why states, territories, external agencies and other countries did not implement recommendations arising from Commonwealth inquiries. It may be difficult for governments to monitor the implementation of recommendations when they relate to external bodies or other jurisdictions. Furthermore, it was beyond the scope of this project to ascertain the responses by non-government organisations and religious bodies on their actions pursuant to recommendations. This project only gauged government responses on implementation and the Royal Commission was not in a position to approach all agencies.

Summary of issues regarding the implementation of Commonwealth recommendations

Based on information provided by the Commonwealth Government, the main factors that affected full implementation of recommendations can be summarised as follows:

- policy concerns; for example, in relation to monetary compensation for the Stolen Generations and producing unit-level policy in the Australian Defence Force

- practical constraints such as the capacity to acquire data where data collection was based on voluntary participation

- redundancy of recommendations or ambiguity of their status, such as where other jurisdictions instigated reforms on their own initiative or where subsequent inquiries did not re-endorse an earlier recommendation

- the inability to implement recommendations across or outside jurisdictions, such as where matters fell under the remit of state and territory governments or non-government organisations

- lack of any record of implementation.

4.2.3 New South Wales

Table 9 summarises the implementation rating of recommendations from the nine inquiries that relate to New South Wales.

Table 9 Implementation ratings of recommendations for New South Wales

Implemented in full	Partially implemented	Not implemented	Undetermined	Total	Proportion not implemented
17	6	6	0	29	21%

Recommendations partially implemented and the New South Wales Government's response

Six recommendations were 'partially implemented', including Recommendation 2 from *NSW Ombudsman Report: Handling of Child Abuse Allegations Against Employees* (May, 2000).

> **Recommendation 2:** *The Minister for Education and Training approach other Ministers with responsibility for Departments with child protection responsibilities about developing a comprehensive and consistent public sector response to allegations of child abuse against staff.*

The New South Wales Government reported that the Minister for Education and Training approached the Premier's Department about possible legislative changes at a whole-of-government level. While no approach was made to specific ministers, all relevant departments were involved in the development of the *New South Wales Interagency Guidelines for Child Protection Intervention, 2000 edition*. The issue of implementing recommendations in such a way that meets the spirit or intent of the recommendation, but not necessarily following the specific recommended actions, is discussed throughout this report.

Recommendation 6 from the *NSW Joint Investigative Response Team (JIRT) Review*, November 2006 (NSW Health, NSW Police and NSW Department of Community Services) was 'partially implemented':

> **Recommendation 6:** *JIRT team member(s) should meet with the child to conduct a rapport-building session prior to the formal investigative interview in order to help the child feel comfortable, facilitate communication and enable JIRT staff to assess the child's readiness and capacity to disclose.*

The document audit showed that JIRT training covered rapport-building, while policies and procedures had not (at the time of the Government's response) been finalised. The provision of data in relation to the number of rapport-building sessions undertaken was not possible because that information was not recorded centrally.

Four recommendations from the *Special Commission of Inquiry into Child Protection Services in New South Wales* (Wood Inquiry) (2008) were 'partially implemented'. The first was Recommendation 8.4.

> ***Recommendation 8.4:*** *NSW Health should provide an appropriately trained workforce to provide forensic medical services where needed for children and young persons who have suffered sexual assault and physical injury.*

This recommendation was 'partially implemented' due to a range of factors inhibiting full implementation. Many were resource-related concerns, including a lack of medical personnel in rural and remote regions, high staff turnover, time-limited funding and a backlog of work. In addition, the Government cited a lack of training programs and a lack of responses to a request for tender, as being factors affecting implementation.

Recommendation 23.4 from the same inquiry was rated by the Project Team as 'partially implemented'.

> ***Recommendation 23.4:*** *Information obtained by persons appointed by the Minister as official visitors should be available to the regulator/accreditor of OOHC with appropriate procedural fairness safeguards and s.8 of* Community Services (Complaints, Reviews and Monitoring) Act 1993 *and clause 4 of Community Services (Complaints, Reviews and Monitoring) Regulation 2004 should be amended to achieve this outcome.*

The legislative amendment goes further than that envisaged by the recommendation by *mandating* the disclosure of relevant information by Official Community Visitors. However, the Project Team rated this recommendation 'partially implemented' because the recommendation that Clause 4 be amended to include the new function of Official Community Visitors did not appear to have been implemented. Neither the Act nor the Regulation appeared to make provision to ensure procedural fairness in accordance with the recommendation.

Recommendation 23.6 was also 'partially implemented':

> ***Recommendation 23.6:*** *DoCS should centralise its Allegations Against Employees Unit and receive sufficient funding to enable this restructure, and to resource it to enable it to respond to allegations in a timely fashion.*

This recommendation was 'partially implemented' because while the Unit was centralised and received funding, insufficient resources were provided to enable the backlog to be cleared. Strategies were reported to be in place to address this issue.

Recommendation 23.8 from the same inquiry was also 'partially implemented'.

> ***Recommendation 23.8****: The* Commission for Children and Young People Act 1998 *should be amended to require background checks as follows: a. in respect of DoCS and other key human*

service agencies all new appointments to staff positions that work directly or have regular contact with children and young persons (that is, permanent, temporary, casual and contract staff held against positions including temporary agency staff); b. any contractors engaged by those agencies to undertake work which involves direct unsupervised contact to children and young persons, and, in the case of DoCS, access to the KiDS system or file records on DoCS clients; c. students working with DoCS officers; d. children's services licensees; e. authorised supervisors of children's services; f. principal officers of designated agencies providing OOHC or adoption agencies; g. adult household members, aged 16 years and above of foster carers, family day carers and licensed home based carers h. volunteers in high risk groups, namely those having extended unsupervised contact with children and young persons.

Legislative verification highlighted that a number, but not all, of the recommended amendments to the *Commission for Children and Young People Act 1998* (NSW) had been made. It was therefore rated as 'partially implemented'.

Recommendations not implemented and the New South Wales Government's response

Of the six recommendations from New South Wales inquiries rated as 'not implemented', the majority (*n*=5) were reported as being under consideration or in progress. They relate to the following inquiries: *NSW Ombudsman Report — Responding to Child Sexual Assault in Aboriginal Communities* (2012) and *Prevention of Abuse and Safeguarding Mechanisms in Ageing Disability and Home Care* (21 January 2013).

The remaining recommendation that was 'not implemented' was from the *Special Commission of Inquiry into Child Protection Services in NSW* (Wood Inquiry) (2008):

> **Recommendation 8.3:** *Pending amendment of the privacy laws as recommended in Chapter 24, a Privacy Direction should be issued in relation to the JIRT process so as to facilitate the free exchange of information between the NSW Police Force, NSW Health, each Area Health Service, The Children's Hospital at Westmead and DoCS.*

This was intended by the commission to be an interim recommendation. The Government moved to immediately implement the recommendation referred to in Chapter 24 of the commission's report, bypassing the need to implement Recommendation 8.3.

Recommendations where the implementation status could not be determined

No recommendations relating to New South Wales inquiries were given a rating of 'undetermined'.

Summary of issues regarding the implementation of New South Wales recommendations

Overall, the New South Wales Government was able to enunciate reasons for lack of implementation where relevant. This suggests that tracking systems may have been in place to monitor the implementation of recommendations.

Based on information provided by the New South Wales Government, the main factors affecting full implementation of recommendations can be summarised as follows:

- resource limitations such as insufficient personnel training

- recommendations being under consideration, or implementation in progress

- steps taken to meet the spirit/intent of a recommendation rather than following the specific recommended actions.

4.2.4 Northern Territory

Table 10 summarises the implementation rating of recommendations from the five inquiries that relate to the Northern Territory.

Table 10 Implementation ratings of recommendations for the Northern Territory

Implemented in full	Partially implemented	Not implemented	Undetermined	Total	Proportion of recs not implemented
7	1	15	0	23	65%

Recommendations partially implemented and the Northern Territory Government's response

One recommendation, from *Growing them strong, together: Promoting the Safety and Wellbeing of the Northern Territory's Children* (2010), was 'partially implemented':

> **Recommendation 9.40:** *That an independent body is auspiced to review investigations into allegations of 'abuse in care' undertaken by the Department of Health and Families. The Office of the Children's Commissioner would be an appropriate body to take on this role.*

The Northern Territory Government reported that two new pieces of legislation were being introduced that would result in the Children's Commissioner having the envisaged role. The fact that preparation for this legislation was underway led to a determination of 'partial implementation'.

Recommendations not implemented and the Northern Territory Government's response

Overall, 15 recommendations were 'not implemented'. Ten of the 15 recommendations were from the Northern Territory Law Reform Committee's *Report on the Laws Relating to the Investigation and Prosecution of Sexual Assault in the Northern Territory* (1999).[5] The Government did not provide reasons for non-implementation of a number of recommendations from the inquiry, stating that, "*it is not possible to answer why they were not implemented as it would involve speculation*".[6]

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[5] Recommendations 18–20, 21, 22, 24–26, 29 and 31.

[6] Northern Territory Government response to the Royal Commission (14 October, 2013), p. 3.

In addition to the above statement, the Northern Territory Government made comments in relation to Recommendations 110–113, all of which related to the training of legal and judicial officers in the dynamics and psychological aspects of sexual assault for victims. The Government referred to training of judicial officers as "*a vexed issue*"[7], stating that it is up to parties to provide evidence to court of the dynamics and psychological aspects of sexual assault. Concern was expressed about the use of the term *"victim"*, given the presumption of innocence. The Government stated that no complaints had been made about Members of the Court relating to their conduct in such trials. It also pointed out that training was available through conferences and Continuing Legal Education Seminars.

Two recommendations from *Growing them strong, together: Promoting the Safety and Wellbeing of the Northern Territory's Children* (2010) were 'not implemented'.

> **Recommendation 4.3:** *That there is recognition in the* Care and Protection of Children Act *of the functions of an Aboriginal agency or agencies or other recognised entities.*

The Northern Territory Government stated that this recommendation was still being considered as part of a suite of reforms to the *Care and Protection of Children Act 2007* (NT).

> **Recommendation 13.6:** *That a community visitor model be implemented to involve a sampling of children in out of home care (OOHC) with a view to informing the Children's Commissioner about OOHC issues from the perspective of the visitor, and also from the children being visited.*

The Government reported that CREATE Foundation undertakes an annual survey of children and young people's experiences in out-of-home care, and that the Government would be carrying out biennial surveys of children and young people in out-of-home care.

Two recommendations from *A Life Long Shadow – Report of a Partial Investigation of the Child Protection Authority* (2011) were 'not implemented'.

> **Recommendation 4:** *Further that Section 15(2) of the CPC Act define harm to include:*
> *'A child or young person of school going age frequently does not attend school without a reasonable excuse'.*

> **Recommendation 5:** *That Section 26 of* the Care and Protection of Children Act *be amended to extend the mandatory reporting requirement to frequent non-attendance at school without a reasonable excuse.*

In both cases the Government reported that while ensuring that children attend school is a priority, amending the Act was not considered an appropriate mechanism to do so. Alternative mechanisms were pursued that included a focus on school re-engagement.

In relation to Recommendation 8 from the *Report: Review of Vulnerable Witness Legislation* (Northern Territory Department of Justice, June 2011):

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[7] Northern Territory Government response to the Royal Commission (14 October, 2013), p. 2.

> **Recommendation 8:** *That an amendment be made to* the Sexual Offences (Evidence and Procedure) Ac*t in response to the High Court's decision in Crofts to provide clear guidance as to the directions, if any, that should be given to the jury in relation to the timing of a complaint.*

The Government stated that the High Court decision in *Crofts* had been criticised and that it chose, instead, to develop a consultation process around the recommendations of the 2010 Australian Law Reform Commission Report *Family Violence — A National Legal Response* on directing the jury in relation to a sexual assault matter.[8] The recommendation was 'not implemented'.

Recommendations where the implementation status could not be determined

No recommendations relating to Northern Territory inquiries were given a rating of 'undetermined'.

Summary of issues regarding the implementation of Northern Territory recommendations

In a number of instances it was difficult to assess the factors affecting the partial implementation or non-implementation of recommendations in the Northern Territory, due to the scarcity of records for tracking the implementation of recommendations. This raises the issue of the need for record keeping and the implementation of systems for monitoring recommendations.

Based on information provided by the Northern Territory Government, the main factors that affected full implementation of recommendations can be summarised as follows:

- policy concerns (e.g. lack of evidence behind recommendations; current situation being adequate)

- recommendations being under consideration

- steps taken to meet the spirit or intent of a recommendation rather than following the specific recommended actions.

4.2.5 Queensland

Table 11 summarises the implementation rating of recommendations from the five inquiries that relate to Queensland.

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[8] Northern Territory Government response to the Royal Commission (14 October, 2013), p. 2.

Table 11 Implementation ratings of recommendations for Queensland

Implemented in full	Partially implemented	Not implemented	Undetermined	Total	Proportion of recs not implemented
27	3	5	8	43	12%

Recommendations partially implemented and the Queensland Government's response

Three recommendations were 'partially implemented'. From the 1999 *Review of the Queensland Children's Commissioner and Children's Services Appeals Tribunals Act 1996: Report and Recommendations*:

> **Recommendation 39:** *That consideration be given to 'harmonising' the legislative and administrative frameworks applying to community visitor and like programs under the Children's Commission and Juvenile Justice Acts and envisaged adult guardianship and mental health legislation.*

This recommendation was given a rating of 'partially implemented' following a verification of the relevant legislation. The functions of the community visitor scheme were amended to cover the visitable sites of residential facilities, detention facilities and authorised mental health services. The *Commission for Children and Young People and Child Guardian Act 2000* (Qld) was not found to cover the role and functions of the adult guardian.

Recommendation 33 from Briton, J, Gordon P, Parker S & Airo-Farulla G, (1999) *Review of the Queensland Children's Commissioner and Children's Services Appeals Tribunal Act 1996: Report and Recommendations* was also 'partially implemented'.

> **Recommendation 33:** *That private homes be generally exempt from the community visitor program, but be included if: More than a specific number of unrelated children and young people, say four or more, are placed in the same foster home; and, A private home is providing accommodation for a child in care and a complaint has been made which hasn't been or can't reasonably and practically be resolved by internal grievance processes.*

The Project Team rated this recommendation 'partially implemented' due to the fact that the Act did not require a specific number of unrelated children to be present in a private home in order for it to become a visitable site. Nor did it require an unresolved complaint to have been made in a private home in order for it to become a visitable site.

In relation to Recommendation 18 from *Project AXIS (Volume 2) Child Sexual Abuse in Queensland: Responses to the Problem* (November 2000):

> **Recommendation 18:** *That Sport and Recreation Queensland, in conjunction with the Children's Commission Queensland, Families Youth and Community Care Queensland and sporting organisations, develop child protection advisory material to assist sporting and recreation*

organisations to develop their own policies for addressing complaints against staff or volunteers.

The Government reported a number of actions that had resulted from this recommendation. It noted that it could not find any physical evidence of Sport and Recreation Queensland having consulted with Children's Commission Queensland, Families Youth and Community Care Queensland on the extension of the Working With Children Check, as a result of the retention and disposal timeframes for public records. This limitation of evaluating the implementation of recommendations some years after the release of a report, and the importance of developing methods to track implementation over time, is highlighted in Section 4.4: [The relationship between implementation of recommendations and date of inquiry](#).

Recommendations not implemented and the Queensland Government's response

Five recommendations in the Queensland jurisdiction were 'not implemented'. Of those, four were from the recent *Queensland Child Protection of Inquiry — Taking Responsibility: A Roadmap for Queensland Child Protection* (June 2013), and were reported by the Government as being under consideration.

One recommendation was from *Seeking Justice: An inquiry into how sexual offences are handled by the Queensland Criminal Justice system* (June 2003):

> **Recommendation 20:** *That the definition of a 'prescribed sexual offence' contained in section 3 of the* Criminal Law (Sexual Offences) Act 1978 *(Qld) be deleted and replaced with a new definition modelled on the definition of a 'sexual offence' that appears in section 4 of South Australia's Evidence Act 1929.*

The Queensland Government's response to the Royal Commission indicated that the Attorney-General rejected this recommendation in 2006, with no explanation provided.

Recommendations where the implementation status could not be determined

The implementation status of eight recommendations from Queensland inquiries was 'undetermined'. Six of the eight recommendations were from *Project AXIS (Volume 2) Child Sexual Abuse in Queensland: Responses to the Problem* (November 2000) and related to the Children's Commission Queensland. The Government stated that, "*This recommendation concerns the Children's Commission, which is a separate entity to the State, and is separately represented for the purposes of this Royal Commission. The State does not make any response in relation to this recommendation.*"[9]

In the following two cases there was insufficient evidence to enable a determination. In relation to Recommendation 2 from *Project AXIS (Volume 2) Child Sexual Abuse in Queensland: Responses to the Problem* (November 2000):

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[9] Queensland Government response to the Royal Commission (2013).

> *Recommendation 2: That a working party be established comprising Education Queensland, the Board of Teacher Registration, the Association of Independent Schools Queensland (AISQ), the Queensland Catholic Education Commission and the Children's Commission Queensland to develop appropriate policies for responding to suspicions or disclosures of child sexual abuse in non-government schools. This should be undertaken in consultation with Families Youth and Community Care Queensland and the QPS (see also Recommendations 11 and 15).*

There was evidence that a working party had been established. However, the recommendation is specific in detailing the desired membership of the working party, the development of appropriate policies, and a consultation process. The Project Team did not receive sufficient information relating to those aspects of the recommendation to enable a determination of implementation status.

The Project Team was not able to determine the implementation status of Recommendation 7.28 from *Protecting Children: An Inquiry into Abuse of Children in Foster Care* (2004):

> *Recommendation 7.28: That the Department ensure that it has clear policies and procedures on disclosure of information and that it incorporate them in the training provided to Departmental and agency staff.*

The Government reported that the Department's Child Safety Practice Manual set out the relevant procedures. However, information was not received in relation to the second part of the recommendation as to whether the procedures were incorporated into training as recommended. The implementation status of this recommendation could therefore not be determined.

Summary of issues regarding the implementation of Queensland recommendations

Based on information provided by the Queensland Government, the main factors that affected full implementation of recommendations can be summarised as follows:

- policy concerns; for example, in relation to redefining 'prescribed sexual offence'

- practical restraints such as the timeframe for the retention and disposal of records

- recommendations being under consideration.

4.2.6 South Australia

Table 12 summarises the implementation rating of recommendations from the four inquiries that relate to South Australia.

Table 12 Implementation ratings of recommendations for South Australia

Implemented in full	Partially implemented	Not implemented	Undetermined	Total	Proportion of recs not implemented
11	10	4	7	32	13%

Recommendations partially implemented and the South Australian Government response

Ten recommendations from South Australian inquiries were 'partially implemented'.

Eight of the 10 'partially implemented' recommendations were from the *Review of Child Protection in South Australia* (Layton review) (2002). In many cases the South Australian Government indicated some level of concern about one or more aspects of a recommendation. The first 'partially implemented' recommendation from this inquiry was:

> **Recommendation 1:** *That a statutory Office of Commissioner for Children and Young Persons be created to: include the functions of advocacy, promotion, public information, research, develop screening processes for work with children and young persons; be based largely on the model in the* Children and Young People Act 2000 *(Qld) as contained in sections 15 (c) to (j) and (l) to (o), 19, 90, 92 and Partial 6, combined with the Commission for* Children and Young People Act 1998 *(NSW) sections 11 (a) to (h), 14, 15, 16, 17, 23, and 24; include sitting as a member of the South Australian Young Persons Protection Board; be independent of Government; report to Parliament. That a statutory position of Deputy Commissioner of Young Persons be created and to be occupied by an Indigenous person. That a Joint Parliamentary Committee on child protection be created and statutorily mandated in a way similar to section 27 of* Commission for Children and Young People Act 1998 *(NSW).*

A Commissioner for Children and Young People was not established. Separate mechanisms were established, including a Council for the Care of the Children, Guardian for Children and Young People, and a Child Death and Serious Injury Review Committee. The Government reported that the proposal for a State Commissioner continues to be discussed and considered.

Recommendations 101 and 104 of the *Layton Review* were both 'partially implemented':

> **Recommendation 101:** *That the* Evidence Act 1929 *(SA) be amended to include the three models for taking of evidence in relation to a criminal trial involving sexual or violent offences against a child as provided in sections 106H to 106T of the* Evidence Act *(WA). That the burden of proof remain on the prosecution to prove the charges beyond reasonable doubt. That there is no requirement for a specialist court to sit on cases in which children are the alleged victims, instead the court must be comprised of Judges who have received special judicial training in respect of child development, victim responses and patterns of abusive behaviour. That a court-based child witness support system similar to the Western Australian model be set up in South Australia. That a committee(s) be set up to make recommendations as to the progressive implementation of strategically placed CCTV facilities and video rooms for courts using the Western Australian model as a basis. The design is to ensure the most cost effective manner of delivery of such services in South Australia.*

> **Recommendation 104:** *That the* Evidence Act 1929 *(SA) be amended to include a section similar to section 106F of the* Evidence Act 1929 *(WA) to allow for appointment of a child communicator to assist as an interpreter for a child in appropriate circumstances. In addition, the section to be available to all children and not only those under the age of 16 years. Further, that Recommendation 118 of the ALRC Report be implemented by amendment of the* Evidence Act 1929 *(SA) to include that a court may permit other means of evidence being adduced in the particular case of children with disabilities.*

In both cases the Government reported that a full amendment to legislation as recommended was not required as the court already had sufficient wide general powers.

Recommendation 131 was also 'partially implemented':

> ***Recommendation 131:*** *That a working group be formed – the "Screening and Monitoring Working Group" to determine the most appropriate: legislation; policies, protocols and guidelines; and declarations process for SA taking into consideration the proposed National Paedophile Register to be developed. That the working group consist of persons from the key agencies involved (SAPOL, Justice Department, DHS, Education sector, Non-Government, churches and Sport and Recreation, representatives of teachers' unions and major unions covering employees including related employment and parent groups) and should involve the Commissioner for Children and Young Persons. That specific legislation be developed to deem certain persons as described in the legislation to be unsuitable persons from working with children and young people and to be placed on an Unsuitable Persons Register. Such legislation could be known as the* Child Protection (Unsuitable Persons) Act*. Legislation to include: specific provisions for the establishment and maintenance of an Unsuitable Persons Register, provide for the conditions upon which a person is placed on the register and is thereby deemed unsuitable for employment in child related circumstances, provide for an independent process for a declaration from a District Court for removal of a person from the register, provide the requirements of employers when employing persons in child-related activities and that the provisions are mandatory for employees but discretionary in respect of volunteers, cover all Government agencies, non-Government agencies, church organisations, sporting and recreation clubs who provide employment in child-related activities, create offences with penalties for non-compliance. Such legislation may in a general sense be modelled on the NSW scheme with particular modifications to minimise complexity and discretionary decision-making as well as placing the role of establishing and maintaining the register with SAPOL. Further, that the screening and monitoring working group consider the viability of providing persons screened and cleared a 'portable' photo card which can be used by employees.*

Legislative verification found that some, but not all, of the recommended legislative amendments were made (see Compendium B for full details). There was no specific Unsuitable Person Register, and the Government stated that, "*card-based systems are no longer considered best practice, and have been supplanted by a live internet database in some jurisdictions*".[10]

The following recommendation, also from the *Layton Review*, was 'partially implemented':

> ***Recommendation 170:*** *That Section 10 of the* Children's Protection Act *1993 be amended to reflect the suggested amendments to sub-sections 6 (1) and 6 (2) of the Act as set out in Recommendation 166. In particular, if the contents of sub-section 6 (2) (c) (d) and (e) (presently excluded from applying to mandatory notification), are still regarded as necessary to be articulated in the legislation, these circumstances should be relevant to mandatory notification. Further, subsection 6 (2) (e) of the Act should not be limited to children under 15 years, but to all children.*

The South Australian Government reported that an expansion of Section 6 to include a definition of *"at serious risk of significant harm"* would shift the focus away from an incident-based system. Amendments to subsection 6(2)(e) were not made as it was considered that this would have unnecessarily expanded the criteria for mandatory notification.

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[10] South Australian Government response to the Royal Commission (2013).

Recommendation 132 from the same Review was 'partially implemented':

> **Recommendation 132:** *That all agencies who employ persons who work with or have access to children either in paid or a volunteer capacity should develop appropriate child protection policies and guidelines. All agencies funded by State Government agencies will be required to develop child protection policies and guidelines as a prerequisite to receiving Government funding.*

Legislative verification found that the *Child Protection Act 1993* (SA) required relevant government and non-government agencies to have appropriate child protection policies in place. There was no legislative requirement that agencies funded by State Government be required to develop such policies as a prerequisite to receiving government funding. The South Australian Government did not supply any further evidence in relation to that part of the recommendation.

Recommendation 94 of the *Review of Child Protection in South Australia* (Layton review) (2002) related to amendments to the *Evidence Act 1929* (SA).

> **Recommendation 94:** *That, in keeping with Recommendation 100 of the ALRC Report, the* Evidence Act 1929 *(SA) be amended to provide that corroboration of the evidence of a child witness whether sworn or unsworn, should not be required. That Judges be legislatively prohibited from warning or suggesting to a jury that children are an unreliable class of witness. An example of such legislation is section 106D of the* Evidence Act 1906 *(WA). That in accordance with Recommendation 100 of the ALRC Report, legislation provide that judicial warnings about the evidence of a particular child witness should be given only where 1) a party requests the warning, and 2) that party can show that there are exceptional circumstances warranting the warning. Such exceptional circumstances should not depend on the mere fact that the witness is a child, but on objective evidence that the particular child's evidence may be unreliable. That the warnings which are given should follow the formula in Murray v R to reduce the effect of an individual Judge's bias against, or general assumptions about, the abilities of children as witnesses.*

Pursuant to this recommendation, a new section 12A was inserted into the *Evidence Act 1929* (SA). Section 12A provided that, in a criminal trial, a judge must not warn the jury that it is unsafe to convict on a child's uncorroborated account unless such a warning is required by cogent reasons in the particular case, or a party requests the warning. If giving any such warning, the judge is not to make any suggestion that children's evidence is inherently less credible or reliable than that of adults. However, legislative verification found that the Act did not require a party asking for a warning to show objective evidence that the child's evidence may be unreliable.

Recommendation 97 of the *Review of Child Protection in South Australia* (Layton review) (2002) was categorised 'partially implemented':

> **Recommendation 97:** *That the* Evidence Act 1929 *(SA) be amended to include a similar section to section 106 G* Evidence Act *(WA) which prevents an unrepresented defendant from directly cross-examining a child. Such amendment to be applicable to all children and not just those under 16 years of age.*

Legislative verification found that while there was a vulnerable witness provision in the *Evidence Act 1929* (SA), it only applied to children 16 years and younger. The recommendation was clear that the

amendment be applicable to all children, not just those under 16 years of age. The recommendation was therefore rated 'partially implemented'.

Also 'partially implemented' was Recommendation 3 of the *Children in State Care Commission of Inquiry: Allegations of Sexual Abuse and Death from Criminal Conduct* (Mullighan Inquiry) (2008).

> ***Recommendation 3:*** *(1) That the application of section 8B of the* Children's Protection Act 1993 *be broadened to include organisations as defined in section 8C.* [NOTE: Section 8B required government organisations and non-government schools to obtain a criminal history, or police report for people holding, or to be appointed to, positions that involve regular contact with, proximity to, or access to records concerning children. Section s 8C applied to organisations that provide health, welfare, education, sporting or recreational, religious or spiritual, child care or residential services wholly or Partially for children and are government departments, agencies, instrumentalities, or local government or non- government organisations.] *(2) That consideration is given to reducing or waiving the fee for an organisation applying for a criminal history reporting order to comply with section 8B. (3) 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).*

The South Australian Government reported that implementation of this recommendation was continuing, with a phasing-in period. Verification of the legislation found that while parts (1) and (2) had been implemented, the legislation does not require that a criminal history include information as to whether a person is on the Australian National Child Offender Register.

Recommendation 44 of the Commission of Inquiry Report *Children on Anangu Pitjantjatjara Yankunytjatjara (APY) Lands* (Mullighan Inquiry) (2008) was also 'partially implemented'.

> ***Recommendation 44:*** *That the* Children's Protection Act *or regulations be amended to add a function of the Guardian for Children and Young People to act as an advocate of an Anangu child or young person who is not in State care but is the subject of a Family Care Meeting Agreement and who has made a disclosure of sexual abuse.*

The South Australian Government considered that the current arrangements for advocacy and support of children on the APY Lands addressed the intent of the recommendation.

Recommendations not implemented and the South Australian Government's response

Three of the four recommendations from the *Review of Child Protection in South Australia* (Layton review) (2002) were 'not implemented'.

> ***Recommendation 55:*** *That the DHS* [Department of Human Services] *in conjunction with the Attorney-General's Department pursue the issue of establishing an appropriate agreed policy position between States, Territories and the Commonwealth on the exchange of information where there is a child protection concern ensuring appropriate coverage of relevant Commonwealth employees.*

The South Australian Government made the following statement: "*There is no agreed policy position*

between the states, territories and the Commonwealth regarding this recommendation. However, an Information Sharing Protocol between the Commonwealth and child protection agencies commenced in February 2009."[11]

The Government expressed concerns in relation to two of the recommendations from the Layton Review that were 'not implemented', including:

> **Recommendation 98:** *That Recommendation 100 of the ALRC Report No. 84 be implemented by amendment of the* Evidence Act 1929 *(SA) to allow the court to permit expert opinion evidence to be given in any civil or criminal proceeding in which abuse or neglect of a child is alleged. The parameters of such legislation to include matters covered by the New Zealand legislation. That such amendment specifically permit evidence to be given regarding any capacity or behavioural characteristics of a child with a mental disability or impairment. In addition, an amendment should permit generalised evidence to be given by an expert about patterns of children's disclosure in abuse cases and the effects of abuse on children's behaviour and demeanour in and out of court, without specific reference by that expert to the particular child.*

The Government was concerned with aspects of this recommendation, particularly in relation to children giving evidence under the scrutiny of 'experts'. It was also reported that South Australian courts had wide powers to make special arrangements to protect and assist vulnerable witnesses: pre-recording the evidence of children, use of an intermediary for a child witness and adducing evidence through other means. The South Australian Government noted that the Office of the Director of Public Prosecutions operates a Witness Assistance Service (WAS) to provide services to child witnesses by specially trained social workers.[12]

> **Recommendation 105:** *That the* Evidence Act 1929 *(SA) be amended to permit answers given by a disabled child in response to leading questions, to be received if the judge is otherwise satisfied that the nature of the questioning does not give rise to the answers being unreliable answers.*

The Government expressed reservation about how a judge could determine in advance whether "*the nature of the questioning does not give rise to the answers being unreliable answers*". The Government proposed alternative approaches.

The following recommendation from the *Report of the Joint Committee on Immunity from Prosecution for Certain Sexual Offences: Second Session, Fiftieth Parliament 2002–2003, Parliament of South Australia* (28 May 2003, Hon. G.E. Gago, Chairperson) was 'not implemented':

> **Recommendation 4:** *The Committee recommends investigating alternative methods of appropriately responding to allegations of sexual offences, to empower victims, and prevent re-offending, without minimising the serious nature of the crime.*

The Government stated that it was unable to find a record of a reason for non-implementation.

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[11] South Australian Government response to the Royal Commission (2013).

[12] South Australia Government Response/Action On Recommendations of Layton Review, written response to Royal Commission (2013), p. 11.

Recommendations where the implementation status could not be determined

The implementation status of nine recommendations from South Australian inquiries could not be determined by this project, in all cases due to insufficient relevant or clear evidence. Six of those recommendations were from the *Children in State Care* (Mullighan Inquiry) (2008):

> **Recommendation 2:** *That the self-protective training being taught by Second Story be reviewed to ensure that it covers the Keeping them safe: child protection curriculum developed for teaching all children in schools and is adapted to target specific needs and circumstances: children and young people in care generally; Aboriginal children and young people in care; 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.*

The Project Team found that the review did not appear to target Aboriginal children, or those who had disabilities, who were in state care. It was not clear whether self-protective training was delivered to children and young people in secure care facilities. The implementation status of the recommendation could therefore not be determined.

> **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).*

In relation to Recommendation 5, the South Australian government suggested that the names of people on the ANCOR register could not be publicly released under national arrangements, and that information about criminal offences that could cause a person to be registered on ANCOR were included in criminal history reports. Overall, there was insufficient evidence about the implementation of this recommendation.

The implementation status of recommendation 6 from the same inquiry could not be determined by the Project Team.

> **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.*

Verification of the Passenger Transport Regulations 2009 found that it was not a requirement that a Background Screening and Criminal History Check be a prerequisite condition for driver accreditation. It was intended that the Passenger Transport Regulations 2009 be amended by June 2013.

The implementation of Recommendation 24 of the same inquiry was also unclear.

> **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. (Also refer Recommendation 20.)*

The Department of Families and Communities policies and procedures were amended, however no evidence was received that the South Australia Police had made any amendment.

Recommendation 25: That Families SA's new C3MS (Connection 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.

The Project Team did not receive evidence of the implementation of C3MS, and could not therefore determine the implementation status of Recommendation 25.

The implementation status of Recommendation 40 was 'undetermined'.

Recommendation 40: That a task force be established in South Australia to closely examine the redress schemes established in Tasmania, Queensland and Western Australia for victims of child sexual abuse; to receive submissions from individuals and relevant organisations on the issue of redress for adults who were sexually abused as children in State care; and to investigate the possibilities of a national approach to the provision of services.

While verification of the *Victims of Crime Act 2001* identified that some avenues for redress were available to victims of crime, there was a lack of evidence in relation to a task force and its terms of reference as recommended. The implementation status of Recommendation 40 was therefore 'undetermined'.

The implementation status of one recommendation from the *Review of Child Protection in South Australia (Layton review) (2002)* could not be determined:

Recommendation 145: That representatives of non-Government education sectors including Independent Schools, Catholic Schools in conjunction with representatives of the Government education sector, FAYS, SAPOL and the proposed Commissioner for Children and Young Persons, develop guidelines which set out minimum standards to be applied across the schooling sector in relation to allegations of child sexual abuse by employees and volunteers. Such guidelines to be in keeping with the processes undertaken in the Government schooling sectors and should include an independent process both within employer organisations as well as an external independent process. The guidelines should clearly articulate the interaction with FAYS and SAPOL and the processes to be followed in relation to notification and reporting.

No documentary evidence of implementation was received and no information was provided about the existence of an external independent process as recommended. The implementation status could therefore not be determined.

Summary of issues regarding the implementation of South Australian recommendations

Based on information provided by the South Australian Government, the main factors that affected full implementation of recommendations can be summarised as follows:

- policy concerns: the South Australian Government reported a number of concerns and disagreements with aspects of various recommendations, such as the expansion of criteria for mandatory notification, and current arrangements viewed as adequate

- recommendation implementation being in progress

- redundancy of recommendations (technological developments rendering a recommendation obsolete)

- inability to implement recommendations across jurisdictions (in relation to sharing information where other jurisdictions have different policies)

- lack of record of implementation.

4.2.7 Tasmania

Table 13 summarises the implementation rating of recommendations from the six inquiries that relate to Tasmania.

Table 13 Implementation ratings of recommendations for Tasmania

Implemented in full	Partially implemented	Not implemented	Undetermined	Total	Proportion of recs not implemented
8	3	8	9	28	29%

Recommendations partially implemented and the Tasmanian Government's response

Three recommendations from Tasmanian inquiries were 'partially implemented', including a recommendation from the *Select Committee on Child Protection Final Report, Parliament of Tasmania* (2011):

> **Recommendation 119:** *Additional resourcing be provided to enable the expansion of Statewide trauma services for abused children and young people to ensure more than 30% of children in care can access such services.*

The document audit showed increased funding for trauma services over the past two years and that in 2012–13 approximately 10 per cent of children and young people in care were accepted by the service. Given the proportion of children and young people accessing trauma services, the recommendation was rated 'partially implemented'.

The following two recommendations from *Memorandum of Advice to Minister of Health and Human Services: Part Two: Complaints Process for Abuse of Children in Care* (Patmalar Ambikapathy, Commissioner for Children Tasmania, September 2003) [13] were 'partially implemented'.

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[13] The recommendations in this report were not numbered. Therefore, page numbers are used to pinpoint the recommendation.

Recommendation Page 12.8: That the allegations of abuse are properly heard, received, acknowledged and acted upon.

Evidence was provided showing that action has been taken in relation to responding to allegations of abuse, and the policy relating to care concerns was under review. It did not appear to be the case that all allegations of abuse were properly heard, received, acknowledged and acted upon.

Recommendation Page 12.8: That the victim and their family be clearly informed of avenues of redress available to them.

The Government submitted documentation outlining the process for informing children, families and carers about investigation processes. The documentation did not contain clear information on avenues of redress.

Recommendations not implemented and the Tasmanian Government's response

Eight recommendations relating to Tasmanian inquiries were 'not implemented', for a variety of reasons. In some cases the Tasmanian Government indicated some level of concern about one or more aspects of a recommendation.

From the *Review of Claims of Abuse from Adults in State Care as Children* (O'Grady Report) (2004):

Recommendation 6: It is recommended that the Government liaise with church authorities to seek a contribution to the establishment of a private educational trust fund.

This recommendation relied upon Recommendation 5 being implemented (not under review), in relation to the establishment of a private educational trust fund. The Tasmanian Government had decided not to adopt Recommendation 5, thus rendering Recommendation 6 redundant.

From the *Inquiry into the circumstances of a 12 year old child under Guardianship of the Secretary* (Mason Report) (2010):

Recommendation 8.2: That the Secretary mandate that such visits [by the Children's Visitor] be conducted with the child in the absence of any other person unless in the special circumstances of the case it is not practicable to arrange such a visit or it is not in the best interests of the child for reasons given.

The Government's comments in relation to this recommendation indicated that making one-to-one visits with a child was impractical and interfered with the child protection worker's ability to assess the home or care dynamic.

Recommendation 10.2: That s.79 of the CYP Act [Children, Young Persons And Their Families Act 1997 (Tas)] *be amended to give the Commissioner for Children such additional functions as will enable that Officer to fulfil the promise of "Preventing problems before they arise" including but not limited to: conducting audits both individually and generally of the circumstances of children and young people in the guardianship or custody of the Secretary.*

The Government did not accept this recommendation, noting that the Commissioner for Children

undertook annual audits of children in care; that the Commissioner had existing powers to advise the minister; that similar positions in other jurisdictions did not intervene in court processes; and that the role of the Commissioner related to all children, not just those in care.

From the *Report on Child Protection Services in Tasmania* (Jacob-Fanning Report) (2006):

> **Recommendation 10.3.1:** *A unit dedicated to investigating and responding to complaints and serious issues relating to child protection services will be established as part of the overall organisational model, after further consultation with staff.*

The Government reported that while a dedicated complaints unit was not established, there was a complaint management and review process in place to ensure that complaints were managed independently when required or requested. This included a Child Protection Decision Advisory Panel that provided a response if an individual remained unhappy following an internal review at Area Director level. This recommendation was 'not implemented' as evidenced by the absence of a dedicated unit as per recommendation.

Recommendation 10.3.4 from the same inquiry states:

> **Recommendation 10.3.4:** *The Commissioner for Children should have responsibility for oversight of all complaints processes in relation to children. The Ombudsman should retain responsibility for the investigation of individual complaints if a person is dissatisfied with the internal response to the complaint.*

The Government's response to the Royal Commission stated that, "*This recommendation was made in 2006 and as the systemic requirements at any time are contextual, recommendations can become dated and may be superseded by other decisions. The Department of Health and Human Services is about to commence drafting stand-alone Commissioner for Children legislation which is likely to increase the powers of the Commissioner for Children.*"[14] No reason was provided for why the recommendation was not implemented at the time.

The Tasmanian Government reported that implementation of the following recommendation, from the *Select Committee on Child Protection Final Report, Parliament of Tasmania (2011)*, was in progress:

> **Recommendation 41:** *It is essential that adverse incidents and complaints are fully investigated and managed in a model that is responsive and transparent, similar to the Complaints Management Unit in Western Australia.*

The Government's response to the Royal Commission indicated that no record could be found of correspondence relating to two recommendations from *Memorandum of Advice to Minister of Health and Human Services: Part Two: Complaints Process for Abuse of Children in Care* (Patmalar

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[14] Tasmanian Government response to the Royal Commission (2013).

Ambikapathy, Commissioner for Children Tasmania, September 2003)[15]:

> *Recommendation, page 18.4: Investigation processes of Police be developed to higher best practice standards with respect to abuse of children in care.*

> *Recommendation, page 20.1: That specific provisions be contained within the Tasmanian Police Manual for dealing with child victims of sexual assault who are disabled.*

Recommendations where the implementation status could not be determined

The implementation status of nine recommendations from Tasmanian inquiries could not be determined by this project, in all cases due to insufficient relevant or clear evidence.

Seven 'undetermined' recommendations were from the *Select Committee on Child Protection Final Report, Parliament of Tasmania (2011)*.

> *Recommendation 62: That there be a statutory obligation on community sector organisations who deliver out of home care residential services to comply with key standards and reporting criteria.*

A legislation verification found while work appeared to be in progress in relation to national standards for out-of-home care, there was no legislative requirement for community sector organisations to comply with key standards. Due to a lack of any other evidence provided, this recommendation was given a rating of 'undetermined'.

> *Recommendation 63: The Working with Children check in Tasmania be implemented as a priority.*

While information was provided that indicated an intention to establish a centralised background checking and risk assessment process, there was no evidence that a Working with Children check had been implemented.

In relation to recommendations 77, 79, 80, 82 and 138 of the same inquiry, the government indicated that implementation would be considered. No further information was provided.

One recommendation rated as 'undetermined' was from the *Inquiry into the circumstances of a 12 year old child under Guardianship of the Secretary (Mason Report)* (2010):

> *Recommendation 7.5: That if the evaluation of the current Children's Visitors Pilot shows that children under the guardianship of the Secretary have obtained benefit from the Pilot that the Minister provide for the appointment of a Children's Visitor for each such child whether in OOHC, in their birth family or in kinship care, such Visitors to be engaged by a body independent of the Government.*

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[15] The recommendations in this report were not numbered. Therefore, page numbers are used to pinpoint the recommendation.

In 2010, the government indicated a willingness to consider this recommendation. No further information was provided.

The final recommendation rated 'undetermined' was from *Memorandum of Advice to Minister of Health and Human Services: Part Two: Complaints Process for Abuse of Children in Care* (Patmalar Ambikapathy, Commissioner for Children Tasmania, September 2003)[16]:

> **Recommendation Page 9.2:** *That the guidelines contain provisions for clear and independent interview and investigative procedures for children.*

The implementation status of this recommendation could not be determined. While there was evidence of a document governing the investigation of severe abuse or neglect of a child in out-of-home care, no evidence was provided of procedures relating to children more broadly (that is, non-severe cases). This recommendation is an example of the challenges involved in assessing the implementation of individual recommendations removed from the overall context of the inquiry. It is possible that prior recommendations in this inquiry provided greater detail about the guidelines that are referred to here. However, due to the selection of recommendations this project was not able to ascertain the nature or extent of the guidelines in question.

Summary of issues regarding the implementation of recommendations for Tasmania

Based on information provided by the Tasmanian Government, the main factors that affected full implementation of recommendations can be summarised as follows:

- policy concerns such as one-to-one visits with children, current arrangements being considered adequate and recommended systems being different to those in other jurisdictions
- resource limitations including insufficient funding of trauma services to achieve the recommendation
- implementation of recommendations in progress
- redundancy of recommendation (superseded by subsequent decisions)
- lack of records in relation to implementation.

4.2.8 Victoria

Table 14 summarises the implementation rating of recommendations from the nine inquiries that relate to Victoria.

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[16] The recommendations in this report were not numbered. Therefore, page numbers are used to pinpoint the recommendation.

Table 14 Implementation ratings of recommendations for Victoria

Implemented in full	Partially implemented	Not implemented	Undetermined	Total	Proportion of recs not implemented
19	6	13	4	42	31%

The Victorian Government provided information relating to the implementation of each recommendation, as requested by the Royal Commission. It noted, however, "*In any assessment of the Victorian responses, it is important to recognise that the identified recommendations were generally released as sets of recommendations. As such, the Victorian Government's response to each report constituted a package of reforms and policy changes*."[17] This statement indicates that evaluating the implementation of selected recommendations, over different time periods, rather than inquiries as a whole, could be a limitation of this project's methodology (see Section 3.7: Limitations to the methodology).

Recommendations partially implemented and the Victorian Government's response

Six of the recommendations from Victorian inquiries were 'partially implemented'. Two were from the *Parliamentary Crime Prevention Committee Inquiry into Sexual Offences Against Children and Adults* (1995), including:

> ***Recommendation 89:*** *The Committee recommends that the Attorney General review penalties for sexual offences to ensure that the sexual assault of a child is regarded as seriously as the sexual assault of an adult*.

The legislation verification found that while the maximum penalties for some sexual offences relating to children were increased by the amending legislation, there appeared to be a number of offences where maximum penalties for offences involving children did not have parity with sentences for apparently similar offences involving adult victims. Examples include Sections 46, 55, and 57(1).

> ***Recommendation 105:*** *The Committee recommends that all convicted adult sex offenders shall be registered with the Victorian Sex Offender Registry for life.*

This recommendation was 'partially implemented' because the length of a registered sex offender's reporting period depended upon the type and number of offences for which they were convicted, and their age at the time of the offence.

The Government expressed overall concerns about some of the recommendations of the *Inquiry into Sexual Offences Against Children and Adults*, including a lack of evidence that the proposed structures would be the most effective response, and the resource implications arising from some of the

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[17] Victorian Government Response to the Royal Commission's request for advice on the implementation status of past reports and inquiries (2013) p.4

recommendations. The Government also referred to the amount of time that has lapsed since this inquiry.

Three of the 'partially implemented' recommendations were from Ombudsman Victoria: *Improving responses to allegations involving sexual assault* (2006). The Victorian Government noted in relation to this inquiry that other reforms were being concurrently implemented and that the recommendations from this inquiry were "*often quite broad*".

> **Recommendation 3:** *That compatible data collection systems be developed to enable the lawful sharing of information and a whole-of-government analysis of individual and systemic patterns of offending.*

The Government provided information that a variety of data sharing initiatives were in place, and that data that could be used to establish emerging patterns of offending at systemic level are coordinated by the Department of Health. Data sharing does not appear to be equivalent to "*compatible data collection systems*".

Recommendation 15 of the same inquiry was 'partially implemented'.

> **Recommendation 15:** *Where an employee has been accused of sexual assault, government agencies not agree to confidentiality clauses that prevent disclosure of information to future employers or complaint authorities in the negotiation of severance agreements.*

The Government stated that *"no government agency has entered into confidentiality clauses preventing disclosure of sexual assault allegations"*, suggesting that the Government may not have endorsed the original intent of the recommendation. Recommendation was nonetheless 'partially implemented' by virtue of the different practices to protect confidentiality that were in place across government departments.

In relation to Recommendation 16 of the same inquiry, the Government reported that, "*While the Victorian Government initially supported this recommendation in principle, it was largely superseded with the establishment of the Working With Children Check Unit in 2006.*"[18]

> **Recommendation 16:** *That the Department of Justice convene a working group comprising the Department of Human Services and the Department of Education and Training, Victoria Police and other relevant agencies to consider the implementation of pre-employment vetting that includes mandatory referee checking of previous employers for public sector employees. The Department of Justice should report on the outcomes within six months.*

This recommendation was 'partially implemented' because, while the Unit did not appear to be cross-departmental, pre-employment vetting was addressed in a variety of different ways by different

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[18] Victorian Government Response to the Royal Commission's request for advice on the implementation status of past reports and inquiries (28 June 2013), p. 28–9.

departments.

Recommendation 89 from *Protecting Victoria's Vulnerable Children Inquiry (Cummins Inquiry) (2012)* was rated by the Project Team as 'partially implemented'.

> **Recommendation 89:** *The Government should amend the* Child Wellbeing and Safety Act 2005 *to establish a Commission for Children and Young People, comprising one commissioner appointed as the chairperson and such number of full-time and part-time additional commissioners as the Premier considers necessary to enable the Commission to perform its functions. Commissioners would be appointed by the Governor-in-Council. The Commission should have responsibility for overseeing and reporting to Ministers and Parliament on all laws, policies, programs and services that affect the wellbeing of vulnerable children and young people. The Commission would hold agencies to account for meeting their responsibilities as articulated in the Vulnerable Children and Families Strategy and related policy documents. The Commission would also retain the current roles and functions of the Child Safety Commissioner. The Commission would be required by legislation to give priority to the interests and needs of vulnerable children. The Commission should have authority to undertake own-motion inquiries into systemic reforms necessary to improve the wellbeing of vulnerable children and young people. The specific powers granted to the Ombudsman under section 20 of the* Children, Youth and Families Act 2005 *should be transferred to the Commission.*

A Children's Commission with multiple commissioners was established with the specified functions of advocacy, prevention, inquiry, monitoring and reporting to parliament. However, the Project Team found that the functions of the Commission did not appear to be as broad as those envisaged by the recommendation, particularly in relation to the oversight of legislation and services. Further, it was found that the Commission's own-motion powers relating to the provision of services were more restricted than those of the Ombudsman, and the power formerly vested in the Ombudsman to investigate the actions of investigators and assessors had not been transferred to the Commissioner.

Recommendations not implemented and the Victorian Government's response

Thirteen recommendations from Victorian inquiries were 'not implemented'. Seven of these recommendations were from the *Victorian Law Reform Commission (2011) Sex offenders registration - Final Report*.[19] All seven were reported as being under current consideration by the Government. The Government made specific reference to the existence of concurrent reforms, namely the *Protecting Victoria's Vulnerable Children Inquiry* (Cummins Inquiry) (2012) and the *Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations* (the latter which is not within the scope of this research). The Government asked departments to examine the findings of all three inquiries in their deliberations about the implementation of recommendations.

The Government reported that five recommendations from the 2012 Cummins Inquiry were being progressively implemented.[20] The Government noted that, "*the recommendations were being*

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[19] Recommendations 1–3; 31; 34; 41; 55.
[20] Recommendations 41; 44; 45; 47; 51.

considered by the Government as an input to the Government's consideration of child protection system reforms (rather than being implemented on a recommendation-by-recommendation approach)". [21]

From the Cummins Inquiry, the Government reported that it would not consider the implementation of two recommendations until it had received the outcomes of research associated with another recommendation. Those two recommendations are:

> **Recommendation 44:** *The Victorian Government should progressively gazette those professions listed in sections 182(1)(f) - (k) of the Children, Youth and Families Act 2005 that are not yet mandated, beginning with child care workers. In gazetting these groups, amendments will be required to the Children, Youth and Families Act 2005 and to the Children's Services Act 1996 to ensure that only licensed proprietors of, and qualified employees who are managers or supervisors of, a children's service facility that is a long day care centre, are the subject of the reporting duty.*

> **Recommendation 45:** *The Department of Human Services should develop and implement a training program and an evaluation strategy for mandatory reporting to enable a body of data to be established for future reference. This should be developed and implemented in consultation with the representative bodies or associations for each mandated occupational group.*

Recommendation 46 from the same inquiry related to the above two recommendations that were reportedly in progress. Recommendation 46 proposes a national evaluation of mandatory reporting schemes and was 'implemented in full'. The Government reported that a national evaluation of mandatory reporting schemes was underway; decisions related to mandatory reporting, stemming from Recommendations 44 and 45 would be informed by the evaluation.

Similarly, the Victorian Government reported delaying consideration of the following recommendation from the Cummins Inquiry:

> **Recommendation 47:** *The Crimes Act 1958 (Vic) should be amended to create a separate reporting duty where there is a reasonable suspicion a child or young person who is under 18 is being, or has been, physically or sexually abused by an individual within a religious or spiritual organisation. The duty should extend to: • A minister of religion; and • A person who holds an office within, is employed by, is a member of, or a volunteer of a religious or spiritual organisation that provides services to, or has regular contact with, children and young people. An exemption for information received during the rite of confession should be made. A failure to report should attract a suitable penalty having regard to section 326 of the Crimes Act 1958 and section 493 of the Children, Youth and Families Act 2005.*

At the time of submitting its response, the Victorian Government was awaiting the recommendations of the *Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Organisations* prior to considering this recommendation.

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[21] Victorian Government Response to the Royal Commission's request for advice on the implementation status of past reports and inquiries (28 June 2013), p.35.

The final recommendation from the Victorian jurisdiction that was 'not implemented' was from the Parliamentary Crime Prevention Committee Inquiry into Sexual Offences Against Children and Adults (1995).

> *Recommendation 123: The Committee recommends that child pornography legislation be created to provide that all commercial photographic processors and similar organisations, who have knowledge of, observe, or process and photographic image, negative or slide that depicts a child in a sexually explicit way, be mandated to report the offence to the police.*

The Government noted that this recommendation was rendered obsolete due to technological advances, however no reason was provided as to why implementation did not occur closer to the time.

Recommendations where the implementation status could not be determined

The implementation status of four recommendations from Victorian inquiries could not be determined.

Two of those recommendations were from the *Parliamentary Crime Prevention Committee Inquiry into Sexual Offences Against Children and Adults* (1995) and were directed to religious organisations.

> *Recommendation 129: The Committee recommends that protocols be developed within religious organisations to ensure that the SART [Sexual Assault Response Team] is immediately notified of any suspected sexual assault.*

> *Recommendation 130: The Committee recommends that religious organisations develop protocols to ensure evidence is not contaminated by internal investigations or inquiries.*

Given that the available data was drawn from government responses, accompanying government documents and legislation, and not to exterior bodies such as religious organisations, a determination of the implementation of these recommendations could not be made.

Two 'undetermined' recommendations were Recommendations 7 and 8 from Ombudsman Victoria: *Improving responses to allegations involving sexual assault* (2006). Both of these recommendations consist of multiple parts that involve very different actions. It was challenging to evaluate the implementation of such recommendations as a whole because some parts appeared to have been implemented, while others were unclear or not implemented. A rating of 'undetermined' was therefore given in both cases.

> *Recommendation 7: That government-funded agencies providing 24-hour care: a) collect data to identify the incidence of sexual assault; and b) provide information about a resident's previous unproven allegations of sexual assault to other residents or their families after careful consideration on a case by case basis. The decision whether or not to release such information and the reasons for that decision should be documented.*

The Victorian Government reported that the Department of Health and the Department of Human Services had implemented part (a) of this recommendation. The Government's response stated that while a new database was in place, data indicating the incidence of sexual assault was not available

prior to 2012-13. In relation to part (b) of the recommendation, the Government reported that the policies in place in the Department of Health and the Department of Human Services did not permit the disclosure of allegations of unproven sexual assault. Rather, they provided guidance of managing allegations of sexual assault and making disclosures to the victim and perpetrator's next of kin. The Government also noted that the Victorian Information Privacy Act 2000 governs the disclosure of personal information relating to criminal offences.

The Victorian Government referred to the Department of Health and Department of Human Services as being the primary providers of 24-hour care. It was unclear whether any other agencies funded by other government departments (for example the Department of Justice) provided 24-hour care, whether the recommendation was intended to cover other such agencies and, if so, whether they collected data or provide information as recommended. For this reason, the implementation status of this recommendation could not be determined.

In relation to Recommendation 8 from the same inquiry:

> **Recommendation 8:** *That the Department of Human Services and the Department of Justice: a) allocate extra resources to providing specialised programs for treating children under the age of 14 exhibiting sexually abusive behaviour; b) collate data about the incidence of sexual assault in residential services and initiate action to reduce the incidence of sexual assault, including measures such as female-only residential facilities. These initiatives should be reviewed for their effectiveness; and c) with the Children's Court, review the effectiveness of amendments to the Magistrates' Court Act to discern the impact, if any, of the amendments on court practices and the effectiveness of interventions aimed at keeping children subject to sexual abuse within their family environment.*

The overall implementation status of this recommendation could not be determined due to the varying evidence provided in relation to the each of the three parts contained within the recommendation. As previously stated, assessing the implementation of multi-factored recommendations is challenging, and in this case led to a rating of undetermined.

In relation to part (a), there was evidence of legislation for therapeutic treatment and that treatment programs had been developed and were being evaluated or monitored. In relation to part (b), while there was evidence of data collection and collaboration to achieve the reduction of sexual assault in residential facilities, there was no evidence of any review of, or plan to review, the initiatives recommended. In relation to part (c) the Project Team did not receive evidence of a review of effectiveness or impact of the relevant amendments being conducted by the recommended departments.[22] Given the apparently differing implementation status of each of these three parts of this recommendation, the overall implementation of the recommendation was 'undetermined'.

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[22] Victorian Government Response to the Royal Commission's request for advice on the implementation status of past reports and inquiries (28 June 2013), p. 23.

Summary of issues regarding the implementation of recommendations for Victoria

Based on information provided by the Victorian Government, the main factors that affected full implementation of recommendations can be summarised as follows:

- policy concerns in relation to confidentiality clauses where an employee has been accused of sexual assault and lack of evidence for recommended action

- resource implications of recommendations

- recommendations being under consideration, or implementation in progress.

- interrelated nature of recommendations (other reforms from other inquiries being concurrently implemented; implementation awaiting research findings of another recommendation)

- redundancy of recommendations; for instance, technological developments rendering a recommendation obsolete, or a recommendation superseded by other action

- steps taken to meet the spirit/intent of a recommendation rather than following the specific recommended actions

- broad recommendations were more challenging for the Government to implement.

4.2.9 Western Australia

Table 15 summarises the implementation rating of recommendations from the eight inquiries that relate to Western Australia.

Table 15 Implementation ratings of recommendations for Western Australia

Implemented in full	Partially implemented	Not implemented	Undetermined	Total	Proportion of recs not implemented
24	6	2	2	34	6%

Recommendations partially implemented and the Western Australian Government's response

Six recommendations from Western Australian inquiries were 'partially implemented'.

Three of those six recommendations were from *Putting the picture together: Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities* (Gordon Inquiry) 2002.

> **Recommendation 79:** *The Inquiry finds that sex offender programs should be available to all incarcerated persons, including juveniles, convicted of child sex offences.*

The document audit found that a range of programs were available to sex offenders, and data showed

that of the 524 sex offenders incarcerated in Western Australia (at the time of the government's response), 150 had completed at least one program. The Government stated that there were no group programs for juvenile sex offenders, in order to avoid identification.

> **Recommendation 86:** *The Inquiry finds that the Adolescent Sex Offender Intervention Program, or a similar program, is a necessary part of the service provided by Department of Justice. The Inquiry recommends that the program, or intensive individual counselling, be available to all incarcerated juvenile sex offenders.*

As with the previous recommendation, the Government reported that group programs were not appropriate for juvenile sex offenders due to the risk of being identified. It also stated that group programs would be difficult to facilitate due to relatively low numbers. Individual counselling appeared to be made available to juvenile sex offenders.

In relation to Recommendation 144:

> **Recommendation 144:** *The Inquiry recommends that a Children's Commissioner be established which is independent and reports directly to the Premier. The Implementation Body should consider the structure and responsibilities of other children's commissioners to decide on the most appropriate model for Western Australia.*

A Children's Commissioner was established under the *Commissioner for Children and Young People Act 2006* (WA) and the position commenced in December 2007. Legislative verification found that the Western Australian Children's Commissioner did not report directly to the Premier, but rather to the minister responsible for administering the *Commissioner for Children and Young People Act*. At the time of writing, that minister was the Attorney-General. The structure and functions of the Children's Commissioner appeared to be generally consistent with those in other jurisdictions, although the Western Australian Commissioner's functions related to children and young people generally, with no specific reference to the needs and wellbeing of children in care. The issue of implementing recommendations in such a way that meets the spirit or intent of the recommendation, but not necessarily following the specific recommended actions, is discussed throughout this report.

Another 'partially implemented' recommendation was from *A duty of care to children and young people in Western Australia: Report on the quality assurance and review of substantiated allegations of abuse in care — 1 April 2004 to 12 September 2005* (2005).

> **Recommendation 15.2:** *It is recommended that the CCSS [Client and Community Services System] or equivalent should automatically report allegations to the Duty of Care Unit and Director General.*

The document audit found that the Client and Community Services System automatically reported to the Duty of Care Unit. However, Executive Directors retained the discretion of whether to inform the Director General.

Recommendation 28 of the *Report on Allegations Concerning the Treatment of Children and Young People in Residential Care*, Ombudsman Western Australia (2006) was 'partially implemented':

> *Recommendation 28: Government consult with key stakeholders and relevant experts to develop an appropriate legislative, policy and administrative framework to allow for timely and effective management responses to allegations against staff in the area of child protection; and that Departments with child protection responsibilities develop a comprehensive and consistent Public Sector response to allegations of child abuse against staff.*

A legislative, policy and administrative framework appeared to have been established as recommended, however the Western Australian Government did not provide any evidence of consultation with key stakeholders or relevant experts in relation to the development of the framework. Based on the document audit process and legislative verification, the recommendation was 'partially implemented' because while individual child protection agencies could put in place policies that accord with the *Public Sector Management Act*, they were not mandated to do so. There did not appear to be a 'comprehensive and consistent Public Sector response' across Departments with child protection responsibilities, as required by Recommendation 28.

Finally, Recommendation 4 from the *Inquiry into the Prosecution of Assaults and Sexual Offences,* Community Development and Justice Standing Committee, WA Parliament, (2008) was 'partially implemented'.

> *Recommendation 4: That the Western Australia Police, the Office of the Director of Public Prosecutions, the Sexual Assault Resource Centre, the Victim Support Service, the Office of the Public Advocate, and the Courts design reliable and valid victim satisfaction instruments appropriate for each agency. The results must be published in each agency's annual report or equivalent.*

The Government reported that some of the agencies listed in the recommendation had reliable and valid victim satisfaction instruments in place, and that some of the results were publicly available. The Western Australia Police had an instrument on their website that related to personal crime, rather than sexual assault specifically. The Sexual Assault Resource Centre collected consumer feedback for internal use. The Victim Support Service also had a victim satisfaction instrument that it redeveloped to include stronger client feedback. A recently appointed Commission for Victims of Crime was exploring appropriate means of reliably assessing victims of crime experience of government services. The Government did not consider it appropriate for the Office of the Public Advocate to "*send surveys to persons who have been determined to lack full mental capacity*".[23]

Recommendations not implemented and the Western Australian Government's response

Two recommendations from Western Australia inquiries were 'not implemented'.

From the *Inquiry into the Prosecution of Assaults and Sexual Offences,* Community Development and Justice Standing Committee, WA Parliament, (2008):

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[23] Western Australian Government response to the Royal Commission (2013), p. 8.

>*Recommendation 17:* An independent taskforce be established to analyse the incidence of withdrawal of complaints and make recommendations aimed at reducing such withdrawals. These recommendations should include the collection of data by police and the Office of the Director of Public Prosecutions regarding reasons as to why charges are withdrawn, charges not indicted or discontinuances entered. This taskforce should be established by the Attorney General drawing on the Office of the Director of Public Prosecutions, Western Australia Police, Sexual Assault Resource Centre, Victim Support Service and the Aboriginal Legal Service together with victims of sexual assault. The report of the taskforce be tabled in Parliament before the end of 2009 and thereafter in the annual report of each agency.

The Government reported that "*establishing a taskforce to perform the same role that this inquiry was tasked, would be an unnecessary duplication of the work of the inquiry*".[24] It also reported that there was "*no empirical evidence in Western Australia that provided evidence on the incidence or frequency of withdrawal of complaints*".[25] The recently established Commissioner for Victims of Crime would be advising the Government in relation to this matter.

The following recommendation from the *The Hon Peter Blaxell, St Andrew's Hostel Katanning: How the System and Society Failed Our Children, A Special Inquiry into the response of government agencies and officials to allegations of sexual abuse* (2012) was reported as being currently under consideration:

>*Recommendation 3:* That, as part of the statutory review of the Children and Community Services Act 2004 *(CCS Act) and of any further consideration by Government of the provisions of the CCS Act, consideration be given to including staff of the Authority as mandatory reporters for the purposes of the CCS Act.*

Recommendations where the implementation status could not be determined

The implementation status of two recommendations from the Western Australia jurisdiction was 'undetermined'. Recommendation 26 of the *Report on Allegations Concerning the Treatment of Children and Young People in Residential Care,* Ombudsman Western Australia (2006) was one instance.

>*Recommendation 26:* Government establish a mechanism to provide for the monitoring and evaluation of relevant government and non-government agencies' employee disciplinary processes where allegations of child maltreatment are involved.

The document audit and legislation verification found that insufficient evidence had been provided of a mechanism to monitor and evaluate government and non-government agencies' processes to enable a determination.

From *Western Australia Case Review Board, The Duty of Care Inquiry, An Examination of the Case Decisions in Relation to Two Children Placed Under the Control of the Department*, 1993:

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[24] Western Australian Government response to the Royal Commission (2013), p. 9
[25] Western Australian Government response to the Royal Commission (2013), pp. 9–10.

> ***Recommendation 3:*** *When a child has been assaulted or neglected by a foster carer an independent review should be conducted to clarify the circumstances and make appropriate recommendations to the Director General.*

While there was evidence that the Department for Child Protection's Duty of Care Unit undertook investigations of abuse allegations, it was not clear that this involved an 'independent review' (given its location in government) as required by the recommendation. This recommendation is an example of the challenges involved in assessing the implementation of individual recommendations removed from the overall context of the inquiry. It is unclear what is meant by 'independent review', and it is possible that prior recommendations in this inquiry provided greater detail about the process referred to here. However, due to the selection of recommendations this project was not able to ascertain the nature or extent of the guidelines in question.

Summary of issues regarding the implementation of Western Australian recommendations

Based on information provided by the Western Australian Government, the main factors that affected full implementation of recommendations can be summarised as follows:

- policy concerns such as group programs not being appropriate for juvenile offenders, a lack of evidence behind recommendations and the establishment of a taskforce duplicating the work of the inquiry

- steps taken to meet the spirit or intent of a recommendation rather than following the specific recommended actions

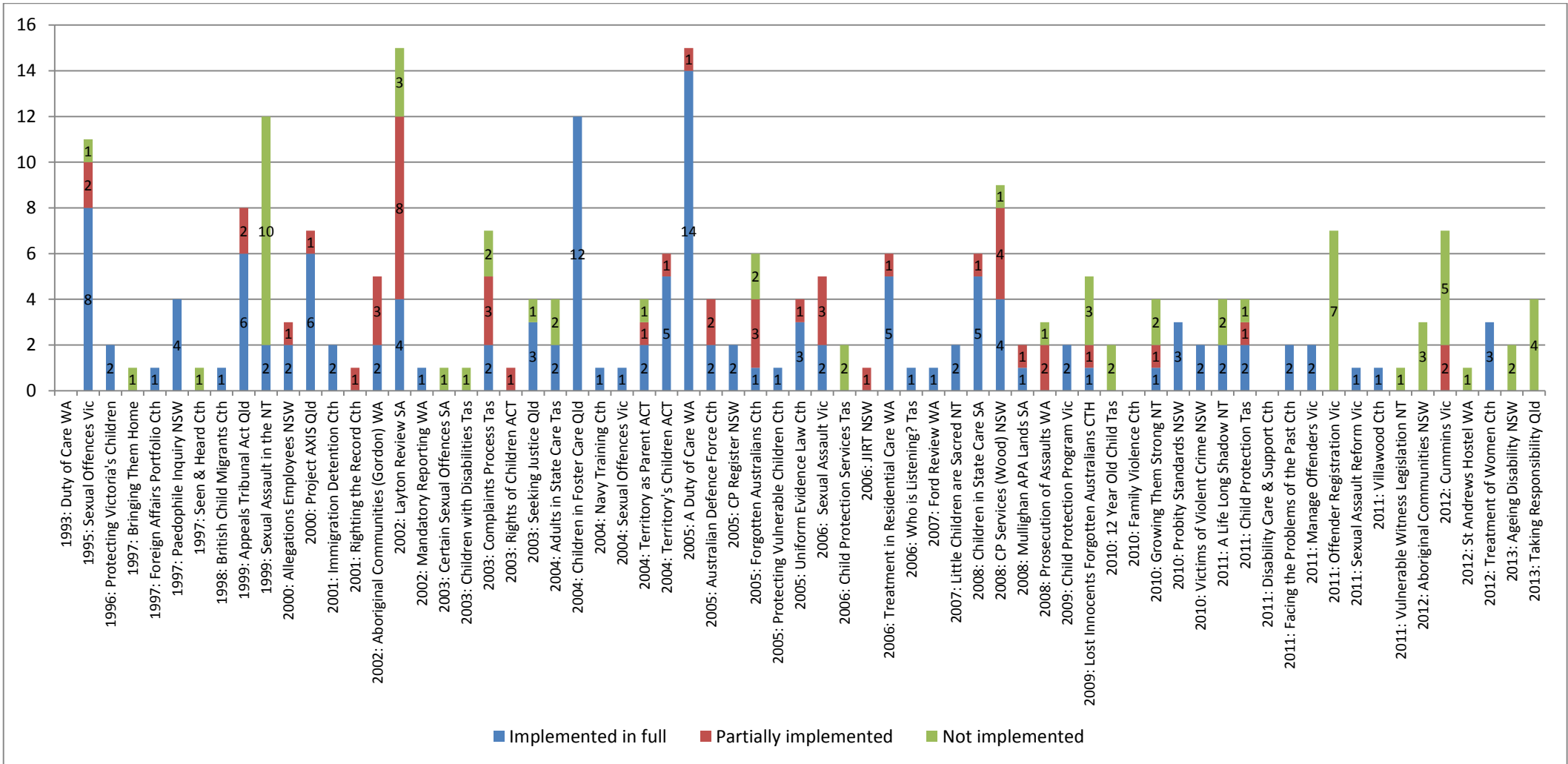- recommendations being under consideration.

4.3 Relationship between implementation of recommendations and date of inquiry

This section explores the potential relationship between implementation of the 288 selected recommendations and the date of the inquiry. It addresses whether recommendations from older or more recent inquiries had a higher rate of implementation. It also considers why recommendations from older inquiries remained, in some cases, unimplemented or partially implemented.

There is considerable variation in the number of recommendations chosen for review from each inquiry. In the case of 18 inquiries, only one recommendation was selected for review. The inquiry with the most recommendations under review, amounting to 16 recommendations, is *Review of Child Protection in South Australia* (Layton review) (2002) from South Australia. No inquiry had all of its recommendations included for review. It is therefore beyond the scope of this project to draw conclusions about the implementation of recommendations from any one inquiry or to compare implementation across inquiries.

In Figure 1, the ratings of 'implemented in full', 'partially implemented' and 'not implemented' are presented for each inquiry, starting with the oldest inquiry, *Western Australia Case Review Board, The Duty of Care Inquiry, An Examination of the Case Decisions in Relation to Two Children Placed Under the Control of the Department,* 1993, and finishing with the most recent, *Queensland Child Protection of Inquiry — Taking Responsibility: A Roadmap for Queensland Child Protection — June 2013, Queensland Child Protection of Inquiry*. It should be noted that implementation ratings of 'not determined' are excluded from consideration in this figure. Accordingly, some inquiries are without a bar where their recommendations are exclusively classified as indeterminate.

Figure 1 Implementation of selected recommendations by inquiry

As Figure 1 highlights, although there are exceptions, it appears to be a general rule that the number of recommendations 'not implemented' tends to increase in more recent inquiries. This is to be expected given that more time was available to implement the recommendations from older inquiries. The relationship between implementation of recommendations and date of the inquiry is explored below.

The New South Wales and Victorian governments referred to the considerable amount of time that had elapsed since the *Inquiry into Sexual Offences Against Children and Adults* (1995) and the *Royal Commission into the New South Wales Police Service* (1997). They reported that some recommendations had been rendered obsolete due to technological advances or changes in information system capabilities. They also pointed out that while some recommendations were not implemented at the time, many have since been implemented via later reforms.

The South Australian government stated, in relation to a recommendation from the *Child Protection Review* (Layton Review) (2002) that a card-based screening system be considered, that such systems were no longer best practice and had been superseded by internet databases. In this instance, as with the New South Wales and Victorian examples, no reason was provided as to why implementation did not occur closer to the time.

It is feasible that records may no longer exist in relation to older recommendations. This was the case for two of the recommendations from the NSW Ombudsman's inquiry into *Handling of Child Abuse Allegations Against Employees* (2000), where the Government reported that the Department did not have any record of the recommended action occurring. The South Australian government similarly could not find any records of a decision not to implement a recommendation from the *Report of the Joint Committee on Immunity from Prosecution for Certain Sexual Offences: Second Session, Fiftieth Parliament 2002–2003, Parliament of South Australia* (28 May 2003, Hon. G.E. Gago, Chairperson). The Queensland Government reported a lack of physical evidence due to the retention and disposal timeframes for public records. Similarly, the Commonwealth Government could not find reference to the implementation of recommendation 268 from ALRC *Report 84: Seen and Heard: Priority for Children in the Legal Process* (1997).

This is a limitation of evaluating the implementation of recommendations some years after the release of the report. It also highlights the importance of developing methods to track implementation over time.

In the case of more recent inquiries, some jurisdictions indicated that many recommendations were still under consideration, specifically:

- *NSW Ombudsman Report — Responding to Child Sexual Assault in Aboriginal Communities (2012)*

- *Special Inquiry into the response of government agencies and officials to allegations of sexual abuse, Public Sector Commission (St Andrews Hostel, WA) (2012)*

- *Prevention of Abuse and Safeguarding Mechanisms in Ageing Disability and Home Care (NSW) (2013)*

- *Protecting Victoria's Vulnerable Children Inquiry (Cummins inquiry) (2012)*

- *Queensland Child Protection of Inquiry — Taking Responsibility: A Roadmap for Queensland Child Protection (June 2013).*

4.4   Relationship between implementation status and type of recommendation

The Royal Commission categorised each recommendation according to type. The Project Team was not provided with a definition of these categories or criteria on which categorisation decisions were based. Table 16 shows the list of types and the corresponding number of recommendations within each category.

Table 16 Number of recommendations as categorised by type

Recommendation type	Number of recommendations
Legislation	70
Policy	103
Practice	58
Systems	62

Three recommendations were listed within more than one category.

Figure 2 shows the implementation status of recommendations within each category of recommendation type.

Figure 2 Implementation status by recommendation type
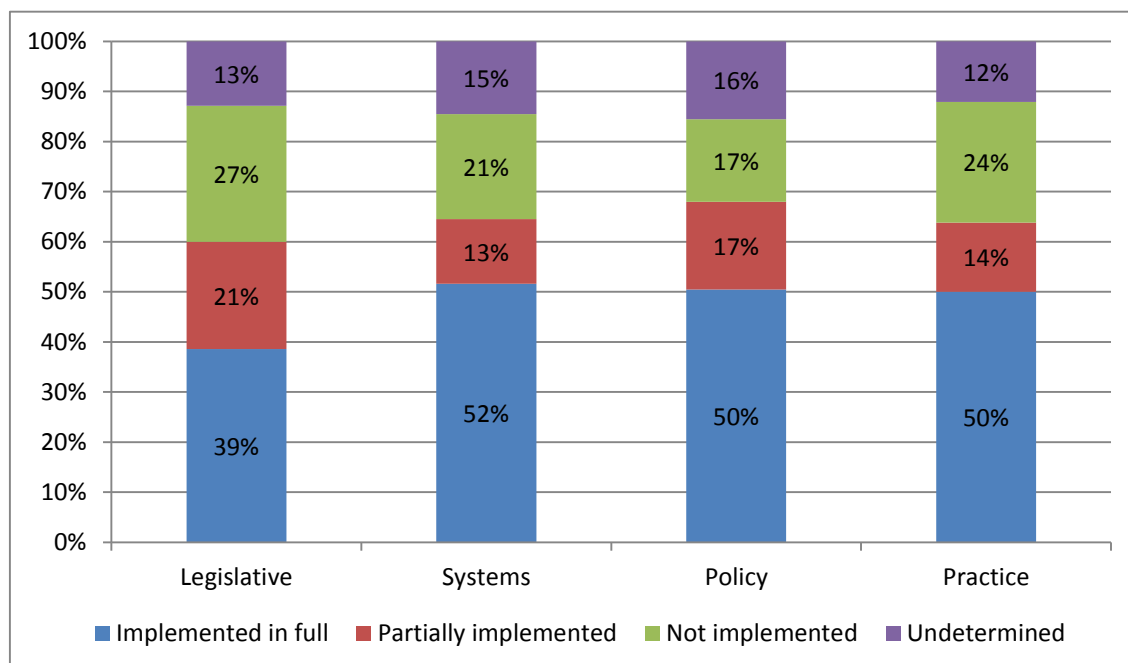
The highest proportion of recommendations rated as 'implemented in full' were those relating to systems (52%, *n*=32). The recommendations with the highest proportion categorised as 'not implemented' were those relating to legislation (27%, *n*=19). Legislative recommendations also had the highest proportion that were 'partially implemented' (21%, *n*=15). The policy category had the lowest proportion of recommendations rated as 'not implemented' (17%, *n*=17).

Given that the recommendations selected for this project provided a limited coverage of the overall recommendations arising from the relevant inquiries, these results are not intended to reflect the rates of implementation of all inquiry recommendations.

4.5 Relationship between implementation status and the subject of the recommendation

The Royal Commission categorised each recommendation according to subject. The Project Team was not provided with a definition of these categories or criteria on which categorisation decisions were based. There were 32 categories of subject in total, with the number of recommendations in each category ranging from 1 to 28. Appendix 11 shows the full list of subject categories and the corresponding number of recommendations within each category.

The Project Team conducted an analysis of the implementation of recommendations according to the subject area of the recommendation, as categorised by the Royal

Commission. Figure 3 shows the implementation status of recommendations for those categories that contain more than 10 recommendations.

Figure 3 Implementation status by recommendation subject
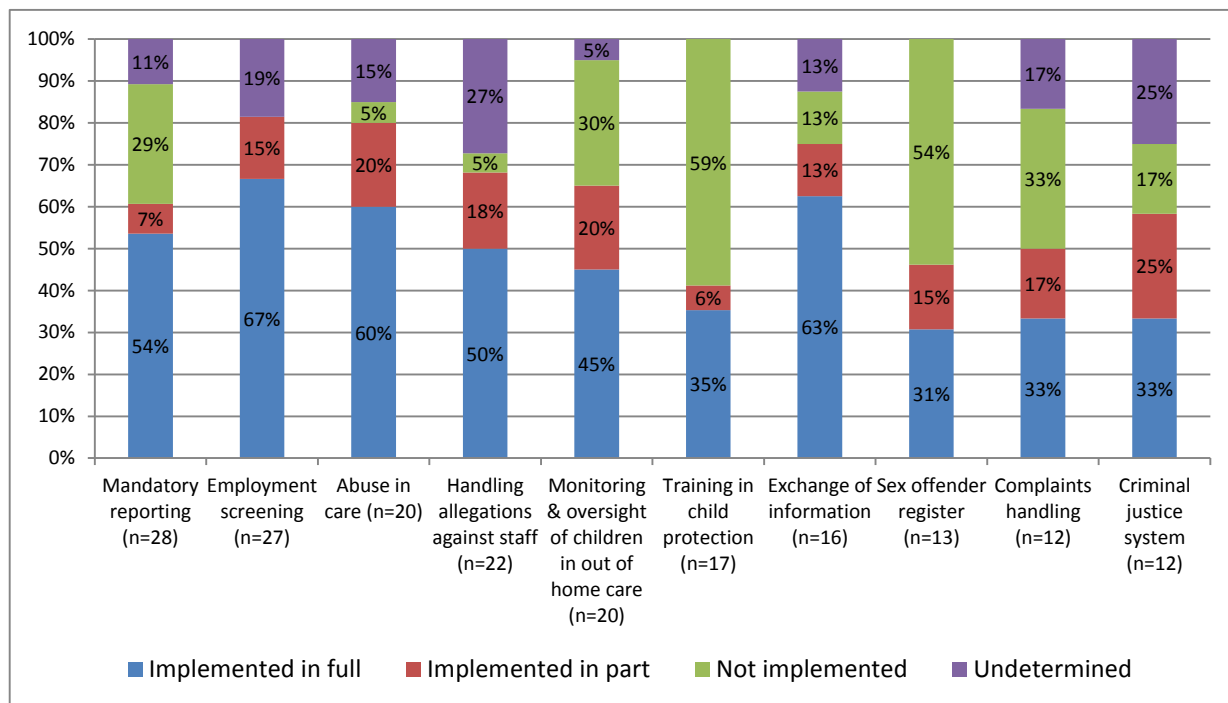
The subject area with the greatest proportion of recommendations that were 'implemented in full' (67%, *n*=18) was 'employment screening'. The subject area with the greatest proportion of recommendations 'partially implemented' (23%, *n*=5) was 'criminal justice system (25%, *n*=3)'.

Recommendations relating to 'training in child protection' had the greatest proportion of recommendations that were 'not implemented' (59%, *n*=10).

However, only limited inferences can be made from these findings given that not all recommendations as they relate to a particular subject matter were analysed. For example, recommendations relating to sex offender registration arose in numerous inquiries, but only a selected few were assessed as part of this project. Similarly, for mandatory reporting, which had only a 54% (*n*=15) full implementation rate, there are additional recommendations that were not selected for the scope of this project. Therefore, the implementation rate overall may be at variance with the rate of those assessed in this report.

4.6 Themes arising from government comments in response to the Royal Commission's questions

This section summarises the themes that arose from government responses in relation to the

implementation of recommendations, across jurisdictions. The government comments varied in terms of the nature of the content and its quantity. On some occasions, governments did not clearly stipulate whether recommendations had been implemented and/or failed to provide reasons for the partial or non-implementation of recommendations. On other occasions, governments provided generic comments about the implementation of recommendations from an inquiry. The inability to locate records in relation to the implementation of recommendations was also a common thread in a number of government responses, especially where there has been a change of government since the relevant inquiry.

In order to draw together the varying responses of governments, this section identifies and thematically synthesises the key comments made by governments in relation to recommendations rated as 'partially implemented' and 'not implemented'. The themes are enunciated under the following 10 subheadings. The purpose of this section is to provide an overview of the major barriers underpinning governments' non- or partial implementation of the recommendations of previous inquiries.

4.6.1   Policy concerns about recommendation

In a number of cases, governments indicated a level of concern about one or more aspects of a recommendation or an inquiry that had the effect of mitigating against implementation of the recommendation.[26] The concerns were conveyed with reference to the general nature of the recommendation, to the specific circumstances of the recommendation or without reasoning. An example of a general concern arose when the South Australian Government declined to implement a recommendation[27] requiring changes to the *Evidence Act 1929* (SA) because the government "*could not see how"* this would preclude unreliable answers from children in judicial questioning. It preferred an approach in which the child provided evidence by unconventional means, as per Recommendation 104 of the Layton Review.[28]

4.6.2   Concerns about potential impact

Governments expressed concerns about the potential impact of recommendations on children and families, and on the operation of systems or the availability of resources overall. For example, in relation to a recommendation for group programs for juvenile sex offenders, the

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[26] Ultimately, governments pursue policy that is internally justifiable rather than externally directed. Where a government's view is at odds with the findings of a Royal Commission, the government's view prevails. Governments explain this position as predicated on parliamentary sovereignty and representative democracy. These principles maintain that the government, as the principal law maker, does not divest its responsibility to external agents, including to commissions.

[27] Recommendation 105 from *Review of Child Protection in South Australia* (Layton review) (2002) (SA), p. 15.33.
[28] Recommendation 104 from *Review of Child Protection in South Australia* (Layton review) (2002) (SA), p. 15.32.

Western Australian government expressed concern that implementation would result in young offenders being identified and undermine their anonymity. [29]

In relation to the impact on resource allocation, the South Australian Government declined to implement Recommendation 170 of the Layton Review[30] due to its potential adverse impact on the allocation of government resources to child abuse cases. It stated that the recommendation required an extended definition of *"child"* to include those *"at serious risk of significant harm"* rather than those who have experienced an incident of harm (recorded in its current incident-based system). Accordingly, it was "*not considered feasible"* to require notifiers to make notifications in relation to all possible future instances of abuse or neglect. Also in relation to Recommendation 170, the South Australian Government did not lift the age of children to over 15 years because it would have unnecessarily expanded the criteria for mandatory notification. The Northern Territory Government also raised concerns about mandatory reporting in Recommendation 5 of *A Life Long Shadow*.[31] It was not inclined to enact recommended legislative changes that would expand the definition of harm to a failure to attend school because it was not an appropriate mechanism and would be resource intensive.

Governments noted that particular recommendations were not implemented because they would produce fragmented rather than holistic responses to victims' harm.[32] In relation to Recommendation 3(i) of the *Victorian Law Reform Commission (2011) Sex offenders registration – Final Report*[33], the Victorian Government emphasised the need for collaboration with other jurisdictions and was cautious against pursuing an independent approach that would fragment the national approach. It stated that the proposed reforms:

> *"… represent a fundamental re-framing of the* Sex Offenders Registration Act 2004 *and the operational and resourcing implications arising from such a change will require careful consideration across a number of Victorian Government departments. The ramifications of Victoria deviating from the national scheme in respect of sex offender management also requires careful consideration and consultation with other states and territories."*[34]

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[29] Recommendations 79 and 86 from *Putting the picture together, Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities* (Gordon Inquiry) (2002) (WA).
[30] Recommendation 170 from *Review of Child Protection in South Australia* (Layton review) (2002) (SA), pp. 23.19–23.20.
[31] Recommendation 5 from *A Life Long Shadow. Report of a partial investigation of the child protection authority* (2011) (NT), pp.101–102.
[32] For example, recommendations from the Parliament of Victoria: *Inquiry into Sexual Offences Against Children and Adults* (1995).
[33] Recommendation 3 from *Victorian Law Reform Commission (2011) Sex offenders registration – Final Report* (i), p. xxii
[34] Victorian Government response: *Summons to attend the Royal Commission* (No. S-VIC-7), Written Response to Royal Commission (24 September, 2013), p. 7.

4.6.3   Concerns about a lack of evidence or best practice

Some jurisdictions commented on the lack of evidence provided in relation to certain recommendations or inconsistencies with best practice. Governments felt that some recommended changes did not provide for the most effective response in light of recent evidence or developments in the field. For example, the South Australian Government was of the view that the *Child Protection Review* (Layton review) (2002) recommended an antiquated card-based system that has been supplanted by a live internet database. The Government reported that "*card-based systems are no longer considered best practice*"[35] and accordingly set aside Recommendation 131 of the Layton Review.[36]

In relation to the proposal in Recommendation 17 of the *Inquiry into the Prosecution of Assaults and Sexual Offences* (WA)[37] for the establishment of an independent taskforce to analyse the incidence of withdrawal of complaints and report to parliament, the Western Australian Government's Sexual Assault Services Advisory Group questioned its premise. It stated there was "*no empirical evidence*" in Western Australia regarding the incidence or frequency of withdrawals. More generally, the Victorian Government commented with respect to the *Inquiry into Sexual Offences Against Children and Adults* (1995) that a number of its recommendations were based on a "*lack of evidence*". Accordingly, the recommendations were unable to indicate *"that the proposed new administrative and operational structures would be the most effective response"*.[38]

4.6.4   Perceived duplication/adequacy of existing arrangements

Some governments raised concerns that the implementation of specific recommendations could lead to duplication of existing functions, legislative provisions or policies. The above-noted Recommendation 17 on the establishment of an independent taskforce to analyse the withdrawal of complaints was regarded by the Western Australian Government as a duplication of the work of the inquiry making the recommendation. It asserted, "*Establishing a taskforce to perform the same role that this inquiry was tasked, would be an unnecessary duplication of the work of the inquiry*".

In other instances, the government perceived existing arrangements to be adequate and the relevant recommendation to be superfluous.

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[35] South Australia Government Response/Action On Recommendations of Layton Review, Written Response to Royal Commission (2013) 16.

[36] Recommendation 131 from *Review of Child Protection in South Australia* (Layton review) (2002) (SA), pp. 17.7–17.13, 17.15–17.16.

[37] Recommendation 17 from *Inquiry into the Prosecution of Assaults and Sexual Offences*, Community Development and Justice Standing Committee, WA Parliament, 2008, p. 110.

[38] Victorian Government Response to the Royal Commission's request for advice on the implementation status of past reports and inquiries (28 June 2013), p. 4.

Governments suggested that existing court powers and legislation could accommodate the relevant recommendation. The South Australian Government conveyed that sufficient legislative powers existed for evidence to be adduced as per Recommendation 98 of the Layton Review.[39] Also commenting on the existence of sufficient legislative powers, the New South Wales Government stated in relation to Recommendation 1 of the *NSW Ombudsman Report – The need to better support children and young people in statutory care who have been victims of violent crime* (June, 2010): *"Consideration was given as to whether an amendment to section 78 of the* Children and Young Persons (Care and Protection) Act 1998 *was warranted. It was determined that such an amendment was not necessary, as there was no impediment in the Act to the inclusion of the issue of victims' compensation in a Care Plan."*[40]

This sense of adequacy with current arrangements also emerged in relation to existing services. For example, the South Australian Government stated that the recommendation on legislating for an Unsuitable Persons Register, per Recommendation 131 of the Layton Review[41], was not implemented because the Screening Unit had comprehensive records, including on whether or not a person has previously been denied a clearance to work with children. Further, pursuant to the *Child Sex Offenders Registration Act 2006* (SA), all individuals registered on the Australian National Child Offender Register are prohibited from applying to work in child-related employment, and South Australia Police are notified immediately if/when an individual on the National Register applies for child-related employment. In another example of perceived adequacy of current services, the Northern Territory Government regarded it unnecessary to implement Recommendation 13.6 of the report *Growing them strong, together: promoting the safety and wellbeing of the Northern Territory's Children* (2010) for a community visitor model for children in out-of-home care. Its reasoning was that the Government funds CREATE Foundation[42] to work with children and young people in care and undertake an annual survey on care experiences.[43] The Tasmanian Government deemed its annual auditing initiatives, conducted by the Commissioner for Children on a random sample of children in care, were sufficiently adequate to capture Recommendation 10.2 of the Mason Report (which sought to give the Commissioner powers to conduct individual and general audits of children in care).[44]

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[39] Recommendation 98 from *Review of Child Protection in South Australia* (Layton review) (2002) (SA), pp. 15.17–15.18.

[40] New South Wales Government response to the Royal Commission (2013).

[41] Recommendation 131 from *Review of Child Protection in South Australia* (Layton review) (2002) (SA), pp. 17.7–17.13, 17.15–17.16.

[42] See the CREATE Foundation website: http://www.create.org.au/.

[43] Northern Territory Government response to the Royal Commission (2013), p. 5.

[44] Recommendation 10.2 from *Inquiry into the circumstances of a 12 year old child under Guardianship of the Secretary* (Mason Report) (2010) (Tas), p. 13.

4.6.5 Alternative approach implemented

The approach of some jurisdictions was to take an alternative action to reach a similar outcome as that intended by a recommendation. In relation to Recommendation 2 of the *NSW Ombudsman Report* (2000)[45] on a whole-of-government approach to child protection that involves all departments developing a risk-management approach to allegations of child abuse against their employees, the New South Wales Government commented that, "*it is considered that the alternative actions taken had a similar substantive effect to the recommendation*".[46] Alternative measures included the Premier's Department overseeing Interagency Guidelines for the Child Protection Intervention 2000 edition, which was signed off by Directors-General/Heads of Agency.

In another example of perceived adequacy of current services, the Northern Territory Government regarded it unnecessary to implement Recommendation 13.6 of the *Growing them strong, together: promoting the safety and wellbeing of the Northern Territory's Children* (2010) for a community visitor model for children in out-of-home care that involved reporting to the Children's Commissioner.[47] The Northern Territory Government instead planned to conduct a biennial survey of children and young people in out-of-home care in line with the requirements of the national standards for out-of-home care.[48]

With respect to legislative powers proposed in Recommendation 105 of the Layton Review[49] (to allow the judge to determine whether questioning leads to unreliable answers), the South Australian Government preferred the approach achieved through its implementation of Recommendation 104 of the Layton Review[50] that entailed the admission of children's evidence by unconventional means.

4.6.6 Implementation under consideration or in progress

Governments commonly articulated that they were in the process of considering or implementing the recommendations, especially those of more recent inquiries. In jurisdictions such as Victoria, decisions regarding implementation were contingent on juxtaposing recommendations across a number of recent and ongoing inquiries. The Victorian Government was yet to determine how a number of recommendations from the *Victorian Law Reform Commission (2011) Sex offenders registration – Final Report* would correlate with the findings of the *Protecting Victoria's Vulnerable Children Inquiry* (Cummins Inquiry) (2012) and the *Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Organisations*

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[45] Recommendation 2 from *NSW Ombudsman Report – Handling of Child Abuse Allegations Against Employees* (May, 2000), p. 13.
[46] New South Wales Government Response S-NSW-58 (2013), p. 17.
[47] Northern Territory Government response to the Royal Commission (2013), p.8.
[48] Northern Territory Government response to the Royal Commission (2013), p.8.
[49] Recommendation 105 from *Review of Child Protection in South Australia* (Layton review) (2002) (SA), p. 15.33.
[50] Recommendation 104 from *Review of Child Protection in South Australia* (Layton review) (2002) (SA), p. 15.32.

(the latter Inquiry was ongoing at the time of this report). In some instances, implementing decisions depended on the outcome of the implementation of other recommendations. Other factors delaying implementation were:

- Ongoing operational and resource planning, including in relation to the implementation of other recommendations or initiatives.

- Ongoing consultation with multiple departments and/or relevant agencies in relation to the implementation. For example, the Victoria Government needed to undertake close consultation with Victoria Police as to how to best frame information requirements for monitoring offenders[51] and consultation with Victoria Police and the Department of Human Services about the recommendations that registered sex offenders notify the police of changes to information about their contact with children.[52]

- Ongoing consultation with other states and territories. For example, Victoria needed to consult with other state and territory governments if it was to proceed on a recommendation that required deviation from the national scheme on sex offender management.[53]

Furthermore, in many instances, recommendations required implementation as part of a suite of recommendations, such as a set of recommendations relating to legislative amendments or the establishment of new units. This required a government response that constituted a package of reforms and policy changes, rather than implementation on a recommendation-by-recommendation basis. According to governments, this delayed their implementation or made implementation unfeasible in the short term.

4.6.7 Beyond jurisdiction

In the case of a large number of recommendations, the Commonwealth Government deferred the recommendation to the states. It claimed that Commonwealth powers did not cover the matters which fell within the jurisdictions of the states and territories, or that the

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[51] Recommendation 31 from *Victorian Government response: Summons to attend the Royal Commission (No. S-VIC-7)* (24 September, 2013), p. 7. Regarding *Victorian Law Reform Commission (2011) Sex offenders registration – Final Report*, p. xxvi. The wording of the recommendation is as follows: "Registered sex offenders should be required to report the names, ages and addresses of any children with whom they have 'contact', and the means of contacting those children."

[52] Recommendation 34 from *Victorian Government response: Summons to attend the Royal Commission (No. S-VIC-7)* (24 September, 2013), p. 8. Regarding *Victorian Law Reform Commission (2011) Sex offenders registration – Final Report*, p. xxvi

[53] Recommendation 3 from *Victorian Government response: Summons to attend the Royal Commission (No. S-VIC-7)* (24 September, 2013), p. 7. Regarding *Victorian Law Reform Commission (2011) Sex offenders registration – Final Report* (Vic) (i), p. xxii.

recommendations were otherwise beyond its scope of responsibility. For example, the Commonwealth was of the view that Specialist Police Units come within the criminal procedure ambit of states and territories. It also regarded redress schemes and reparations to be in the purview of those who managed or funded the institutions; that is, state and territory governments and care providers (churches and agencies).

There were two recommendations in Victoria relating to the development of protocols by religious organisations that did not relate to the government.

4.6.8   Recommendation superseded or no longer relevant

With the passage of time and changes to government or government officers and agencies, some recommendations, or inquiries as a whole, have appeared as outmoded. Governments stated that the relevance or accuracy of recommendations could be undermined with new assessment methods or new issues arising. Some governments, therefore, asserted that their non-implementation of recommendations was due to their obsolescence. For example, one government claimed that a newly appointed Commission for Victims of Crime was looking at ways to assess victims' experiences of government systems, rather than relying on older evidence of experiences that emerged in a past inquiry. Other reasons given for non-implementation of particular recommendations were that later inquiries had revised the commission's findings (including in light of legislative changes[54]) or that the establishment of alternative mechanisms superseded the original recommendation's intent. For example, the Victorian Government originally supported Recommendation 16 of Ombudsman Victoria: *Improving responses to allegations involving sexual assault* (2006)[55], which provided for the establishment of an interagency working group on pre-employment vetting of sexual offenders. However, the government reported that it later regarded the recommendation as outmoded due to the instigation of the Working With Children Check Unit in 2006.

Technological developments are relied on for obviating recommendations relating to information management. For example, Recommendation 117 of the Royal Commission into the NSW Police Service[56] encouraged the establishment of a National Index of Intelligence concerning paedophile offenders. The New South Wales Government claimed that information system capabilities and policy overcome the need for this type of index envisaged by the Wood Royal Commission in 1997.[57]

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[54] For example, the Victorian Law Reform Commission commented on the implementation of Recommendation 266: Ombudsman Victoria: *Improving responses to allegations involving sexual assault* (2006) Recommendation 8, p. 21.
[55] Recommendation 16 from Ombudsman Victoria: *Improving responses to allegations involving sexual assault* (2006) (Vic), p. 31.
[56] Recommendation 117 from *The Hon Justice JRT Wood Royal Commission into the New South Wales Police Service: Final Report – Volume V: The Paedophile Inquiry* (1997), p. 1266.
[57] NSW Government Response S-NSW-58 (2013), p. 25.

4.6.9 Resource or capacity issues

Governments raised concerns about the substantial resource implications arising from many of the recommendations. They stated that insufficient resources created a backlog and there were ongoing strategies to clear this backlog. Another issue was the high staff turnover. This was particularly the case where recommendations involved a restructuring of government departments or where funding was short-term.[58] In relation to Recommendation 3(i) of *Sex offenders registration inquiry*[59], that called for an amendment to the *Sex Offenders Registration Act 2004* (Vic) to achieve the purpose of protecting children against convicted sexual offenders.

The Victorian Government commented:

> *"The proposed reforms in recommendations 3 (a) – (i) represent a fundamental re-framing of the* Sex Offenders Registration Act 2004 *and the operational and resourcing implications arising from such a change will require careful consideration across a number of Victorian Government departments. The ramifications of Victoria deviating from the national scheme in respect of sex offender management also requires careful consideration and consultation with other states and territories."[60]*

4.6.10 Miscellaneous challenges

Other notable issues raised by governments that affected implementation included:

- the nature or wording of the recommendation as being prohibitively broad, which made it difficult to ascertain the specific policy required to fulfil its purpose

- laws that conflicted with the recommendation, such as privacy laws governing the sharing of information[61]

- practical barriers, such as a lack of response to tenders, inadequate training or lack of staff in rural and remote areas.

4.7   Summary of chapter

This chapter explored implementation ratings and the reasons provided by governments for

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[58] For example, see New South Wales Government comments on Recommendation 74: "*DoCS should centralise its Allegations Against Employees Unit and receive sufficient funding to enable this restructure, and to resource it to enable it to respond to allegations in a timely fashion.*" (Recommendation 23.6 from *Special Commission of Inquiry into Child Protection Services in NSW* (Wood Inquiry) (2008), p. 954).

[59] Recommendation 3(i) from *Victorian Law Reform Commission (2011) Sex offenders registration – Final Report* (Vic), p. xxii.

[60] Victorian Government response: Summons to attend the Royal Commission (No. S-VIC-7) (24 September, 2013), p. 7.

[61] Victorian Government response to Recommendation 265: Ombudsman Victoria: *Improving responses to allegations involving sexual assault* (2006) Recommendation 7, p. 21.

not fully implementing recommendations in particular instances. Evidence derived from government reports and legislation. It was found that 48% of the selected recommendations were fully implemented; 16% were partially implemented and 21% were not implemented. In 14% of cases, the status of implementation was unclear due to insufficient evidence. A number of recommendations rated as not implemented were reported as being under consideration.

An overview of the implementation of recommendations suggested that implementation could be affected by the date of the inquiry, the type of reform required and the subject matter of the recommendation. In general, recommendations from older inquiries were more likely to be implemented. This is a likely result of governments having more time to allow for implementation. Governments were less likely to have fully implemented recommendations from recent inquiries. In a number of cases, recommendations were under consideration or in progress.

In relation to the type of reform required by recommendations, the findings suggest that systems-type recommendations were most likely to be implemented. The lowest implementation rate was in the area of legislation or law reform. Also, legislative recommendations had the highest proportion that was 'partially implemented'. Finally, 'employment screening' had the highest rate of full implementation in terms of subject area of reform. By contrast recommendations relating to 'training in child protection' had the greatest proportion of recommendations that were 'not implemented'.

In their written responses, Australian governments across all jurisdictions identified various reasons for not fully implementing recommendations. The primary reasons related to capacity issues (resources, staff and technology); the unavailability of data; the inability to foster interstate or interagency collaborations; resistance by external bodies to comply with recommendations; matters in recommendations outside of the jurisdiction of the relevant government; the breadth of the recommendation (making it hard to pinpoint action for change); the obsolescence of recommendations; recommendations not supported by evidence; alternative means identified to fulfil the spirit of the recommendation; and disagreement on policy grounds.

PART 3: FACILITATORS OF AND BARRIERS TO IMPLEMENTATION

5.   FINDINGS: GOVERNMENT STAKEHOLDER SURVEY

This chapter reports the results in relation to the research question: *What were the factors that determined or contributed to, or were barriers to, the successful implementation of recommendations?* The Project Team developed a survey targeting current public servants who had previously overseen, or were overseeing, the implementation of recommendations from inquiries or commissions. Recruitment was conducted through the Royal Commission and a total of 44 responses to the survey were received.

5.1   Factors that facilitate successful implementation of recommendations

Survey participants were asked to rate the importance of a range of factors in facilitating the successful implementation of recommendations. Responses were provided on a scale of 1 to 5, 1 representing 'not at all' and 5 representing 'extremely important'.

Table 17 presents the proportion of respondents who gave a rating of 1–2 (less important), 3 (mid-range) or 4–5 (more important).

Table 17 Survey responses in relation to factors that facilitate the implementation of recommendations

	Less important (rating 1–2)	Mid-range rating 3	More important (rating 4-5)
Individual/position to champion change	0%	10%	90%
Project team overseeing implementation	3%	3%	90%
Public/government support for reform	3%	8%	90%
Regular progress reports	8%	15%	78%
Workforce enthusiastic for change	5%	35%	60%
Advice on how to implement	18%	28%	55%

As shown in Table 17, the three factors that were rated most important in facilitating the implementation of recommendations were:

- an individual or position to champion change

- a project team overseeing implementation

- public or government support for the reform.

Other factors that were proposed by respondents as facilitating implementation were resources, both financial and human, and political or ministerial support.

5.2 Factors that hinder successful implementation of recommendations

Survey participants were asked to rate the significance of a range of factors in hindering the successful implementation of recommendations. Responses were provided on a scale of 1 to 5, 1 representing 'not at all' and 5 representing 'extremely important'.

Table 18 presents the proportion of respondents who gave a rating of 1–2 (less significant), 3 (mid-range) or 4–5 (more significant).

Table 18 Survey responses in relation to factors that hinder the implementation of recommendations

	Less important (rating 1–2)	Mid-range rating 3	More important (rating 4-5)
Budgetary constraints	3%	13%	85%
Lack of HR/existing workloads	3%	13%	85%
Time constraints	3%	18%	80%
Complexity or scale of change involved	5%	18%	78%
Lack of implementation plan/oversight group	3%	18%	77%
Conflicting policy or legislation	10%	18%	73%
Attributes of the recommendation itself	5%	20%	70%
Interagency/cross-sector collaboration	8%	35%	58%
Other reforms/changes happening concurrently	5%	40%	55%
Internal organisational culture	8%	38%	55%
Practice/service delivery issues	8%	41%	49%

As shown in Table 18, the three factors that were rated most important in hindering the implementation of recommendations were:

- budgetary constraints
- lack of human resources, or existing workloads
- time constraints.

Respondents also said lack of political will hindered implementation.

5.3   Unintended consequences

Survey participants were asked to name up to three unintended consequences that may arise as a result of implementing recommendations from an inquiry or commission. The Project Team identified a number of themes that emerged from participant responses, many of which reflect those identified through the key stakeholder interviews. The three most common themes, discussed below, are unintended consequences relating to:

- recommendation-level issues including concerns relating to the focus or nature of recommendations

- resourcing inquiry-led reform, such as the negative impact that implementation may have on budgets and resources, and the potential diversion of resources away from core business

- other reforms and priorities, such as addressing the recommendations of multiple inquiries.

5.3.1 Unintended consequences related to recommendation-level issues

Many respondents expressed concern that the focus and nature of recommendations can lead to a lack of change or to undesired outcomes.

Failure to address the primary issue or bigger picture

Respondents commented that the overall focus of an inquiry, including overly narrow terms of reference, can result in the broader implications of problems and solutions being missed. Similarly, recommendations that are too narrowly focused may not enable a systematic approach to tackling issues.

> *"Recommendations that do not take account of the broader context in which the problem exists (and in which the solution must be implemented) can overlook opportunities to address systemic issues and may fail to recognise systemic barriers to implementation. The pressure to respond and implement can mean resources are focused on acquitting a 'to do list' that may not address some of the broader drivers to the problem."*

> *"Focus in recommendations on the short-term 'acute' issues may fail to address the longer-term strategic systemic failures."*

Focus on regulation and compliance

Survey respondents indicated that recommendations that are too specific or prescriptive, or that address a process rather than an outcome, can lead to systems changes that are not sensitive to different client groups or regional variations. Concern was expressed that activity-related recommendations, as opposed to outcome-related recommendations, can either fail to achieve the desired result or can produce an undesirable outcome.

Some respondents commented that some recommendations drive a culture of risk aversion and compliance, often at the expense of children and families. This can also lead to a focus on acquitting a 'to do list' rather than addressing the real drivers of a problem.

Recommendations that are not based on evidence

Several comments were made in relation to the importance of evidence-based recommendations that take account of complex problems.

"If recommendations from inquiries and commissions are not well considered or propose simplistic underdeveloped responses to complex problems; much government time can be spent trying to implement ill-conceived actions."

5.3.2 Unintended consequences related to resourcing inquiry-led reform

Many survey respondents commented on the negative impact on budget and resources that the implementation of recommendations can have, particularly on already constrained budgets. In particular, the concern was frequently expressed that the implementation of recommendations can divert scarce resources away from core business.

Two respondents linked this diversion of resources to the importance of taking a holistic view when developing recommendations:

"Piecemeal recommendations that are made without considering the whole system in a particular jurisdiction can also impact negatively in various ways, including diverting resources to less important activities at the expense of other more important functions."

"In a constrained fiscal environment, inquiries that consider issues in isolation and do not undertake a cost–benefit analysis of their intended recommendations can result in resources and focus being directed away from other important service delivery areas."

5.3.3 Unintended consequences related to other concurrent reforms

Survey respondents pointed out that government is often the subject of a large number of recommendations from different inquiries, which can sometimes be contradictory. This can create difficulties in providing a consistent, integrated response to target populations.

One set of reforms may also undermine or delay the implementation of other reforms as a result of competing priorities.

5.4 Strategies to avoid such consequences

Survey participants were asked to name up to three actions that inquiries or commissions could take to avoid such unintended consequences or to reduce their impact. The Project Team identified a number of themes that emerged from participant responses, many of which are reflected in the findings of the key stakeholder interviews, reported in the next chapter.

The four most common themes were:

- consultation with stakeholders

- recommendation-level strategies

- coordination of implementation

- provision of resources.

5.4.1 Consultation with stakeholders

Many survey respondents proposed consultation with government and other agencies as an important action for inquiries or commissions to take. This included consultation on draft recommendations, to ensure that final recommendations are feasible and realistic, and testing recommendations for potential unintended impacts.

> *"Ensure there is opportunity to consult on relevant recommendations before finalisation. Recommendations should be tested with rigour; against pre-established criteria and with impacted stakeholders."*

Some respondents also referred to broader consultation to increase the understanding of underlying issues and the range of possible strategies that may address those issues. The comment was made that consultation before handing down recommendations can help to gain stakeholder support.

> *"The best reviewers take the time to test their ideas with stakeholders and take a collaborative approach throughout the review process. This can include: 'embedding' experts from the area under investigation to the inquiry to ensure subject matter knowledge and operational experience informs the development of findings and recommendations; and promoting a joint approach to developing recommendations, thereby assisting those who must implement to have some ownership of the proposed solutions."*

5.4.2 Recommendation-level strategies

Respondents made suggestions in relation to crafting recommendations in order to minimise unintended consequences. Following are the most common themes relating to recommendation-level strategies.

Recommendations that focus on outcomes

Respondents commented that recommendations should focus on the outcomes to be achieved and avoid overly prescriptive programmatic or service delivery responses. This was linked to ensuring that recommendations reflect the inquiry's Terms of Reference. For some respondents it was also a strategy that would allow implementers some flexibility in how recommendations are implemented.

> *"Overly prescriptive recommendations can be difficult to implement. Some flexibility can assist governments to identify the most appropriate model or option for implementing a recommendation while achieving the intended change."*

This comment, nonetheless, may need to be considered in light of the government-written responses in Section 4, which suggest that recommendations that are too broad may make it

difficult for governments to identify and pinpoint a strategy for implementation.

Recommendations that are realistic and feasible

A number of suggestions were made that recommendations be feasible and achievable, particularly given limited resources. This included an understanding of the limitations that governments may face when implementing a recommendation. Recommendations should be written in such a way that they are clear and unambiguous.

> *"Make sure recommendations are practical and implementable, having regards to the need for reform but also the reality of competition for scarce resources that are available to agencies and organisations. It is better to make fewer recommendations that will have an impact rather than making a large number of recommendations that are unlikely to ever be fully implemented (or that creates a bureaucracy in ongoing monitoring and reporting)."*

Recommendations that are evidence-based and address complexity

Respondents called for recommendations that take account both of the complex nature of the issues that they are seeking to address and the complexity of the service delivery environment. This included taking into account the broader social, political, policy and financial contexts in which recommendations would be implemented. Recommendations should be well researched and based on evidence.

> *"The Royal Commission will be required to make recommendations in a national context. A challenge for the commissioners will, therefore, be ensuring that these recommendations are able to be implemented in each state and territory, taking into account their different legislative, policy and political contexts. To facilitate this, it is submitted that the Royal Commission should seek to ensure that its recommendations are flexible and framed in such a way to allow each jurisdiction to implement them within their particular context."*

5.4.3   Coordination of implementation

A number of different actions were proposed that related to the coordination of implementation efforts. These included:

- the development of a staged implementation plan with realistic timeframes

- costed recommendations and expenditure forecasts

- a centralised body to coordinate, support and monitor implementation.

5.4.4   Provision of resources

Some respondents suggested that where funding is made available to resource the implementation of recommendations, governments should consider any offsets. This would involve a realistic assessment of how funding channelled to implementation would constrain

existing activities or priorities.

5.5 Summary of chapter

This chapter sought to assess factors determining or hindering the full implementation of recommendations using a methodology that involved surveying senior public servants from all Australian jurisdictions who had been or were currently involved in overseeing the implementation of recommendations from inquiries. The preeminent factors identified as facilitating full implementation were: an individual or position to champion change; an oversight body and public or government support for reform. Other significant factors were the availability of adequate resources and political support. In terms of factors inhibiting change, surveys revealed that budgetary constraints, a lack of human resources and time constraints were central.

The survey also ascertained from the informants the unintended consequences relating to the implementation of reforms. These include:

- recommendation-level issues, such as narrow recommendations overlooking broader implications of problems and solutions; inflexible and overly prescriptive recommendations being unable to adapt to particular needs of client groups and thus failing to achieve the desired result; and recommendations lacking an evidence base resulting in ill-conceived reform

- resourcing issues, through diverting scarce resources away from core business or other important functions. The funding of core business and critical service delivery may play a role in addressing systemic issues underpinning child protection

- issues relating to concurrent reforms being implemented from other inquiries or policies. This creates difficulties in providing a consistent, integrated response to target populations and prevents the other reforms from meeting their timelines.

Survey participants identified actions that inquiries could take to avoid these unintended consequences. These include:

- consultation with stakeholders, including in relation to the draft recommendations

- tailoring recommendations to focus on the intent of the inquiry, promote realistic and feasible outcomes, and give purpose with a strong evidence base

- coordinating the implementation of recommendations with other reforms, and making decisions about resourcing inquiry-led reform with an awareness of how it affects the resourcing of other areas, including those relating to child protection.

6. FINDINGS: KEY STAKEHOLDER INTERVIEWS

This chapter reports the results in relation to the research question: *What were the factors that determined or contributed to, or were barriers to, the successful implementation of recommendations?* The Project Team developed an interview guide designed to elicit detailed information and opinions on the context of an inquiry and factors that may have affected the implementation of recommendations. Participants were deemed to have in-depth knowledge and experience relevant to child protection reform or public policy reform more generally. A total of 43 interviews were used.

This chapter provides an overview of the factors reported by respondents that can promote or hinder the implementation of recommendations. It then presents those factors organised under seven key themes that emerged from the data. For each theme, there is a summary of the potential barriers to implementation and the strategies that could address those barriers.

6.1 An overview of factors that facilitate, or are barriers to, the implementation of recommendations

This section presents an overview of interview results according to seven key themes:

(1) the political, social and structural context of the inquiry (section 6.2)

(2) resourcing inquiry-led reform (section 6.3)

(3) the aims and context of the inquiry (section 6.4)

(4) recommendation-level issues (section 6.5)

(5) organisational and systems-level factors (section 6.6)

(6) method of implementation (section 6.7)

(7) accountability for implementation (section 6.8).

Respondents' comments relating to the unintended consequences arising from reform are explored in section 6.9.

There was a degree of overlap between and within the seven themes and it was common for data from interviews to be coded against more than one theme. Overlap of information between sections is referenced in footnotes or directly in the text. Given the breadth of inquiries respondents elected to discuss, their responses range from general insights on reform to those specific to the subject matter under review by the Royal Commission. Where possible, responses relevant to child protection reform in particular have been demarcated with subheadings.

In addition to thematic coding, factors were also coded as either facilitators or barriers to effective implementation. Factors may have been characterised as such by the respondent, or coded by the Project Team based on information provided in the interview.

Figure 4, which was generated from the coding, provides a snapshot of general trends in how respondents viewed the impact of certain factors[62].

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[62] This figure does not present an accurate tallying of responses. See Methodology Section 3.5.6 Qualitative analysis of key stakeholder interviews.

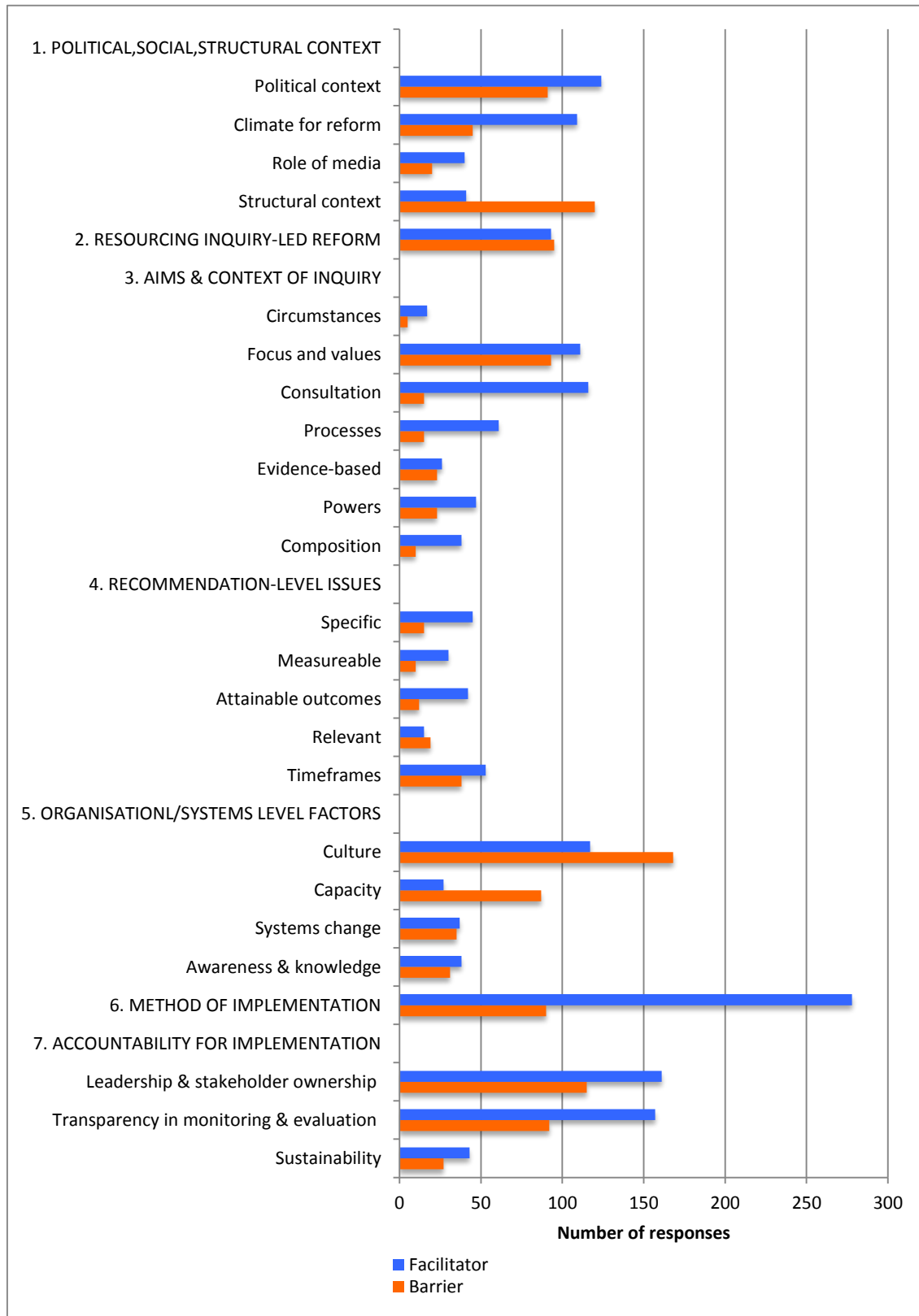**Figure 4** Factors coded as facilitators and barriers

Figure 4 shows that the processes most commonly cited for facilitating implementation were:

method of implementation, leadership and stakeholder ownership, and transparency in monitoring and evaluating reforms. Respondents most commonly reported the following potentially negative forces in reform: organisational culture, structural context, a lack of leadership and insufficient stakeholder ownership. The interplay between these factors is explored in the following detailed discussion organised under the seven themes.

6.2   Political, social and structural context

The political, social and legislative landscapes in which inquiries are conducted play an important role in not only determining what inquiries happen and when, but also how recommendations arising from an inquiry are formulated and received. In particular, stakeholders attributed importance to the impact of the political context, community attitudes and the general climate for reform, structural constraints and the role of the media in the inquiry process. These factors contributed to the likelihood of inquiry-led reform and are discussed in detail below.[63]

The following table summarises the potential barriers to implementation of recommendations and potential strategies to address them, as identified by respondents in their discussion of the political, social and structural context of inquiry-led reform.

Table 19 Strategies to address political, social and structural barriers to implementation

Potential barrier to implementation	Potential strategy
Political barriers • "Short attention span" of government for issues • Change in government/leadership • Disinclination to commit to long-term strategies • Competing demands for government funding • Lack of insight into problem under review and effective responses • Using inquiry for political expediency	**Strategies to promote high-level, bipartisan "buy-in"** • Consider political context in which recommendations will "land" • Consider recommendations that are in line with current policy • Bi-partisan political engagement (including with Treasury) • Regular government briefings • Promote empathy — politicians hearing from victims • Promote the vision or principles underpinning the reforms

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[63] It should be noted that the points made in Chapter 6 represent the views of the interviewees; they were not critically assessed or evaluated as part of this project.

	• Inquiry report to provide an insightful, evidence-based analysis of the issue under review
Social barriers • "Short attention span" in general community for issues • Lack of insight into problem under review and effective responses • "Cultural resistance" to issue of child abuse	**Strategies to raise community awareness** • Community education campaigns • Effective use of the media • Cultivate/identify champion of reform • Inquiry report to provide insightful, evidence-based analysis of issue under review
Structural barriers *Complexity of national reform* • Differences between jurisdictions and diverse stakeholders • Difficulty brokering cooperation and compliance across jurisdictions and diverse stakeholders • Length of time for national laws to be drafted and passed *Legal constraints* • Entrenched values and competing interests in the legal system may impede reforms that seek to better accommodate victims' needs • Perceived constraints on information-sharing under Privacy legislation	**Strategies in national reform** • Recommendations tailored for different jurisdictions, agencies and NGOs • Stakeholder consultation • Good planning processes • Funding incentives for states • Use COAG to facilitate collective discussion by states *Strategies to address legal constraints* • Consider strategies that are not overly forensic or legalistic • Consultation with Privacy Commissioner to address constraints under privacy legislation

6.2.1 Political context

The political climate in which inquiries are initiated and conducted was seen by respondents to have great potential to directly influence reform outcomes, particularly where the issues before the inquiry or the resulting recommendations are *"complex, sensitive or controversial"*. Interviewees emphasised the need to be alert to political influences at all stages of the reform process, including at the moment an inquiry is called, the drafting of recommendations, the

implementation process and the monitoring of implementations.[64] Stakeholders also spoke to the specific political considerations relevant to child protection reform (see [Political considerations relevant to child protection policy](#)).

Securing political buy-in both to the issues under investigation and to the inquiry process was seen to be an important function of inquiry bodies. One respondent commented that without it, once the recommendations are handed down, *"you're going to get a salute and you're going to get lip service".* Respondents felt that strategies to promote political support for recommendations are necessary to counteract certain inherent characteristics of government that have the potential to impede reform. These impediments include:

- economic imperatives driving governments, and the need to balance competing demands for funding

- *"very short attention spans"* for any given issue

- a general disinclination to commit to long-term reform strategies

- a tendency to use the inquiry process for political expediency

- changes in political leadership.

Respondents talked in particular about the potential for political change to derail reform. New governments may introduce conflicting policy platforms or seek to define and control the debate. This results in governments *"mucking about"* with or disowning previously implemented or ongoing reforms.

> *"When the change of government happened, the new government immediately decided to downgrade child protection – which is quite breathtaking after all the focus on it just before – to the status of a [unit] within Education. Before that it had been its own department that was seen as being much more integrated with all the early childhood services."*
>
> *– Reviewer*

Stakeholders suggested that genuine commitment at the highest political levels enhances the chance that recommendations will be implemented. They provided a number of reasons for why political buy-in was essential to the implementation process. Politicians are likely to have greater longevity than most inquiry bodies and if political leaders become champions of the reform, they can provide the necessary impetus to ensure that recommendations "stick". In addition, political support can facilitate reasoned deliberation on the issue, ensure adequate funding for the reforms and help with the coordination and infrastructure necessary for

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[64] See discussion in 6.7.1 [Governance of oversight bodies](#) and Possible approaches to monitoring. See also the discussion about the impacts of crisis-driven reform in 6.4.1 [Circumstances](#).

system-wide, cross-sector and national reforms. It can also provide legitimacy to a reform process where there is distrust and division in the sector under review.

A number of respondents indicated that engagement with key political players on both sides of government is essential. Achieving bipartisan commitment to reforms would improve the prospects of reform agendas transcending party politics and changes in government. One respondent recommended making personal contact with political leaders, ministers and shadow ministers at the earliest opportunity and providing regular briefings to government throughout the life of the inquiry – while ensuring that the independence of the inquiry body is not compromised. Others suggested that an effective way of influencing political leadership on an issue is securing political commitment to the vision of the reforms.[65] Promoting emotional investment on the part of decision-makers, by ensuring they get to hear directly from victims, was also seen as a powerful way of achieving political support for an issue.

For a number of respondents, the primary aim of engaging politicians is to attempt to move them from responding to an issue defensively, or in a politically expedient manner, to a *"genuine level of understanding and commitment".* A committed and well-briefed government was seen to be more likely to respond proactively to issues as they emerge from the inquiry process, and to consider initiating change before recommendations are handed down. Securing this degree of cooperation from government was considered to make the best use of the limited window of opportunity before the focus moves to the next crisis. Engagement at the political level was also seen as an opportunity for inquiry bodies to establish credibility by demonstrating their objectivity and impartiality, and that they have a realistic understanding of the likely cost of reforms and the government's ability to accommodate that cost.

Political considerations relevant to child protection policy

In the view of a number of respondents, policy reform relating to child protection comes with a unique set of barriers at the political level. Child protection was seen to be an issue that politicians struggle to understand. One interviewee said that, as with the community at large, politicians do not seem to "get" that everyone's interests are "best served by having these kids looked after". Interviewees felt that the issue is put in the political "too hard basket" and consistently fails to get the policy attention and resourcing it requires.

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[65] See discussion in 6.4.2 Focus and values.

> *"Once the Royal Commission's over and the caravan moves on, Treasury will do everything it can to — because no one believes it will make any difference — bottom line in child protection is that everyone thinks it's all going to be wasted and so after the immediate crisis is past they start getting more difficult about allocating funds."*
>
> *– Implementer*

One interviewee commented that the fact that there has been little progress in achieving uniformity in laws and policies relating to the protection of children is indicative of a lack of the necessary political will required to tackle the issue.

> *"In a commercial context, since 2001 we've had a Commonwealth corporations law, but in the period prior to that, from 1961 onwards, there was uniform company law. Now that was thought important, for our national commercial ability, that there be more or less uniform laws. One would think protecting children would be equal, if not greater, political imperative and yet there's been nothing. I know [for] COAG, it's been on their agenda from time to time but it just really hasn't got anywhere and at this point now, I would think the Commonwealth should use their powers under the children's [UN] Convention."*
>
> *– Implementer*

6.2.2 Community attitudes – climate for reform

Interviewees talked about how broader community attitudes to, and awareness of, an issue can impact the reception and implementation of recommendations. Issues had their "season" in the public eye, and respondents saw it as incumbent on inquiry bodies to make the most of this groundswell of community interest before the next issue dominates headlines.

Community perceptions of social issues that are the subject of review can be shaped by a number of forces including advocacy, lobby and support groups, the media and the cumulative effect of previous inquiries. A number of respondents stressed the importance of having a strong champion of reform whether located within the political process or outside it – to garner community support, which in turn drives political will. One interviewee suggested that even where all the ingredients required for reforms to go forward are in place, the lack of a champion of reform could stall progress.

> *"We had a pretty clear implementation plan. We had the dates, the times, the targets, the resources, the stakeholders, the management, the communications — all those things were clearly laid out. There was no big procurement [needed] — they were going to fund it themselves. So the implementation plan was pretty clear. I mean it wasn't a hard thing. But the champion wasn't there."*
>
> *– Implementer*

Community attitudes relating to child protection

Respondents spoke at length about perceptions and attitudes relating to child abuse in the community that impede reform efforts and act to isolate and silence victims. Limited awareness about the nature of the problem and the characteristics and prevalence of offending was seen to contribute to what respondents variously described as *"community-wide cultural resistance"* and *"motivated resistance"* to the issue.

Respondents were of the view that greater insight in the general community about this complex issue can promote community vigilance — an important adjunct to any legal or policy solution. Community education and media campaigns that "sell" the issue of child safety to the wider public, and convey the message that the care of children is *"everyone's business"*, were suggested by a number of interviewees as one way of achieving this, and yet more than one respondent remarked on the absence of such strategies. The impact of inquiry work was seen *"in an accidental way"* to *"add to the noise"* about the issue and, by raising community awareness and concern, to have had a general deterrent effect on the commission of offences relating to child sexual abuse.

6.2.3 Structural constraints

Key stakeholders recognised that inquiry-led reform does not occur in a vacuum and that it is important for formulators of recommendations to be mindful of the existing political, policy, legal and systems context that may impact on reform.

> *"When recommendations are made, they drop into an existing policy framework and operational stuff and people need to recognise the kick-on effect of that – if you do that what does that mean for other bits of the system?"*
>
> *– Implementer*

They acknowledged the numerous challenges faced by a national inquiry addressing an issue that is dealt with differently by each jurisdiction and that involves consideration of both state and Commonwealth laws. The need to broker compliance and cooperation across multiple government agencies, the private sector and with non-government organisations (NGOs) was seen to add to this complexity.

In the view of a number of respondents, the Council of Australian Governments (COAG) could play a potentially useful role in facilitating collective discussion by states in a federal reform process. However, one cautioned against using the COAG process for decision-making among states as attempts to reach consensus have the potential to slow the process down to a *"glacial"* pace. This respondent also suggested that for COAG to spend time on cross-jurisdictional matters relevant to the reform, the support of the Prime Minister for the reform package is required. Another respondent felt that states are more likely to come on board

with reforms if funding incentives are attached to them, rather than just obligations for compliance and the imposition of penalties for failing to comply.

Where national laws are proposed as part of the reform package, interviewees warned that the complex legal arguments and the length of time involved in securing state consensus and changes to constitutional law – often longer than the length of the government's term in office – can diminish the political will needed to drive significant reform.

At the political level, national inquiries must have the capacity to accommodate differences between the states and territories, and between the responsibilities of state and the Commonwealth governments. Recommendations that are tailored to local circumstances were seen to be necessary. Some potential State differences identified by interviewees include:

- size of jurisdiction – what works for a small jurisdiction may not be feasible in a larger State

- demographic differences such as a high Indigenous population or a higher proportion of people living in rural or remote areas

- degree of regulation and strength of state oversight bodies such as the Ombudsman (that is, their powers and available resourcing)

- different layers of review and oversight; for example, investigations relating to the death of a child in New South Wales occurs at four levels – the police investigation, the internal Community Services investigation, the Ombudsman's review and the coronial investigation

- the nature of the relationships among key stakeholders and the extent of interagency collaboration.

Respondents also highlighted the challenge of formulating recommendations that apply to non-government organisations with no centralised authority, such as churches (described by one respondent as a *"flotilla"* of little autonomous organisations). Government regulation of a church entity that is made up of congregations (that are often insular, disparate, largely run by volunteers and subject to a constant change in leadership) was seen to present a challenge for reformers.

Structural constraints in child protection reform

There was a degree of consensus among respondents that child protection requires uniform approaches that are managed federally and not by individual states. Additionally, respondents were of the view that the federal government should take the lead in proactively addressing the multiple drivers in child protection. However, as indicated above, respondents recognised

that inquiries face inherent difficulties in attempting federal reform of this sector. Not only is the federation diverse and the service sector complex, but there are also conflicting perspectives on the most appropriate framework of response. Respondents expressed concerns that a *"one-size-fits-all"* approach will fail to accommodate local realities. To address the challenges inherent in national reform, respondents indicated that widespread consultation – to ensure recommendations "fit" with local conditions – and good planning are essential. The Northern Territory National Emergency Response in 2007 was cited as an example of ill-conceived and poorly planned reform imposed at the federal level.[66]

Respondents were mindful that reforms also occur within a legal context. This was particularly seen to be the case with child protection, described by one interviewee as sitting *"uneasily on the edge of social policy and law enforcement".* A number of interviewees saw legalistic solutions in their current form as being less likely to meet the needs of victims and, in particular, of child victims. The rules of evidence in criminal proceedings, the nature of court procedure and the way in which victims are treated in the criminal justice system were seen to be structural barriers that can potentially inhibit disclosure by victims and the successful prosecution of offenders. Effecting cultural change in the legal system to bring about a more *"nuanced understanding"* of sensitive issues, such as sexual abuse, was seen as difficult.[67]

Legal culture was also seen to impact on the way inquiries are conducted. As lawyers and judges often dominate commissions of inquiry, respondents highlighted the risk that recommendations may reflect this either in a push for monetary compensation (which may not fully address the needs of victims) or in the unquestioning acceptance of legal values and systems.

Respondents also talked about how the different domains of responsibility in a federation and jurisdictional conflict can impact the effectiveness of protective measures for children. Examples included the debate about whether children in immigration detention should be subject to the same child protection laws as other children, and the potential for vulnerable children involved in family law proceedings to fall between the gaps that exist where federal family law and state child welfare law intersect.

State and Commonwealth privacy legislation was also seen by respondents to be a potential barrier to reform in this sector. Where joined-up responses are proposed that require information sharing between agencies, a common objection is that to do so breaches obligations under privacy law. To address such challenges, which have the potential to derail collaborative work, one respondent suggested that inquiry bodies should consult with the

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[66] This policy was rolled out following the *Little Children are Sacred Report* (Wild, R, Anderson, P, 2007, *Ampe Akelyernemane Meke Mekarle "Little Children are Sacred".* Board of Inquiry Into the Protection Of Aboriginal Children From Sexual Abuse).

[67] For a discussion of respondents' views on organisational change in the legal sector, see discussion in 6.6.1 Organisational culture.

Privacy Commissioner at the front end, so that the recommendations comply with privacy legislation. This was described as *"privacy by design"*.

6.2.4 The role of the media

Respondents saw the media as a *"double-edged sword"*, with the potential to have a powerful influence on reform in both positive and negative ways. Constructive media coverage can bring controversial issues into focus, build community support for issues and become the driver of cultural change. The media was also viewed as an important player in the implementation and monitoring of reform through publicising the work of commissions of inquiry, scrutinising government responses to recommendations and reporting on implementation and compliance.[68]

In relation to child protection, the media's focus on individual cases that highlight systems failure can force the hand of government to respond and trigger the establishment of inquiries.[69] However, respondents also spoke about the potential for harm resulting from inaccurate and inflammatory coverage. This can fuel the crisis rather than contribute to useful public debate. Media reporting that perpetuates stereotypes about offenders and vilifies child protection workers was seen to heighten community anxiety and further demoralise frontline workers.

6.3 Resourcing inquiry-led reform

> *"Increasingly, government entities are being called upon to be held accountable in the same way that those in corporate life are held to account – in corporate life you'd go bankrupt if you didn't have anybody scrutinising your inputs and looking at your resourcing."*
>
> *– Reviewer*

The issue of adequate resourcing was a recurring theme and identified by a number of respondents as an important factor in achieving successful reform.

The following table summarises potential barriers to the implementation of recommendations and potential strategies to address them, as identified by respondents in their discussion of the relevance of resourcing.

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[68] See further discussion in The role of the media.

[69] See the discussion in 6.4.1 Circumstances.

Table 20 Strategies to address resourcing barriers to implementation

Potential barrier to implementation	Potential strategy
Lack of political commitment to adequately fund reforms	• Bi-partisan political engagement (including with Treasury) • Consider resourcing implications of recommendations for government and NGOs • Cost reforms (with the assistance of economists/consultants) • Ensure cost-effectiveness of reforms (maximum gain for minimum cost/effort) • Suggest economies in other areas • Make projections of potential savings from reforms (especially important regarding preventative and early intervention strategies) • Suggest pilot of strategy to evaluate cost-effectiveness • Limit the number of cost-intensive recommendations
Disputes about responsibility for funding reforms	• Stakeholder consultation • Good planning processes • Clear indication in recommendations of responsibility for funding
Resource drain on sector implementing reforms	• Staged and timely allocation of resources needed for implementation • Careful scrutiny of likely cost of proposed data collection • Shared budget across departments • Partnerships to enable sharing of resources and expertise in implementation

Sufficient resourcing, both in terms of monetary and human resource allocation, was considered essential at each stage of the reform process; that is, to enable the inquiry body to consult widely with stakeholders and to conduct research, for the implementation and monitoring of recommendations and for the evaluation of the outcomes arising from the reforms.

Securing these resources, particularly in times of fiscal constraint, was acknowledged to be a significant challenge. Several interviewees commented that recommendations that cost governments money are inevitably harder to "sell" than those that are cost-neutral, particularly where there is no strong government buy-in to the issue at the outset. It was suggested that, when formulating recommendations and the timetabling of implementation, inquiries should consider resource implications for both government and the NGO sector, and not to assume that there will be a *"bottomless pit of money"*. As summed up by one interviewee, *"A recommendation that assumes unlimited resources will almost always fail."*

In addition to examining resource implications, it was suggested that inquiry bodies should limit the amount of recommendations made. When there are a large number of recommendations the associated resources required could adversely affect uptake of reform. It was thought to be more effective to have fewer recommendations, which are resourced adequately and that are likely to have maximum impact. The following comment illustrates how too many recommendations can be debilitating for governments:

> *"… the government was absolutely immobilised because there were so many recommendations and they had such big price tags. It was a time of fiscal constraint in [jurisdiction] and nothing happened for 12 months because, within the budget available, it was impossible for the minister responsible to actually move on them."*
>
> *– Commentator*

6.3.1   Allocation of resources

Recommendations that realistically calculate the cost of reform were felt to be more likely to receive government commitment and sector buy-in, and to thereby have a higher level of success. Interviewees commented that *"attaching a number"* to the recommendation quantified the size of the task and helped hold governments to account. By accepting recommendations that come with costings, governments *"effectively bind themselves to allocating the funds".* Detailed costing of particular aspects of the reform process – that is, estimating the cost involved in piloting programs or creating positions that have lead responsibility in implementation or monitoring – was thought to be necessary to safeguard against the *"watering down"* of resources once the recommendations were handed over to Treasury. This was seen to be particularly important in the area of child protection.

Early consultation with relevant stakeholders was considered beneficial in establishing fiscal buy-in. As discussed elsewhere[70], consultation at the executive level provides an opportunity for central agencies such as Treasury to understand the issues, believe in the reform and allocate the resources. As several respondents pointed out, it is particularly difficult to get the

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[70] See 6.2.1 Political context.

"welfare dollar through Treasury", in part because treasurers often have no direct experience of social reform, so they have less insight into its cost benefit.

> *"The top bureaucrats in Treasury departments or Finance departments, will say, 'and how is the state going to benefit in the long run from this? Where will the financial return come?' So you have to make yourself savvy on that side as well, because I think those public servants in the Treasury departments, finance departments, will be expressing their opinions to the Treasurer, and the Treasurer can say in the Cabinet or anywhere, 'we can't afford this'."*
>
> *– Inquirer*

Consultation with Treasury officials, skilled consultants or economists was also seen as advantageous in assisting inquiry bodies to accurately cost proposed reforms, as it was felt that this kind of analysis was likely to be beyond the expertise of the inquiry body alone. One interviewee felt it would not be appropriate for inquiry bodies to *"get into that level of detail"*, while another believed that the projected cost of reforms might well be underestimated. Although many considered that costing reforms was a useful strategy to counter the usual economic arguments used by governments against implementation, one potential drawback was identified. Providing governments with an estimate of cost up front could *"scare the horses"* and lead them to immediately scale back implementation to make recommendations financially feasible, resulting in reforms determined by budget rather than by policy objectives.

Disputes about responsibility for funding reforms were seen by respondents to have the potential to derail a project. One commented that, ironically, this was more likely to happen with modestly funded projects. Decisions about funding reforms were seen too often to be politically motivated and not on a needs basis.

> *"And then you get into the political argy bargy about something has to go to Health because we've got to keep Health in the tent. Something's got to go to Police because you know they've played ball, they've had a really tough time. So it gets whittled away and whittled away."*
>
> *– Implementer*

Respondents felt that recommendations should provide clarity about who has responsibility for the solution, who drives the implementation and who should be resourced for it. Governance such as this, particularly where implementation crosses sectors, gives agencies a clearer understanding of both the scope and timeframe of the project and promotes greater accountability.

6.3.2 Human resource cost of reforms

Significant systems change usually requires additional human resources to set up the reform process. Where budgets do not enable this, the implementation of recommendations, as

considered by many interviewees, involves a *"drain"* on human resources. This drain would occur both at management levels, where the most experienced staff are often seconded to implementation projects, and at the direct service delivery level. Respondents felt that this was particularly the case in the child protection sector, which is subject to a high level of review. For one respondent, this made it imperative that the implementation process be carefully staged to avoid too many reforms being introduced concurrently, and resources allocated in a timely fashion.

> *"And so you've got to be really careful about how you stage things and how you resource new initiatives going out. You can't have them trying to do five new things at once, because you know that that won't happen. And you've also got to make sure, and we got a whole lot better at this [in the Department] as time went on, that whenever you were implementing things, all of the resources to help them do it, turned up at the time that they were supposed to start. So that the training literally happened the week before, it didn't happen two months before, it didn't happen two months later, it happened just before. Any of the new forms, I mean it sounds stupid and little, but any of the new forms or the new computer changes or the new budget that they had to deal with, had to be there on day one of the policy. And when that happens, when you do that properly, then you can hold people to account."*
>
> *– Implementer*

The other resource factor raised by respondents was the importance of having a skilled workforce, which requires investment in the professional education and training of staff.[71] It was commented, however, that in times of fiscal constraint government sees staff development as expendable, particularly in the child protection workforce where there is high staff turnover.

6.3.3 Ensuring cost-effectiveness

The importance of productivity justifying expenditure was a recurring theme in interviews. Respondents recognised that the principles of cost-effectiveness, accountability and value for money resonate with government. Of particular concern was that the money allocated, at the service level, to implement recommendations should have maximum effect for the people to whom the reform is directed. Inquirers and implementers alike felt it was important to determine which recommendations would provide the maximum gain for the minimal cost. They also stressed that proposed reforms should not "*drag*" resources out of other important programs or services, including universal services. In the experience of some interviewees, department heads often struggled to maintain balanced and equitable resource allocation to different parts of the system. As part of the costing exercise, it was suggested that an

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[71] See discussion in 6.6.4 Awareness and knowledge.

economic impact statement – based on solid information, thoughtful reasoning and sound projections – should accompany recommendations for reform. This would help governments to evaluate their viability.

While respondents agreed that preventative and early intervention strategies are generally the most cost-effective approach to intractable social issues, they acknowledged the difficulty in securing political will to implement them.[72] Incorporating projections of potential savings arising from a preventative focus was seen as an effective means of getting child protection issues on the *"Treasury agenda",* as was determining possible economies to pay for reform.

> *"… the Commission might think about the value of the recommendation which doesn't just say, 'Go and resource X' but it says, 'In our view, activity Y should be discontinued and in its stead, our better priority is actually X.' So it should think about the recommendations from an overall fiscal transaction, rather than just letting the recommendations sit by themselves."*
>
> *– Implementer*

Piloting programs to evaluate cost-effectiveness was another way of convincing government or other agencies to commit to funding reforms.

6.3.4   Other resourcing insights

Interviewees shared a number of other general insights relating to resourcing. These included:

- Budget cycles can affect implementation, making it harder for smaller projects to be scheduled for multi-year implementation, even where this would be appropriate.

- When properly funded, statutory oversight bodies, such as the office of the Ombudsman, the Human Rights Commission or Children's Commissioners, can play an important role in monitoring reforms.

- Inquiry bodies proposing national reform should be mindful that some jurisdictions will be better resourced in terms of money, human resources and infrastructure than others.

- Large-scale reforms require an overarching body with the task of monitoring implementation of reform, and these bodies need to be adequately resourced.

- Data collection can be an expensive part of monitoring implementation. While respondents recognised the importance of robust data collection, this was seen as an area that also requires careful scrutiny to prevent cost blowouts.

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[72] See further discussion in Preventative and protective.

There was also the suggestion that in cross-sector reform, it may be more effective for budgets to be managed across departments – as opposed to carving up the funds – or that partnerships are formed between agencies, or between agencies and government to allow for the sharing of resources and expertise.

6.4   Aims and context of the inquiry

"So there's a whole story about how recommendations are made and how they're transmitted, which has to be looked at before you can talk about how they're implemented."

– Commentator

Factors related to the inquiry itself – the circumstances in which it is called, its focus and framework of values, the powers and processes it employs, and its composition – can impact the implementation of recommendations arising from it. The focus of the inquiry and the extent to which it seeks external input were of particular relevance for interviewees. Overarching the discussion about elements of the inquiry process was the view that independence, procedural fairness and a collaborative approach are central.

The following table summarises potential barriers to the implementation of recommendations and potential strategies to address them, as identified by respondents in their discussion of issues related to the nature of the inquiry body and the way it conducts the inquiry.

Table 21 Strategies to address inquiry-level barriers to implementation

Potential barrier to implementation	Potential strategy
Potential limitations of crisis-driven reform: • Focus on issue will be short-lived • No real political commitment to change • Individual case under review not representative of wider problems • Heavy focus on tertiary or protective measures • Blaming approach can result in oppositional response to review and inhibit collaboration	• Promote the "*vision*" or principles underpinning the reforms • Ground recommendations in community values and what is in children's best interests • Strike a balance between tertiary (protective) approaches to child protection and preventative approaches • Adopt a positive and strength-based approach to the issue under review
Piecemeal approach to reform results in recommendations that lack relevance	• Consider the impact of recommendations on other parts of the system and on other

and coherence	systems
	• Stakeholder consultation
	• Multi-disciplinary representation on inquiry body

Limited impact of the work of the inquiry body:
 	
• Inquiry body pursues the wrong objectives due to wrong focus
 	
• Narrow terms of reference
 	
• Short lifespan of inquiry body does not allow for involvement in implementation
 	
• Report has limited readership
	• Inquiry report to provide an insightful, evidence-based analysis of the issue
	
	• Stakeholder consultation
	
	• Consider wider context of issue and identify possible solutions, regardless of scope of terms of reference
	
	• Personnel from inquiry body involved in implementation or planning of implementation
	
	• Make report as readable as possible
	
	• Report to include the voices of victims, e.g., via use of vignettes and case studies
	
	• Effective use of the media:
	    o Foster relationships with journalists
	    o Develop key message from inquiry
	    o Use every opportunity to promote key message
	    o Use launch to increase exposure

6.4.1 Circumstances

Interviewees commonly said that while inquiries are ostensibly established to investigate and provide advice to governments on issues of public importance, they are often called in response to a crisis – an individual high-profile case, concern about escalating cost, or some other political agenda – rather than being proactively driven by policy. Respondents identified the following potential risks associated with crisis-driven reform:

- Once the inquiry has been called, public interest can move on to the next perceived crisis.

- The inquiry is not supported by any real commitment to change, but rather is used as a political buy-off.

- Where an inquiry is called in response to a particular case (as often occurs in the child protection area), the circumstances of that case may not be representative of what is wrong with the broader system and as a result the scope of the inquiry becomes

necessarily constrained, or perverse outcomes may result.

- A crisis-led response can lead to unbalanced focus on tertiary solutions where interventions occur after the harm has manifested.

- A focus on naming, blaming and shaming may inhibit a collaborative approach.

For a number of respondents, however, regardless of the circumstances surrounding the calling of an inquiry, the focus it brings to an issue has the potential to trigger real change.

> *"So we shouldn't kid ourselves about how they come about, but that doesn't mean we shouldn't grab the good things that come out of them."*
>
> *– Reviewer*

6.4.2 Focus and values

Respondents spoke at length about the impact that the focus of the inquiry body, and the philosophical approach that underpins its work, can have on the success or otherwise of the recommended reforms. It was seen as important that findings from inquiries are not delivered as commandments from above, but rather as possible solutions to a human problem emerging from the research and from the testimony of those who participated in the inquiry. Adopting a positive and holistic approach to the review and striving for a balance between protective and preventative solutions were the characteristics that respondents particularly associated with effective reform.

Several interviewees talked about the need to articulate a coherent message about the broad *vision* of the reforms and for this to inform the agenda of the inquiry. To ensure that the message resonates with the community, it was seen as important for inquiry bodies to maintain a perspective on how the issue under review, and its remediation, sits within the value system of society.[73] It was felt that the principles of care and respect for human rights should inform inquiry work and that these should be enshrined in the recommendations. In particular, there was a degree of consensus that the review of systems relating to the care of children should always be driven by consideration of children's best interests and their right to care and protection under international law. One respondent said that by maintaining the focus on desired outcomes for children, qualitatively different solutions can emerge.

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[73] For a more detailed discussion about how a focus on general community values can help guard against unintended consequences for children in child protection reform, see 6.9.1 Unintended consequences in child protection reform.

> *"Because I think one of the impediments in government is people do things for adults mainly, but if you start thinking, 'Will this actually do what we want it to do for the child?' it becomes a different set of things you come up with.*
>
> *– Reviewer*

Positive and strength-based

Respondents with experience conducting inquiries commented that by emphasising the positives that exist in the system or organisation under review and by adopting an enabling rather than a blaming approach, one has a better chance of engaging stakeholders with the inquiry process and the solutions it proposes. One respondent made sure to project this attitude at every opportunity in the inquiry process.

> *"I think an inquiry can simply leave people irritated and oppositional. This can be reduced by acknowledging the positives that exist in the system under review. In my case, I developed a list of things and I never opened my mouth publicly without citing the positives we were covering. We didn't fall back on the shortcomings, but … 12 specific points that I carried around with me to cite every time. And that was to acknowledge the existence of what had been attained."*
>
> *– Inquirer*

Respondents commented on the difficulty of maintaining a positive, solution-focused approach when the very nature of child protection is about risk identification.

> *"It is deficit-focused by nature. And at what cost is that very risk-averse approach? If you want to save all kids and bring them into care, you won't make them well but you might make them safe."*
>
> *– Reviewer*

A number of interviewees were highly critical of the tendency for inquiries and the media to focus on the failings of child protection practitioners. A culture of blaming front-line workers was seen as having the effect of further demoralising an already overburdened workforce. Nonetheless, the process of shaming and for "*heads to roll*" higher up the command chain was seen to have its place in some contexts, particularly in situations involving the denial of responsibility.

> *"That inquiry was extraordinarily influential for the [organisation], but for only one reason. It shamed them … And so the focus on just one case in a public way is what made the difference and it then triggered the beginnings of a comprehensive and proper response."*
>
> *– Commentator*

Respondents also saw the need for recommendation formulators to consider strategies that are grounded in strength-based approaches, especially in relation to reform impacting on Indigenous and other vulnerable communities. Perceptions about a situation based solely on what is reflected in the data – without insight into the lived experience of people – was seen to risk providing a distorted view.

Preventative and protective

A dominant theme emerging in the interviews is the need to strike a balance in child protection reform between protective or tertiary solutions (that is, reporting, investigation, removal of children – characterised as the *"pointy"* end of the system) and preventative solutions (secondary support or early intervention for vulnerable families and children). While both were deemed essential, there was consensus among respondents that without adequate investment in early intervention, reforms will never address the fundamental problem and the system will be self-perpetuating.

More than one respondent commented on the fact that previous inquiries into child protection systems, especially those that are crisis-driven, have had the effect of concentrating focus and resources on tertiary responses[74], resulting in increased numbers of notifications[75] and more children taken into care. As indicated earlier, ensuring access to services and support for families at the *"front end"* was seen as being not only a more logical and cost-effective approach, but also one that helps foster a wider sense of responsibility for the protection of children. Respondents nonetheless recognised the general lack of political will for strategies that require considerable up-front investment for long-term gain. According to some respondents, the recommendations most likely to fall off the implementation agenda are those relating to preventative solutions.

> *"… all of the focus went on to the tertiary system. And those couple of recommendations around secondary meant that there was really little attention or none with the additional resources available for implementation or expanding the secondary services system at that point in time."*
>
> *– Implementer*

A preventative approach was also recommended in relation to the monitoring of service provision. Funding ongoing oversight of the sector to *"keep organisations on their toes and prevent these major disasters happening"* was seen as a more sustainable way of achieving

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[74] This imbalance is evident from data relating to funding allocation. Respondents quoted figures that indicate that spending on tertiary services was more than 10 times that spent on diversionary and support services, and that 92% of funding directed to children in out-of-home care is spent after they turn 13.

[75] One respondent reported a triple increase in reports over a five- or six-year period after reforms of the tertiary system.

reform objectives, rather than by crisis-driven inquiries and reviews.

6.4.3   Taking a holistic approach

Respondents talked about the tendency for commissions of inquiry to adopt a fragmented and piecemeal approach to reform.[76] This was seen to be likely to result in recommendations that lack coherence and relevance, and to increase the risk of unintended negative consequences.

> *"The way that these reviews work is that they tend to – you know, there's all of this evidence and they say there's a hole here and there's a hole there and there's a hole there. And therefore we'll make a recommendation about that, that and that. But they don't necessarily dig from the point of view – how should the entire system work? And from that view about how the entire system should work, what are the most important recommendations to be putting forward so we don't get this piecemeal, 'plugging-a-hole' approach?"*
>
> *– Inquirer*

Multidisciplinary representation on the inquiry body and widespread consultation with stakeholders were two ways suggested by respondents to promote a more holistic response to the issues.

A number of respondents also warned against an over-reliance on legislative measures or regulation to effect change. Increased regulation of a sector (for example, the setting of standards, the establishment of accreditation systems, stricter contractual obligations and increased reporting by agencies) was not seen, on its own, to guarantee better services or better outcomes for clients of those services. Several respondents expressed concern that where there is no understanding of what the regulation is trying to achieve, agencies and front-line workers can tend to *"fall back on that minimum standard"* that has been set rather than aspiring to operate at a higher level.

6.4.4   Consultation with stakeholders

Consultation with relevant stakeholders that draws on knowledge from policy, practice, research and the wider community was characterised as integral to reform. Engagement with those likely to be affected by the reforms was the best way to secure their commitment.

Interviewees saw the value of inquiry bodies engaging with stakeholders from inception to the formulation of recommendations. Where that body has an ongoing oversight role, it should

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[76] Respondents recognised, however, that the scope of the inquiry is likely to be outside the control of the inquiry body, and to have been determined by the terms of reference. See further discussion in 6.4.6 Powers.

also conduct consultation in the implementation and monitoring phases.[77]

At the inquiry stage, respondents characterised consultation as something other than seeking input via the formal hearing processes characteristic of quasi-judicial bodies like Royal Commissions. Rather, it was seen as a more collaborative approach to problem identification and problem solving, providing opportunities for reality testing and refining proposed solutions. This kind of input was seen as particularly important for inquiry bodies constrained by their terms of reference to focus on one small area, rather than to conduct a comprehensive systems review. Consultation with people who understand the systems under review was seen to help to identify barriers to implementation and avoid unintended consequences. In the words on one respondent, where there is:

> *"… kind of a total lack of understanding about how administrations worked, you can make all the recommendations in the world and if they don't sing into the bureaucracy they just bounce."*
>
> *– Implementer*

Open and consultative inquiry processes, which involve "*no surprises*" for those required to implement them, were also seen to help lay the foundations for effective reform in other ways, including by:

- Building commitment, ownership and trust in the sector. Stakeholders who have been actively engaged in the process were seen to be likely to be less defensive about the review, and to have a greater understanding of both the aim of the reforms and their role in implementation.

- Establishing the credibility of the inquiry body by demonstrating to stakeholders that they come to the inquiry at arm's length from any interest group, including government and with no preconceptions about the outcome.

- Allowing agencies to flag possible barriers to implementation, which can then be used to inform the development of the timeframe for implementation.

- Ensuring faster uptake of recommendations. Agencies that are aware of the direction of reform can start planning for the changes in anticipation of the findings.

- Providing an opportunity for the inquiry body to "*sell*" both the vision of the reform and the benefits of the review to the organisations involved.

- Obtaining advice on ways to frame recommendations that may have greater

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[77] See also discussion in 6.2.1 Political context, 6.8.1 Leadership and 6.8.2 Stakeholder ownership and collaboration.

resonance or create less political opposition.

External engagement also provides the inquiry body with insight into the way particular agencies operate. These insights are essential in formulating recommendations that are relevant, workable and suited to local conditions.

One respondent with experience in recommendation drafting commented that, without this *"… we would get nowhere. We would be just a bunch of outsiders giving a view of something that we didn't understand".*

In the collective experience of interviewees, inquiry-led reform is enhanced when there is engagement at various levels, including with:

- government and bureaucracy (relevant ministers on both sides of politics, Treasury, the department under review)

- service providers (NGOs and their peak bodies). NGOs, which are increasingly responsible for the provision of social services, described as *"a great ally in terms of change",* were seen as particularly important to co-opt into the reform process

- consumers including children and young people who are service users

- interest groups including victims and advocacy organisations

- experts in the field such as researchers, academics and expert advisory groups

- individuals or groups likely to oppose reform (seen as a useful strategy to foreshadow and counter likely objections).

Furthermore, maintaining consistency of personnel and stakeholder involvement throughout the entire reform process (inquiry, implementation and monitoring) was seen to promote the sustainability of reform.

> *"… the more you draw into an inquiry, the more you touch, talk with, consult with – the more of a support base you'll develop for the implementation of the recommendations once you go away."*
>
> *– Inquirer*

Interviewees had experienced a variety of methods for seeking external input to the inquiry process. This ranged from inquiries conducted jointly with stakeholders via a taskforce, to regular briefings with politicians or bureaucrats or via reference groups, focus groups or surveys. The staged release of discussion papers and draft reports, with mechanisms for feedback, was another way to engage externally and to ensure that any incorrect conclusions contained in the report are rectified. Processes used by the Productivity Commission that establish a continuous feedback loop to the inquiry as it unfolds were held up as the "gold standard" in consultation.

> *"What they do is they combine a very careful analysis with a very broad engagement… so that shortly after their terms of reference are issued, after a first round of initial discussions, they get out an Issues Paper, which then focuses attention around what they see as the key issues to be addressed. That leads to the first round of very serious submissions and hearings and seminars and so on. That then leads to a Draft Report, which is made public, and to a second round of responses to the Draft Report. The Final Report is published and then there's a process after the Final Report before a government response [is received]."*
>
> *– Implementer*

Interviewees acknowledged that the level of consultation undertaken is likely to be determined by the resources allocated to the inquiry. For statutory review bodies involved in reforms crossing jurisdictional boundaries, web-based processes were seen to be a more financially viable way of conducting national consultation.

A number of respondents emphasised the value in consulting with children and young people in reforms of relevance to them. They provided examples of the ways in which children can provide unique insights into the development of mechanisms that are child friendly as well as child safe. In doing so they recommended that inquirers seek the advice of experts to ensure this is done effectively.

6.4.5 Processes

Respondents provided insights into how the processes used by inquiry bodies can impact on reform outcomes; that is, the ways in which they come to understand the issues under examination, formulate recommendations and write reports.

Several recognised the inherent conflict for inquiry bodies such as royal commissions, applying what is essentially a legal frame of inquiry to the search for solutions to social problems.[78] They also acknowledged the difficulty of inquiry bodies switching between an inquisitorial and a collaborative approach.

Conceptualising the problem and evidence-based inquiry

To ensure that the inquiry starts with the right focus and looks for solutions in the right places, respondents talked about the importance of inquirers arriving at an understanding of the problem under investigation based on the available literature, insights from written and verbal

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[78] See 6.4.7 Composition for a discussion of the role of legal personnel in inquiry-led reform.

testimony and, potentially, by undertaking their own research.[79] When done well by inquiry bodies, this work can add to the knowledge base and can be used as a public education tool or in the training and professional development of the workforce.

Inquiries that are not informed by such analysis were seen to run the risk of formulating misdirected recommendations. Several interviewees commented that without an evidence-based foundation, policy reform is less likely to succeed.

More than one respondent referred to recommendations from the Royal Commission into Aboriginal Deaths in Custody relating to the removal of hanging points in prison cells as an example of a hugely resource-intensive strategy resulting in minimal gain.

Those respondents with experience in child protection reform saw a need for greater understanding in the community and the sector about the nature of offending in the sexual abuse of children. The common stereotype of perpetrators as a small, deviant cohort was seen to result in over-reliance on solutions that aim to bar such people from working with children. The example of an inquiry arriving at a more nuanced view, which was based on the research evidence, is described in the quote below:

> *"They made the comment that very often the focus [is] on the offender as 'evil' or disturbed, disordered in some way and they made the comment that it just doesn't reflect the reality. The implication [from the research] is that given the right circumstances, ordinary people do really stupid things, unpleasant things and nasty things to people. And then I think the whole of chapter two, from memory, in that report sets out in a lot of detail, the different elements of those structural and systemic organisational features that allow this to occur, particularly in enclosed institutions – but I think they do also make the point it doesn't have to be a closed institution. But once you have people looking after other people, outside of the natural family context, there are these risks that are presented and the implication … is that there's a whole lot that can be done at an organisational level to make these places safer for children."*
>
> *– Commentator*

Several respondents felt it important to acknowledge that child abuse is a complex issue and in spite of the current research, child protection is a policy area where we still largely do not have the solutions.

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[79] A comment was made by one of the respondents that the research undertaken by an inquiry can be seen as an added benefit arising from the process and by helping to justify the cost of the process, can help sell the work of the commission.

Evidence gathering

A number of insights relevant to the inquisitorial functions of inquiry bodies emerged from the interviews. Respondents talked about the need to subject the evidence obtained to dispassionate analysis – described by one as subjecting it to a *"cold reading"* – and to include a critique of the evidence in the report. Another with experience as a formulator recommended using a *"hot tub"* method of obtaining sworn evidence related to expert evidence that was contested from a number of heads of department at once.

> *"I swore in all of them together. I asked all of them to make an opening statement about their position and I allowed them to question each other. So they don't just each give their evidence and then go away. They've got to give it in front of colleagues with similar expertise and they've got to agree to be questioned directly by the other experts as well as by counsel. So if there is a direct conflict of opinion on an issue, you know, they can directly say 'well you say this but my experience is this … What do you say about that?' type stuff. And it can be quite effective."*
>
> *– Inquirer*

Writing the report

Respondents expressed the view that while it is the recommendations that set the blueprint for reform, the report as a whole requires careful drafting and is essential in providing implementers with the context for the recommendations. Reports were seen to have the potential to play an important role in professional development for the sector, community education and lobbying. As such, reports need to be as readable as possible. Respondents stressed the importance of structure and logic, making good use of headings and subheadings to break down the text into manageable chunks.

Respondents also felt that it is important for the voice of the victims to be heard in the report. Vignettes and case studies can be used effectively to promote empathy, while at the same time highlighting systems failures. For one inquiry head, it was important that the human story set the tone of the report.

> *"… every data-relevant aspect of the inquiry was prefaced by words, phrases, observations of the human participants in the system, that you never come bang into a research profile or set of results or anything like that – although there's a lot of them in the report – without being led into that topic by what people have said. I think maintaining that sort of participant-generated intros or accounts maintains the human relevance of the inquiry."*
>
> *– Inquirer*

Using the media

Respondents suggested that inquiry bodies should make good use of the media to help develop community will for reform and thereby promote political will.

> *"The area that I think has given us the most traction in terms of getting fixes for our reports… is publicity. Getting publicity to further the outcomes of an inquiry is important …"*
>
> *– Inquirer*

Some strategies to make use of the media included the following:

- foster relationship with journalists who have shown interest in the inquiry

- work out the messaging – preferably a key phrase that synthesises the purpose of the inquiry – well before recommendations are released, and *"keep to message"*

- take advantage of every opportunity to raise and *"socialise"* the issues

- ensure media visibility for the launch of reports and have "*relevant people",* such as past victims of abuse in the current context, available at the launch to illustrate significant points. The latter was seen as a more accessible way of getting across the purpose of the inquiry – more so than the report itself.

Making reports and case studies public on websites was another way inquiry bodies can generate publicity and illustrate issues at a systems level.

In their use of the media, it was suggested that inquiry bodies strike a balance between over-exposure in the media, which could result in *"alarm or compassion fatigue",* and the need to maintain a public focus. One respondent commented that where a strategic decision is made for the report to create a *"big bang in the media",* widespread consultation has the potential to result in leaks, which may reduce the impact of the report on release.

6.4.6 Powers

The legal status of the inquiry body and the nature of its powers were seen by respondents to have the potential to impact both positively and negatively on reform. In their favour, the work of Royal Commissions (and of special commissions of inquiry) was seen to attract particular authority and credibility. Their coercive powers – that is, to compel the attendance of witnesses, the cooperation of government officials, the production of documents or seizure

of other evidence – as well as their ability to offer indemnity for witnesses[80] were seen as powerful inquiry tools. For statutory bodies, the ability to do *"own motion"* inquiries, to determine the parameters of an inquiry and to continue to monitor implementation of their recommendations, were seen as advantageous.

Respondents were of the view, however, that Royal Commissions have some inherent limitations. As quasi-judicial bodies, they were seen to keep themselves aloof from the major political players, to have only limited and formal engagement with other stakeholders and to be reluctant to take into account the cost of implementing reforms. For several respondents, the 1997 Wood Royal Commission into the New South Wales Police Force[81] was seen to break this traditional mould.

Another perceived barrier to implementation is that once recommendations are handed down, commissioners walk away from the process and are rarely retained to oversee implementation. Unlike Parliamentary committees and statutory review bodies, where those with the knowledge and emotional investment in the issue remain in the system, former commissioners quickly become external to the process of implementation. Respondents saw it as more effective to have those involved in the inquiry playing a role in implementation, to "*walk alongside the process so the spirit of inquiry didn't get lost*".

The scope of an inquiry was also seen to potentially constrain its effectiveness. The parameters of an inquiry are generally beyond the control of the inquiry body and are determined by the terms of reference, or for statutory bodies, by their enabling legislation. Nonetheless respondents were of the view that even where the scope of the inquiry is narrow, the inquiry can still play an important role in identifying where the problems are and suggesting options to be considered. The influence of the Productivity Commission in public sector reform, even when operating within a restricted brief, was cited as an example.

6.4.7 Composition

Respondents considered it important that inquiry bodies include a balance of people with knowledge and experience of management and governance, and with the right skills to develop and manage relationships with a wide range of stakeholders. For several respondents, the fact that commissions of inquiry are often dominated by lawyers and headed by judges was problematic, particularly in circumstances where the profession itself may be perceived to be implicated in the problem under investigation.

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[80] The powers of Royal Commissions to offer indemnity to witnesses in inquiries where criminal wrongdoing is uncovered in the inquiry was seen by one interviewee as causing problems for prosecutors in subsequent criminal proceedings.
[81] *Royal Commission into the New South Wales Police Service Final Report, volumes 1–6,* May 1997.

"There are risks for them [commissioners] that they need to understand, which is the dominance of their legal framework and the unquestioned assumption of legal royalties and values. And I'm not being critical, I'm just talking generally about the nature of these sorts of commissions."

– Commentator

6.5   Recommendation-level issues: What makes a good recommendation?

"So there's all those elements: good policies, good evidence, handles the right problem, is doable politically, administratively, economically, and there's not too much pie in the sky for particular things."

– Implementer

Interview participants were asked for their opinions on what makes a good or SMART[82] recommendation. Respondents shared a range of insights into the characteristics of good recommendation formulation.

The following table summarises potential recommendation-level barriers to implementation and potential strategies to address them, as identified by respondents.

Table 22 Strategies to address recommendation-level barriers to implementation

Potential barrier to implementation	Potential strategy

Ambiguity in interpretation of recommendation	• Recommendations to be detailed, clear, precise and easy to read
	
	• Development of implementation plan that includes:
	
	   o Clear lines of responsibility for action
	
	   o Action to be taken and how it is to be taken
	
	   o Timeframes for action to be taken
	
	   o Indication of prioritisation of action
	
	• State clearly the vision or purpose of the

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[82] SMART is an acronym that outlines criteria (that is, specific, measureable, attainable, relevant and time-bound), said to facilitate the setting of objectives that are easier to understand, implement and measure. The schema was originally devised for use in a project management context and is commonly attributed to Peter Drucker (1954). The SMART acronym has been loosely applied in this context— initially to help interviewees focus on particular characteristics of effective recommendations, and to structure the analysis of their responses. This had the potential to influence the way in which participants responded to what makes a good recommendation.

	recommendation
Implementers overwhelmed by the reform program	• Limit the number of recommendations • Staged implementation of recommendations, with indication of prioritisation of action
Recommendations not seen as realistic or viable	• Stakeholder consultation • Inquiry body to adopt a pragmatic approach
Recommendations not viewed as relevant	• Develop a process for assessing whether a proposed recommendation will achieve what it is intended to achieve

"Slippage" in implementation	• Include a timetable for implementation in the recommendations that is:
	    o Adequate and realistic
	    o Allows for planning of implementation
	• Start implementation early

Lack of clarity regarding reform priorities	• Provide an indication of recommendations that are a priority for implementation
Recommendation not seen as a priority	• Include a timetable for implementation in the recommendations • Staged implementation of recommendations, with indication of prioritisation of action

As indicated earlier[83], respondents believed that recommendations should be informed by a philosophical approach and should reflect the value frame adopted by the inquiry body. It was felt that the intended purpose, or vision of the proposed strategy should be made clear in the recommendation to ensure implementation was in accordance with the spirit of the reforms. Respondents also stressed the need for recommendations to be evidence-based; that is, to be underpinned by current research relevant to the issue under review.[84]

Just as respondents felt that the writing of the inquiry report requires careful consideration[85], respondents spoke of the importance of framing recommendations in a way that is clear, precise, easy to read and well structured.

Many considered it important to limit the number of recommendations arising from an inquiry. Too many recommendations were seen to risk overwhelming or discouraging

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[83] See 6.4.2 Focus and values.

[84] See Conceptualising the problem and evidence-based inquiry.

[85] See Writing the report.

implementers, overburdening the relevant workforce and placing unnecessary demand on limited resources.[86] While respondents acknowledged that there is no *"magic"* number of recommendations that should emerge from an inquiry, one respondent suggested an upper limit of no more than 50 recommendations per report. Others suggested having fewer core recommendations, with a subset of reforms nestled within them. Or, for complex and detailed recommendations to be broken down into manageable components, while at the same time *"keep[ing] an eye on the big picture"*.

In addition to these overarching insights, respondents spoke about other factors associated with successful implementation at the recommendation level. The SMART approach, while arguably not directly relevant in the context of public policy reform, nonetheless provides a useful structure for organising these responses. These are outlined below.

6.5.1 Specific

Respondents were of the view that targeted and specific recommendations that leave no room for ambiguity in interpretation are more likely to be successful drivers of change.

> *"… if you want government to act, keep it short, keep it precise and don't give them any wriggle room."*
>
> *– Implementer*

However there were some differences in views about the preferred degree of specificity. For many, recommendations should provide guidance for implementers on the following:

- **Why:** State the purpose of the recommendation and how it is intended to make a difference.

- **Who:** Recommendations should include *"clear points of accountability".* Identify those responsible for the action required and, if responsibility is shared, stipulate how it is to be shared.

- **What:** Identify what particular action is required in detail and break the description of this into clear components. Avoid vague terms like "consider", "improve" or "review" to avoid misinterpretation, misunderstanding and the potential for governments to overstate or *"fudge"* outcomes.

- **How:** Specify how the recommendation is to be implemented and coordinated and identify possible constraints in implementing the recommendation and how these should be averted or managed.

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[86] See discussion in 6.6.2 Capacity.

- **When:** Include timeframes and give clear signposts on whether it is an immediate, or medium- or long-term priority.

Several interviewees felt that including an implementation plan or logic diagram in recommendations to government, and thereby doing some of the work required of the implementation body, is likely to result in faster and fuller rollout of reforms.

A contrasting view, however, was that an overly prescriptive recommendation, particularly where there has been minimal consultation with relevant government bodies or organisations, can place too much pressure on governments, rather than giving them space to consider the options. This was seen to lead to a *"tick-and-flick"* approach to reform, where a scorecard is kept of the number of recommendations addressed. Such an approach was seen to be likely to mean implementers lose sight of the overall vision of the reform and to assess what can feasibly be achieved.

> *"You need to leave some room tofor manoeuvre and people work on your recommendations and tease out what practically can be done… If you want a report that's going to have a long shelf life you need to leave a little bit of room by emphasising what are the principles involved in trying to get to understanding the framework and the context."*
>
> *– Implementer*

6.5.2 Measurable

Recommendations should stipulate concrete criteria for measuring progress towards the attainment of goals. Establishing a monitoring framework to *"map the efficacious outcomes of the reform"* was seen by respondents to be a critical part of implementation. Failure to incorporate monitoring mechanisms makes it impossible to ascertain successful implementation or, at least, progress towards implementation and, in so doing, to track progress. Insights provided by respondents into the monitoring of both the progress and degree of implementation, as well as the outcomes flowing from reform, are discussed in detail in Monitoring and evaluation**.**

6.5.3 Attainable outcomes

Recommendations should be realistic and achievable in the context in which they will be applied. In the view of respondents, this requires inquiry bodies to consider the political viability of the recommendations, including the affordability of the reforms for government[87] as well as the capacity of the sector under review to implement the reforms[88], and to do so

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[87] See discussion in 6.3.3 Ensuring cost effectiveness.

[88] See discussion in 6.6.2 Capacity.

within a stipulated timeframe.[89] As indicated earlier[90], interviewers regarded it as essential for consultation to take place with stakeholders to seek their views about the feasibility. Moreover, for recommendations to have material outcomes, respondents indicated that they must be within the reach of the intended audience.

To ensure that proposed reforms are likely to be accepted, respondents advised inquiry bodies to adopt a *"pragmatic"* approach and to focus on the recommendations that are most likely to be accepted and that can be fully implemented.

> *"… there'll be some things which would be wonderful in ideal terms but for which there may be practical, political, realistic reasons that you know you're not going to get to those points. So maybe you don't need to put those recommendations in, maybe you're better to focus on the ones that you can deliver, with politics being 'the art of the possible'. And I'm not saying you have to be totally pragmatic, obviously there's got to be principles that underpin the process, but you just do need to realise that sometimes passion can outreach reality and you just have to wind it back a bit."*
>
> *Inquirer*

6.5.4 Relevant

Respondents discussed the importance of ensuring that the proposed recommendations are pertinent to, and will make a tangible difference to the issue under investigation.

> *"… if you're going to make a recommendation, it's got to solve a problem — it can't just be a check point."*
>
> *– Reviewer*

Respondents recommended that inquiry bodies establish a process for assessing or evaluating the value of any given recommendation to the relevant jurisdiction, the system under review and the clients of that system. In formulating recommendations, it was suggested that inquiry bodies should consider the following questions:

- Will this make a difference to the issue under investigation?

- Is this targeted and appropriate to the audience?

- Is this the right time?

- Does this match or duplicate other reform efforts and needs?

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[89] See discussion in 6.5.5 Timeframes.

[90] See discussion in 6.4.4 Consultation with stakeholders.

- What are the likely impacts on the existing systems?

- Is it applicable in the current environment?

Such an approach was seen to guard against what several respondents identified as a tendency by inquiry bodies to include recommendations to appease particular stakeholders and keep them "*on side*".

Several interviewees warned against recommendation formulators relying too heavily on *"legalistic solutions"* and *"technical fixes"* rather than looking to more *"solution-focused"* recommendations. In the context of inquiries established to address historical abuse, for example, respondents suggested that recommendations that reflect the victims' wants and needs should be formulated, rather than focusing primarily on monetary compensation.

6.5.5 Timeframes

Recommendations need to be time-bound or to stipulate a schedule for implementation. For a number of respondents, the consideration of timeframes at various stages of the reform process was considered to be an issue of importance. However, respondents also provided more general insights on the importance of the time allocated for other stages of the process, including the inquiry itself and the evaluation of reforms.

> *"You can't take all the time in the world to resolve serious issues, but sometimes taking a bit of time upfront can lead to better outcomes later on.*
>
> *– Reviewer*

Setting a schedule for implementation

Setting an implementation timetable, and allowing adequate time for both planning and executing implementation, was seen by a number of respondents as necessary to getting the job done well. The view that implementation of reforms takes time, especially in large-scale systems reform and reforms that seek to influence organisational culture, was shared by many respondents. In their experience, tight timeframes and hasty delivery had compromised the effectiveness of reforms.

A number of interviewees also talked about the need for adequate time to plan implementation, particularly for complex federal reform that overlaps with state or territory reform. This allows for consultation and engagement with stakeholders and due consideration of how the reforms impact on other parts of the system.

> *"It wasn't a great way to start a fairly massive investment of funding. It was done very quickly, it was done without careful consideration of the report … Whilst there was definitely impetus and the [X] Government and the [Y] Government were both keen to do something, perhaps it might have been better, in hindsight, to take a bit more time to consult [affected]*

communities, which didn't really happen until later in the process. And secondly, to actually get all the ducks lined up in terms of the specific aims of both the [X Government] and [Y Government] strategies. So it meant there was a lot of chaos in the first year in particular …"

– Implementer

One respondent suggested that up to a year of planning is required for the implementation of national reforms, with another proposing a five-year lifespan for the coordinating body, with annual reporting. Another suggested that as a rule of thumb, planning for implementation should take around 65 per cent of the time allocated for rollout, with the remaining allocated time divided equally between implementation and checking on implementation. Others saw danger in delaying implementation because "*as soon as you stop talking about it [the issue] it will slip back*".

As well as helping to focus implementers on the task of implementation and to hold them to account for agreed actions, embedding implementation timetables in large-scale reform can help highlight reform priorities. Respondents suggested that, where there are numerous recommendations, it may be prudent for inquiry bodies to propose staged implementation, stipulating which recommendations require immediate attention and which require a long-term view. While prioritising the implementation of certain recommendations in this way may help implementers with planning, it was seen to have potential drawbacks. One respondent commented that, over time, recommendations rated as a lower priority may drop off the reform agenda altogether. Another warned that significant recommendations earmarked for later implementation may be deemed less important.

> *"… and so they were all in that list and we had what should be done in six months and in 12 months. But that didn't actually capture the issue of significance of each of them. If you have one that's due in three years but is particularly significant – the most significant recommendation of the lot – but it doesn't stand out that way because it's not something that [needs to be] done right now."*
>
> *– Reviewer*

Respondents also warned against making certain actions contingent on less urgent actions, as this could result in pivotal recommendations becoming 'unimplementable'.

In the experience of a number of respondents, the timetable for implementation can be dictated or affected by political events or by circumstances that become untenable and require a prompt resolution.

> *"You want to be able to establish credibility, respect and trust in the people who are leading the change process. So that needs to be something that happens quickly. You can't take months or years to do that. You need to find ways to achieve that very quickly. You need to convince, satisfy external critics, and, frankly, try and neutralise external criticism by demonstrating that people understand the problems that need committing to – to fixing*

them and to ensuring that no more happen in the future."

– Implementer

Several interviewees felt swift action around several key recommendations was imperative to maintain public attention and support, which can quickly be diverted to another more immediate issue.

Other considerations relevant to time

As well as dedicating adequate time for the implementation phase, several respondents commented on the need to allow enough time for inquirers to do their job. Respondents involved in formulating recommendations commented that while the public is often looking for quick results from an inquiry, the time spent in planning the process, consultation and report writing is crucial to a successful outcome. Respondents nonetheless recognised that extended delays in the inquiry process can result in strategies losing relevance as circumstances change. In addition, waiting for an inquiry to publish findings can leave organisations and departments in a state of stasis and unable to make key decisions. Time invested upfront in adequate planning inevitably enables a more efficient rollout of reform.

In auditing the implementation of recommendations, it was thought the timeframe should be 12 months or more. Anything less was seen to be unlikely to register change. Fourteen to 18 months post report was seen as a *"decent"* period to monitor whether there had been adequate activity.

6.6   Organisational and systems-level factors

Well, I think in the large part, the problems of the past and some of the continuing problems now are because of organisational culture … I mean, organisational cultures, by their very nature, tend to actually protect institutions or aim to do that ... and not sort of expose things."

– Reviewer

Other parts of the landscape reported by interviewees to have the potential to impact the success of reform are factors at the organisational and systems levels. These include organisational culture, the capacity of agencies to implement changes, the challenges inherent in systems reform and the importance of education and training.

Respondents emphasised the need to contextualise organisational and systems-level factors into the broader political, policy and social environments in which agencies operate. Child protection work was seen as being particularly influenced by these broader forces, making it a

complex and difficult area to reform.[91]

The following table summarises potential barriers to implementation of recommendations and potential strategies to address them, as identified by respondents in their discussion related to organisational and systems level issues.

Table 23 Strategies to address organisational and systems level barriers to implementation

Potential barrier to implementation	Potential strategy
Organisational culture: • Closed cultures that are resistant to scrutiny and to change • Agencies working in 'silos' rather than collaboratively • Low level of professionalisation of workforce • Minimising problems within the agency by management • Struggle to maintain a child focus by agencies that work with children and families	• Strong leadership at the organisational level • Introduction of new staff, particularly at management level • Inquirer to 'sell' the benefits of the inquiry to the agency (free consultancy service) • Promote empathy — agency CEOs hearing from victims • Adopt a positive and strength-based approach to the issue under review • Consultation with children in matters that affect them
Organisational capacity: • Inadequate staffing levels • Low skill level in workforce • Difficult nature of the work impacts negatively on staff (e.g. burnout, 'churn' of staff) • Impact on staff morale of strident media criticism • Poor pay and working conditions adversely impact staff morale • Reform fatigue in workforce • Management have little or no experience in the rollout of reforms • Lack of adequate insight into the dynamics of child abuse	• Greater investment in workforce • Workforce development – training and professional development in evidence-based practice • Partnerships to enable sharing of resources and expertise in implementation • Greater emphasis on innovation • Secondment of staff between agencies • Introduction of new behaviour codes • Protection of whistle-blowers • Robust, ongoing, external oversight of agencies to monitor change using tools such as behaviour surveys, focus groups etc. • Staged and timely allocation of

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[91] See discussion in 6.2.1 Political context.

	resources needed for implementation
	• Consider how new practices proposed in recommendations can be incorporated into current practice
	• Greater focus on dynamics of child abuse in vocational courses
Systems change • Unforeseen knock-on effect of recommendations within the system under review or other systems • Logistical challenges for large agencies of implementing even minor administrative changes	• Stakeholder consultation • Development of overarching logic of reforms in implementation plans • Good planning • Suggest pilot of strategy to evaluate impact in different contexts

6.6.1 Organisational culture

Organisational culture, including that of government departments, specific sectors and professional groups, can have a powerful influence on reform agendas. Respondents commonly cited this issue as having the potential to impede reform. Organisational culture manifests in a range of ways and, according to stakeholders, effecting change at this level can be difficult and slow.

Respondents identified a number of aspects of organisational culture as important for reformers to consider. These included the following:

The importance of leadership: Organisational leadership was seen to be a central driver of culture. This influence, and the role of leadership in ensuring accountability for reform are discussed in more detail in Leadership and implementation.

The need for 'new blood': Respondents described how the introduction of new staff, particularly at a senior level, can be a powerful circuit breaker for a negative culture in a failing system. In the experience of a number of respondents, existing senior management are often incapable of effecting a change in culture and can be part of the problem. According to one respondent, "*If you don't get that external scrutiny of someone who doesn't owe people, you just don't get change.*"

While the 'new broom' approach might be required to achieve a shift in culture, and to focus the organisation on reform, several respondents indicated that it should be balanced with the need to retain expertise in the organisation's area of operation, as this can facilitate a quick rollout of reforms. Achieving this balance was described as hard work and difficult to get right, and a number of senior implementers had mixed views on the extent to which it had been successful in certain instances. According to several interviewees, very high staff

turnover, or 'churn' – especially where incoming workers are inexperienced – can also slow down reform agendas.

Resistance to change and level of openness: Agency resistance to change was one aspect of organisational culture seen to commonly impede reform efforts. In the view of many respondents, such resistance is a hallmark of organisations that are resistant to scrutiny.

> *"If you have a closed membrane around something then you are not allowing much information in or much information out. How do you change anything? It's almost impossible."*
>
> *– Commentator*

Examples provided of agencies with a 'closed' culture included churches, the public sector, the military, police, the justice system, some professional groups and child welfare departments. While for some respondents a shift to a more open culture was evident in many areas, others were of the view that insularity and defensiveness had increased in some sectors, including in the area of child welfare.

Resistance to change can manifest at various levels, from the front-line worker, jaded by the tide of reform, to those at a management level who may seek to minimise the extent of the problems within the organisation or to use strategies to derail reform, such as stalling implementation in an attempt to *"wait out"* the process.

Some cultures were seen by respondents to involve ways of working that impede reforms seeking to promote children's interests. The impact of legal culture on children's experiences as witnesses in the criminal prosecution of offenders, and a generally defensive attitude to scrutiny by lawyers, was identified as a case in point.[92] Respondents also recognised that non-profit and private organisations have varying attitudes to change, with some open to opportunities to improve practice so as to better meet the needs of children and others remaining entrenched in outdated practices.

Ability to work collaboratively: A commonly cited factor in effective organisational cultures was the ability to see the bigger picture and to understand the need, particularly in relation to child welfare, for an interagency, cross-portfolio approach to reform.

> *"... you can write all the policy guidelines ... in the world but if people stick to their own culture ... or protect their own territory and they're not willing to be a little flexible in terms of what are the constraints and what are the needs of the other people they are working with ... and the needs of the kids so that we're not dividing them up into criminal investigation or health*

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[92] This is discussed in Structural constraints in child protection reform.

investigations or child protection investigation."

– Commentator

The importance of collaborative work in securing sector ownership of recommendations, promoting accountability and in delivering more effective child protection services is discussed in more detail at Stakeholder ownership and collaboration.

Degree of child focus: The degree to which organisations working with families and children have a child focus, or engage in child-centred practice, was identified as another important aspect of organisational culture that can impact reform. While it may seem ironic that agencies specialising in child welfare work can struggle with this, respondents identified numerous instances where agency heads were seen to prioritise the protection of the reputation of the organisation or department over the rights of children to be protected from harm.

A number of respondents described the difficulty many contemporary institutions have in ensuring that children have a voice in the organisation and that service provision is informed by the insights provided by children.

Degree of professionalisation: The status and degree of professionalisation of a sector was seen to be a relevant aspect of organisational culture. Child protection was seen to have a relatively low status and level of professionalism. It was described by a number of respondents as being a young profession that is staffed by a largely inexperienced workforce.

Respondents commented on how professionalising a workforce could positively affect culture; for example, bringing with it a greater focus on the importance of using evidence-based approaches. However, one respondent commented on how the professionalisation of a child protection workforce in a small jurisdiction had resulted in a loss of local knowledge and experienced staff.

A number of strategies that may help to affect a shift in organisational culture were raised by respondents. These are in included in the table at the start of this section (see Table 23).

6.6.2 Capacity

The capacity of the sector under review to effectively engage with and implement reforms was seen by respondents as important for inquiry bodies to consider. The following capacity issues were identified as particularly relevant in systems involving the care of vulnerable children:

- the adequacy of staffing levels in the face of increasing workloads and the impact this has on services (see above)

- the nature of work that deals with difficult issues like child abuse and neglect that can result in staff being shell-shocked and burnt out and unlikely to stay in the job for long

- the degree of investment in the workforce, for example by way of training and professional development[93], supervision and debriefing, pay and conditions, and the impact this has on skill level and morale

- the impact on morale of strident criticism of staff in the media

- the level of experience in reform rollout at the senior level

- the ability to work with complex interagency service delivery where data sharing and shared responsibility is required, necessitating the consideration of the quality of IT and data systems

- the capacity to comply with onerous implementation demands such as where concurrent reform agendas are managed over a period of time, or where voluminous recommendations from an inquiry result in reform fatigue. The child protection sector was recognised as one that is particularly susceptible to this. One respondent estimated that in the recent past, the child welfare department in a particular state had dealt with around 1200 recommendations arising from various reviews. Agencies that are faced with an unwieldy number of recommendations, may respond by trying to *"duck the waves and wait for them to pass".*

Respondents also stressed the importance of understanding demographic differences and that regional, rural and remote areas are unlikely to have the resources that are available in major cities to implement reforms.

6.6.3 Systems change

Respondents identified a range of considerations as relevant in the reform of large systems. Foremost among them was the need to be alert to the knock-on effect of a recommendation in other parts of the system, or in other systems, particularly where inquiry bodies have not sought administrative advice.

> *"So the facilitating of implementation has to be not just the policy level or writing a document that says what should happen in broad terms. It's really got to be a little bit more detailed ... and not only just about processes and procedures. There really has to be a systematic, almost like some sort of logic diagram of how the system pieces fit together."*
>
> *– Reviewer*

In addition, some respondents made the point that changes to large systems – even relatively minor administrative changes – can involve considerable logistical challenges, and require

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[93] See discussion in Section 6.6.4 Awareness and knowledge.

good planning to ensure that sufficient infrastructure is in place as reforms roll out.[94] Others suggested that piloting reforms in different contexts can help promote understanding of what needs to be done differently across diverse communities and different types of organisations (highly centralised and large through to devolved or small).

6.6.4 Awareness and knowledge

Investment in the professional development of staff in the sector under review, including via pre-service (higher education qualifications), in-service and interagency education, training and development opportunities, was seen as an important facilitator of effective reform. At its most basic level, respondents recognised that reforms cannot be made unless the changes to policy and practice are communicated to staff. In the words of one respondent, if this does not occur, the new policies become *"like an antique vase which sits on the mantelpiece, lovely to look at …"*.

The training and professional development of staff working with vulnerable children was seen to involve a number of challenges, in particular the high resource costs of training staff or volunteers where there is a high degree of churn. A number of respondents spoke to the need for what was described by one as *"ecologically sustainable child protection"*; that is, cost-effective approaches to ongoing training, where various professional groups and volunteers across sectors could be brought together to share resources and learning. Bringing different professional groups together for training also provides an important opportunity for cross-sector fertilisation, where professionals involved in different parts of the system can work together to improve processes.

> *"There doesn't seem to be a mechanism or an easy mechanism where the people who are doing the court cases can say back to the people who are doing the interviews with kids 'look that interview was great except that... And you need to be able to do it around some examples, practical stuff, not just abstract [concepts]."*
>
> *– Commentator*

Respondents recognised the need for greater understanding in the child protection workforce of the nature of offending against children and best practice in prevention. The inquiry process itself was seen to play a potential role in professional development in this area. A number of interviewees suggested that there needs to be a greater focus on the dynamics of child abuse at the undergraduate level, not only in social work courses, but also in vocational training for professions that involve contact with children, such as teaching and medicine. Key content areas mentioned by a range of respondents as worthy of a greater educational focus included:

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[94] See discussion in Setting a schedule for implementation.

- interagency work

- child sex offenders

- exchange of information and the boundaries of privacy legislation

- dynamics of family violence and violence against children.

6.7   Method of implementation

"It's about taking those things that cross boundaries and having somebody say, this is important for us to achieve, otherwise it will fall through the cracks."

– Implementer

The formulation of recommendations, while a critical component of the reform process is, as characterised by one interviewee, only *"step one in a hundred steps"*. It is in the operationalisation of new policies, practices and procedures that the "*rubber hits the road*" in social reform.[95] In the following two sections, interviewees provide insights into how the work involved in implementing recommendations and holding to account those responsible for doing so, can impact on the effectiveness of reform.

The following table summarises potential barriers to the implementation of recommendations and potential strategies to address them, as identified by respondents in their discussion of implementation methods.

Table 24 Strategies to address barriers to implementation associated with method

Potential barrier to implementation	Potential strategy

• Complexity of national reform
   ○ Differences between jurisdictions and diverse stakeholders
   ○ Difficulty brokering co-operation and compliance across jurisdictions and diverse stakeholders
• Gate-keeping in the political process
• Change in government/leadership
	• Recommending a whole-of-government strategy
	• Coordination of implementation by central agencies (e.g. Prime Minister or Premier and Cabinet)
	• Stakeholder consultation in implementation
	• Development of Implementation plan which includes:
	   ○ Action to be taken and how it is to be

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[95] The importance of formal implementation processes, such as the establishment of "*an implementation oversight group, an implementation plan and clear roles and responsibilities*" in supporting implementation was highlighted in the scoping review for this project.

	taken
	o Clear lines of responsibility for action
	o Timeframes for action to be taken
	o Indication of prioritisation of action
• *"Slippage"* in compliance over time	• Embed implementation mechanisms into existing structures, such as legislative reform, incorporating reform targets performance agreements of CEOs, using political processes (COAG, Parliamentary Committees) or statutory review bodies to provide oversight
	• Self-regulation by the sector under review (e.g., by accreditation, codes of conduct)
	• Involvement of civil society (e.g., welfare peaks) in implementation and monitoring

As was evident from the earlier discussion relating to recommendation level issues[96] there were differing views among respondents as to the preferred degree of specificity in drafting recommendations, and the extent to which formulators should seek to shape the implementation process. Ultimately, inquiry bodies may have little control over what 'architecture' governments adopt to implement recommendations.[97] Nonetheless, respondent's views on the processes and structures that best support implementation have the potential to inform the Commission's approach to the drafting process.

6.7.1 Governance of oversight bodies

Respondents provided insights on a range of possible structures for the coordination of implementation. The role of government in implementation dominated the discussion.

Implementation of large-scale or cross-sector reform may require a whole-of-government strategy[98] and in the words of one interviewee involves *"incredibly complicated mechanisms"* with *"extensive and elaborate layers of reporting".* One example of an oversight mechanism at

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[96] See Section 6.5.1 Specific.
[97] One respondent commented that at a minimum, governments would be likely to accept recommendations that stipulate a timeframe for implementation and reporting.
[98] One respondent warned against the risk in adopting a whole-of-government approach to child protection that universal services are pushed into performing a secondary, more specialised role that may become a drain on resources.

the political level was a Cabinet committee, constituted by ministers in the relevant portfolios and supported by steering groups and forums constituted by department heads, CEOs of non-government agencies and other significant stakeholders. Parliamentary standing committees were seen to be one way to ensure bipartisan monitoring of progress of implementation.

The importance of managing implementation at the *"top of the bureaucratic tree"* via central agencies, such as the Department of the Prime Minister or the Department of the Premier and Cabinet, was highlighted by a number of respondents with experience implementing large-scale reform. According to respondents, the more senior the agency responsible for coordinating and monitoring implementation, the better. High-level coordination provides *"the kind of glue you need to progress the work that needs to be done, particularly in child protection which was always seen to be in the too-hard basket".* It was also seen to provide the *"muscle"* to:

- avoid gate-keeping and by providing access at the source of power, reduce the number of processes required to initiate action

- ensure the policy and fiscal attention of government

- promote active interagency engagement and collaboration and help to reduce the opportunity for misunderstanding and ambiguity. Central agencies can act as the *"ultimate arbiter between the public sector turf wars"*

- reduce the risk of the conflicts of interest arising

- bring a focus to implementation that sits above the dominant culture of the department or sector under review.

It was also seen to help avoid the loss of relationships forged between ministers and champions of reform when a cabinet reshuffle occurs.

At the sector level, respondents had experience working with a range of bodies involved in implementation, including:

- implementation teams or committees both across and within agencies

- bodies constituted solely for the purpose of coordinating implementation

- statutory bodies such as Children's Commissioners, Ombudsman's office or The Australian Human Rights Commission

- private consultants contracted to formulate an implementation plan.

Having an internal implementation team was seen to be particularly important where organisations are implementing recommendations from a number of inquiries concurrently.

One respondent indicated that for internal implementation teams it is sometimes preferable to bring in someone new to lead the process, especially where changes to organisational culture are required. The importance of leadership in ensuring accountability for reform is discussed in more detail in Leadership in implementation.

6.7.2 Effective processes

In their discussion about governance, respondents identified some characteristics of effective implementation processes. The importance of developing an implementation plan, of adopting a collaborative approach and, where possible, maintaining consistency of the players involved in the reform process, emerged as key messages. As discussed earlier (see Section 6.4.6 Powers) involving inquiry bodies in some capacity at the implementation stage was also seen as desirable.

The development of a plan with designated milestones and clear indicators as to responsibility for decision-making and action, especially where multiple stakeholders from different agencies are involved, was viewed as essential.[99] When a plan with a timeframe for completion is incorporated into recommendations – including a timeframe for completion – the plan can become *"an excellent lobbying tool"* for groups working to keep governments accountable. As discussed earlier (see 6.5.5 Timeframes), respondents felt the implementation plan should prioritise recommendations that require immediate action.

The role of collaboration and communication in fostering ownership of reforms at the political, bureaucratic and organisational level are discussed in other sections of this report.[100] Respondents indicated that the body coordinating implementation should also adopt a collaborative approach, seeking feedback from the sector about the progress of reform – including from regional areas – to help ensure any barriers are dealt with quickly.

Organisations may also benefit from external assistance to implement recommendations. Respondents identified that this may be particularly useful:

- where the issues under review are of such a nature that it would not be appropriate to have internal personnel driving the changes; for example, in the rollout of a complaints process for reporting sexual harassment

- where previously closed organisations have limited ability to effect cultural change

- in relation to determining compensation for victims.

However one respondent warned against setting up implementation processes that are

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[99] See discussion in Section 6.5.5 Timeframes.
[100] See 6.2.1 Political context; 6.4.4 Consultation with stakeholders and 6.8.2 Stakeholder ownership and collaboration.

externally driven, arguing that the majority of the work should be done collegially, drawing on the expertise within an organisation rather than an *"administrative approach"* where a *"guru"* comes in briefly to address an issue.

Several respondents were of the opinion that expert advisory bodies, providing *"broader advice and experience"* that is more likely to be evidence-based, can play an important role in supporting implementation. However one respondent cautioned that the expert advice sought should reflect an objective view of the research. This respondent cited the example of an advocacy organisation often called upon to advise on child-safe organisations, which, in their view, conceptualised child abuse in a way inconsistent with what is known from the literature.

6.7.3 Approaches to implementation

Several respondents suggested that, where possible, the operationalisation of recommendations should be locked in structurally, so *"the machine has to keep it alive".* Examples provided by respondents of ways to ensure maximum sustainability of reforms included:

- enshrining the reforms in legislation: described by one respondent as being like putting a *"chock behind the wheels of a vehicle"* to prevent *"slippage"* into non-compliance[101]

- using political processes such as COAG or oversight by parliamentary committees.

- using *"carrot and stick"* approaches including incorporating reform targets into the KPIs of managers and CEOs, linking agency funding to accreditation, the meeting of standards or the implementation of reforms and mandating reporting on implementation progress in performance agreements between department heads and ministers

- creating ongoing independent positions, such as advocates or liaison officers, to assist consumers to navigate the system and help ensure that the procedures and policies introduced by the reforms are followed in individual cases

- involving statutory review bodies such as Children's Commissioners or Ombudsman in implementation.

Self-regulation by a sector, for example the setting of standards, codes of conduct or accreditation systems, was proposed as one way of achieving sustainable change. The example of education reform in some European countries was cited, where the government sets the standards and schools must formulate a plan to meet the standards, which are then submitted

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[101] For other respondents, over-reliance on legislative reform can potentially blind inquiry bodies to a whole range of other strategies. In the words of one respondent: "*if your only tool is a hammer, then every problem looks like a nail*".

to government for approval. A number of commentators stressed the importance of standards being commensurate with the capacity of organisations to meet them. For one respondent, increased regulation of a sector and over-emphasis on accreditation, without translating the vision or purpose of the changes, results in empty reform.

> *"If organisations don't have their own reasoning for continual improvement in the way that they do business, then I don't know quite how much protection that really offers because I think that those bottom-line standards do not serve to fully protect. And besides that, the organisational mindset becomes compliance focused … so long as you've got the boxes ticked you're okay."*
>
> *– Commentator*

Several respondents suggested that the involvement of civil society in the implementation and monitoring of reform should be considered, for example via peak welfare bodies, such as the Australian and State Councils for Social Service.

6.8   Accountability for implementation

> *"I think scrutinising the implementation, as much as what's gone [on] in the past will be absolutely key and having people that can be trusted to give full and frank opinions on that will be absolutely key as well. If we're ever going to see change, people need to be able to say what is not going well and what is."*
>
> *– Inquirer*

In addition to the method or processes used in the rollout of reforms, interviewees identified a number of other factors associated with accountability in implementation. These include strong leadership, stakeholder ownership, collaborative ways of working and transparency through monitoring. The timeframe for implementation was also an important consideration in promoting accountability. This is discussed in Section 6.5.5 Timeframes.

Underscoring this discussion is the view that accountability means more than just compliance. Instead, it requires implementers to ensure that implementation is aligned with the spirit of the recommendations and to work towards the change as envisioned by the inquiry body. For one respondent this means, *"doing more than ticking boxes. They've got to feel personally attached, I think, to not only be getting it done, but doing it well."* Similarly, governments need to be *"locked into a much clearer statement about what achievements the community can expect and then reporting against those achievements."*

The following table summarises potential barriers identified by respondents to ensuring accountability for the implementation of recommendations and potential strategies to address them.

Table 25 Strategies to address barriers to implementation related to accountability

Potential barrier to implementation	Potential strategy
• Lack of buy-in to reforms in the sector under review • Focus on compliance with recommendations rather than seeking to effect change • Buy-in to reforms lost with change in agency leadership	Strategies to promote buy-in to and ownership of the issue under review: • Inquiry bodies to engage with leadership in the sector • Leadership to promote the objectives, and convey the 'vision' of the reforms • Convey message that changes are part of core business • Stakeholder consultation • Promote empathy – agency CEOs hearing from victims • Involve agency management team in implementation, including middle management • Demonstration that reforms will make a difference and that change is possible
• Drift to tertiary (or protective) solutions	• Consider strategies that broaden the base of responsibility for the protection of children (not relying too heavily on government processes for coordination and monitoring of implementation)

• *"Slippage"* in compliance over time
 	
• Uncertainty about progress of implementation (e.g., government spin)
 	
• Uncertainty about effectiveness of reforms
	• Recommendations to stipulate mechanisms for monitoring of implementation
	
	• Start monitoring early
	
	• Monitoring to be transparent, independent and sustainable:
	
	• Regular reporting on progress
	
	   o Reports on progress to be publically available
	
	   o Corroborate reports such as by site visits, spot reviews and stakeholder surveys
	
	   o Reports tabled in Parliament rather

	than provided to individual ministers
	• Monitoring provided by an external body
	• Data collection and reporting requirements not to be overly onerous for agencies
	• Recommendations to stipulate mechanisms for evaluation of outcomes from reforms

6.8.1 Leadership in implementation

A strong message emerging from the interview data is that for reform to succeed it must be embraced by those delivering it, from upper management to front-line workers. Where management provides what one respondent described as "*social leadership*" in the reform process – sending clear messages about the objectives of the reform and expectations within the agency – implementation was seen to be likely to get more traction. The more contested and complex the reforms or the issue, the more important leadership was seen to be.

Respondents viewed agency heads, with their potential to convey to staff the vision of the reforms and the message that the reform agenda is core business of the agency, as essential to implementation. They stressed the importance of inquiry bodies engaging with management at the highest levels and at the earliest opportunity. Liaising with directors, department heads and CEOs of non-government organisations or of peak bodies provided direct access to decision-makers and helped promote sector buy-in. It was suggested that those in upper management should take every opportunity to communicate commitment to the reforms. The following provides an example of the work required to 'sell' sector-wide reforms:

> *"We did everything that a textbook would say that you should do. We put heads of agencies and heads of NGOs and everything on statewide road shows. We went out and we spruiked it to groups of interested people in [A location] and [B location] and every place, including with the minister whenever he/she could. It wasn't just lip service. We sort of chewed it over with the field about how this was going to work and what it was going to do."*
>
> *– Implementer*

Respondents recognised the risk that momentum can be lost with a change in leadership and that new leaders with different value systems or with no personal investment in the reforms may be reluctant to follow through with implementation. This was seen as particularly

problematic for reforms targeting organisations with a high turnover in leadership, such as the churches and the public sector. To help guard against this, and to spread the burden of responsibility for driving the reform, respondents suggested that the whole executive team within agencies be co-opted into the reform process, rather than having just one executive leading implementation. It was also recommended that implementation *"happen across layers".* Middle management, as both the *"keepers of the culture and the ambassadors"* and those with the requisite detailed knowledge of the practical implications of the changes that are sought, should be included in this process. This was seen as particularly important in reform of large institutions and where reforms seek to change organisational culture.

Respondents identified a number of characteristics of sector leadership conducive to effective implementation of reform. These included:

- credibility and authority in the sector, with sufficient clout to get reluctant parties to the table

- systems knowledge and experience, with an understanding of *"the sum of the parts and the relationship between those things, rather than just individual compartments"*

- being open to scrutiny rather than taking a defensive position to the review – seeing it as an opportunity for growth, not a threat

- belief and trust in staff rather than blaming them or the previous regime for failings and supporting staff to meet the challenge of reform.

According to interviewees, implementation is best lead by individuals who understand the issue under examination, the local context and what the inquiry body is trying to achieve. In the words of one respondent, reform is facilitated best by people who *"get policy, they get what's important politically, they get what's important for families, they get what's important organisationally".* Good leadership in agencies providing community services was seen by a number of respondents to involve understanding that their primary mission should be to promote the interests of the clients they serve, rather than prioritising those of the minister or the department or institution under review.

A more nuanced view of the role of bureaucrats in reform was that while they must be careful not to *"upset their political masters",* they can help facilitate uptake of recommendations by reassuring government about the feasibility of the changes. Where this focus and the *"desire to change and to make a difference"* is absent, the bureaucratic response was seen to be likely to miss the point of the reforms, with the result that the same problems will recur.

Respondents talked about the need to secure commitment to the reform process by leaders at more than an intellectual level – aiming to engage both the *"head and the heart".* As with buy-in at the political level, hearing the stories of victims was suggested as one way to promote

genuine investment in reform by CEOs and department heads.

> *"When survivors tell their personal narrative, their stories of extreme exclusion, of sexual assault, of having their career trashed because they were prepared to speak out, then the agents of change within the system (often powerful men), not only hear the case for change, they feel it."*
>
> *– Inquirer*

6.8.2 Stakeholder ownership and collaboration

Strong leadership and good stakeholder management were viewed as essential in driving ownership of both the problem and the proposed solutions by the relevant workforce. To counteract what one respondent saw as the *"general resistance in organisations to any kind of change"*, respondents indicated that the sector under review needed to genuinely engage with the spirit of the recommendations. Strategies that promote commitment at the service provider level were seen to be more effective levers of change than regulation on its own.

> *"… the really good child protection work is organic and comes from within the organisation – from an understanding of the problems and commitment to values. Bureaucratic responses of any kind are the easiest to write recommendations about, but the least effective."*
>
> *– Commentator*

Other factors that respondents saw as helping to promote a sense of ownership at the service provider level include:

- believing that the reforms will make a difference, especially where they involve more work for staff – if workers do not understand the reason for the reforms and for continuous improvement, their response is likely to become compliance, rather than change-focused

- staff within an organisation seeing organisational buy-in at a high level

- service providers feeling that they have had their views acknowledged and taken into account in both the inquiry and implementation process; that is, people feeling that *"they're part of the journey, that they're on the same page, that they are going along with things"*.

- seeing evidence that change is possible, such as where a proactive approach to the issue is adopted by government or management by implementing proposed changes before recommendations are handed down.

Consultation and collaboration were consistently cited as the vehicles for achieving sector

ownership, particularly for sector-wide or cross-sector reforms.

As one respondent commented:

> *"It's got to engage with it hasn't it? Now you can engage through law, but law is a blunt instrument and often an insensitive one. And I think it's about getting smart ways to make organisations be participants and co-workers."*
>
> *– Commentator*

Joined-up responses in service provision was seen to promote greater accountability in the sector and to provide opportunities for non-government organisations to hold governments to account for the pace and direction of progress.

Respondents identified a number of ways to promote collaborative implementation work, including:

- providing opportunities for relationship building, such as via interagency training, representation on steering committees and forums

- improving communication – using common language and data, and devising mechanisms for feedback between different agencies/sectors

- good planning of implementation with clear delineation of roles and responsibilities

- providing incentives and rewards for working collaboratively.

Those with experience in the implementation of large-scale reforms involving many stakeholders described it as frustrating, expensive, resource-intensive and exhausting, but ultimately worth it. They identified a number of barriers to agencies working collaboratively, including differences in culture, values, roles and powers resulting in mistrust and misunderstanding. A lack of trust between agencies can emerge in times of financial constraint where there is competition for resources. It can manifest as *"demands to be consulted about every single thing"*, which results in a laborious and time-consuming approach to implementation. Concerns that sharing information will be in breach of privacy laws and logistical barriers, such as different databases being unable to 'talk' to each other and industrial demarcations, were also seen as inhibitors of collaborative work.

Collaboration in child protection reform

The clear message that emerged from the interviews is that the importance of adopting a truly collaborative approach in child protection work – both in relation to service provision and in implementing reforms – cannot be underestimated.

Fostering a sense of collective responsibility, in all service providers and in the community at

large, for ensuring the protection of children from abuse and neglect was seen as an essential component of effective child protection reform. While this has been a strong and consistent theme underpinning policy for some time[102] , there was general consensus among respondents that child protection work remains compartmentalised and fragmented. In the experience of those interviewed, division, lack of coordination, responsibility shifting and *"fighting for turf"* can have disastrous consequences for children by creating gaps in service responses. The 'silo' effect was seen to be a particular characteristic of child protection work and commonly characterised as *"people in the welfare sector versus police".* At the broader level, respondents felt that staff in key agencies, such as health and education still struggle to see child welfare issues as part of their role.

Respondents stressed the importance of adopting strategies that act to maintain broad responsibility for the safety of children. Over-reliance on government processes – for example, where a government department dedicated to child protection is created or where a Parliamentary committee or other government body is charged with driving implementation of reforms – may lead to a perception that child protection is solely a government responsibility. Respondents warned that when recommendations are viewed through *"the lens of government",* there is a risk that broader vigilance at the organisational level – essential in child protection work – could be eroded. The resulting effect is a drift more towards tertiary rather than preventative solutions.

Respondents indicated that in the field of child protection, collaborative work also entails forging strong partnerships between practitioners and academics and experts. They stressed the importance of close management of collaborative work to ensure shared responsibility does not result in no one taking responsibility. Given the numerous challenges involved in collaborative work, it was suggested that joined-up approaches might need to be mandated in some way to achieve cut-through. In New South Wales, for example, strategies such as those requiring co-location of agencies in Child Wellbeing Units or the establishment of Joint Investigation Response Teams were seen as a way of embedding a culture of collaboration.

6.8.3 Monitoring and evaluation

The development of an accountability framework to monitor implementation was seen as essential by respondents to:

- maintain the momentum of reform and prevent *"slippage"* in compliance and standards over time

- allow for an assessment of whether implementers have done what they said they

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[102] See, for example, the *National Framework for Protecting Australia's Children 2009–2020,* the core message of which is that *"protecting children is everyone's responsibility".*

would and, if not, determine nonetheless whether what they are doing is good enough

- anticipate hurdles and barriers and take action to avoid or address them as they arise

- justify resourcing or, where outcomes clearly do not justify resourcing, modify the approach, (that is, financial accountability)

- extend the knowledge base about what particular approaches work, and why other approaches don't, providing an opportunity to modify the strategies.

Most of those interviewed agreed that monitoring is a critical component of ensuring transparency in public policy reform. Several suggested that monitoring should be built into the recommended reforms – particularly where the inquiry body has a limited lifespan, with no ongoing monitoring role, as is the case with royal commissions – and should start early. The period after the handing down of recommendations and before implementation processes are developed was identified as a critical point where the impetus for reform can start to wane. Making recommendations for the early establishment of the monitoring body was seen as prudent.

Respondents recognised that effective monitoring of the progress of implementation depends on the timely provision of information by agencies, and that the establishment of processes to ensure accurate, secure and robust data collection are essential. Interviewees suggested that those formulating recommendations relating to monitoring consider the following:

- what is required of agencies in relation to record keeping

- the powers that the monitoring body may require to compel agencies to provide the necessary data and documentation

- the expertise required for them to analyse data.

- the need to collect benchmark data

- the importance of using both quantitative and qualitative data.

Interviewees identified barriers to effective monitoring of reform; that is, monitoring that is transparent, independent and sustainable. These included:

- political interference

- a tendency for governments and agencies to:

  o revert to *"spin"* in order to overstate their commitment to reforms

  o devise confidentiality agreements and *"gag"* members of independent

committees dealing with sensitive or politicised issues

- difficulties in accessing or interpreting data

- the loss of impetus to keep an eye on progress over time.

Essential features of effective monitoring

In the course of the interviews, respondents highlighted three important features of good monitoring: transparency, independence and sustainability.

Transparency in service provision generally, and in the response to complaints and issues of concern, was commonly seen as central to good practice.[103] Respondents asserted the right of victims and their families to have access to information about practice shortcomings and the action taken to address them. This was seen as particularly important where services affect the health, wellbeing and liberty of people, and in the provision of services for children and other vulnerable groups.

A number of respondents indicated that services for children should always be subject to independent scrutiny, via effective complaints processes, community visitor schemes, site visits and surveys. One respondent talked about lack of access to children in immigration detention centres providing *"horrible fertility"* for harm to children. Transparent processes were seen as beneficial not only for clients of the service and their families, but also for staff and ultimately for the department providing the service.

Regular reporting was seen as an essential component of effective implementation, helping to promote responsiveness in the system (by highlighting the need for agencies to have better quality assurance) and to institutionalise the changes. Maximising public access to reports[104] was suggested as one way to counteract the tendencies for government to engage in empty rhetoric when called to account for implementing reforms – described by one respondent as *"reform by paper".* Without scrutiny,

> *"… reasons are going to be found, ways are going to be found, words are going to be found to show the existing situation in its best light and to take the edge off the breakthrough recommendations that are coming from the Royal Commission."*
>
> *– Commentator*

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[103] The risks associated with having an organisational culture of secrecy and defensiveness are discussed in 6.6.1 Organisational culture.

[104] See previous discussion in 6.2.4 The role of the media in relation to the media scrutinising implementation and the importance of community debate regarding implementation.

In the eyes of interviewees, transparent processes are those that maintain independence from the key players. While agencies play an important role in monitoring, and may be represented at various levels of the process, respondents stressed the importance of monitoring bodies being at arm's length from both the department under review and the political process. Respondents involved in statutory review valued the ability to table reports in parliament, rather than reporting to the relevant minister. It not only enhances the perception of their independence, but also allows the sector to track progress of implementation.[105]

Ensuring that monitoring is sustainable was also an issue of concern for interviewees. Respondents warned against imposing reporting obligations that are overly complicated, expensive, disruptive or otherwise burdensome for agencies.

> *"… you'd be looking to try and have data gathering that doesn't cripple the organisation, but is adequate or sufficiently adequate to be able to say that, 'We can monitor and get a feel for effectiveness of this particular system', every three months, six months, 12 months — however long that is either required by statute or that the management or organisation would demand."*
>
> *– Reviewer*

Where possible, it was advised that recommendations should not increase the data collection responsibilities of agencies, but rather ways should be found to improve the data already collected and consider how they can be aggregated with data from other parts of the system.

Possible approaches to monitoring

Respondents referred to various mechanisms that could be used in monitoring implementation of reform, including:

- reviewing subsequent complaints or internal reviews and using them as case studies to inform further reform. One respondent indicated that a case study based on the Larkins matter[106] was very useful in this regard. Respondents recognised that for complaints mechanisms to be effective in child-related services, children need to know their rights and be actively supported to assert them. In addition to caseworker support, rights charters like the *Victorian Charter for Children in Out-of-Home-Care* and real access to independent advocacy services have the potential to support these processes. Input from organisations such as the CREATE Foundation, a peak body for

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[105] One respondent referred to the Anangu Lands Paper Tracker and an online initiative of the Uniting Communities launched in mid-2007 to monitor government implementation of commitments to Anangu (Pitjantjatjara and Yankunytjatjara peoples).

[106] Steven Larkins, a former scoutmaster, was employed as Chief Executive Officer of Hunter Aboriginal Children's Services and National Chairperson of the Secretariat of National Aboriginal Child Care (SNAICC) notwithstanding criminal allegations relating to his alleged indecent assault of a number of children.

children in out-of-home care, was seen as desirable in strategies to ensure the voices of children are heard.

- processes that make use of or are embedded into existing systems – such as oversight by statutory review bodies, the committees and advisory bodies established for implementation, or parliamentary committees, with their reporting requirements enshrined in legislation – which were seen as useful to ensure monitoring continues to happen

- post-implementation or periodical review conducted by an independent watchdog body such as the office of Auditor-General, the Public Services Board or private audit consultancies

- appointment of an external person or body to play an ongoing monitoring role, and with knowledge of the sector and the ability to check the accuracy of government reports on implementation

- involvement of the inquiry body in monitoring

- using existing peak or professional bodies to implement and maintain accreditation systems or establish new ones

- victims groups, advocacy organisations and academics that could ensure the independence of monitoring.

A number of respondents discussed strategies that involved several review bodies working together to play a monitoring role. This was not only seen to be useful in providing extra gravitas to the process but also helped to share the burden of vigilance. A process whereby deficiencies in the system were identified by the monitoring bodies – included on a register of concerns and conveyed to the relevant authority in writing – ensured that concerns were kept on the public record.

There was general consensus among interviewees that monitoring needs to be more sophisticated than providing a *"scorecard"* based on *"statistical reporting"* of output or reporting on how much money has been spent. As one interviewee commented, while the investment of billions of dollars in reform might indicate a recommendation has been implemented, it does not reflect whether change has occurred and is not in itself a valid measure of success.

Respondents were of the view that reform success should be linked to the original objectives of the reform. The inclusion of clear performance indicators in recommendations can remind implementers of the objectives of the reforms as well as help them plan for monitoring. In the case of reforms related to the out-of-home care of children, one respondent felt that

outcomes should be measured on data relevant to a range of indicators.

> *"So we reported on safety of kids, we reported on their health, we reported on their educational performance, we reported on stability, we reported on the special needs of Aboriginal and Torres Strait Islander children, we reported on how the individual needs of children who needed therapeutic support or care was being supported. We also reported on whether children were being successfully reunified with their parents and also reported on how successfully young people were transitioning from out-of-home care to independent living."*
>
> *– Reviewer*

Another respondent stressed that outcomes for vulnerable children should be compared with community norms, and that one state's performance on out-of-home care should not be compared against the care of children in another state.

A number of respondents, particularly those performing review and monitoring functions, spoke of the need to critically evaluate government reports of implementation and to seek corroboration independently. It was suggested that this could be done a number of ways:

- site visits

- spot reviews of particular areas where there were previous concerns

- conducting stakeholder surveys, including, where relevant, with children and young people

- drilling down into the most important recommendations and asking for evidence of uptake to be provided.

The success of reforms can also be measured through program evaluation. A number of respondents suggested that recommendations should stipulate requirements for proposed strategies to be piloted and/or evaluated. Respondents outlined a number challenges involved in evaluation. These included difficulties in accessing data, sharing data between organisations and the differences in how data is collated by different agencies, and inadequate resourcing of evaluation. Several respondents talked about the need to be able to determine what is happening at the local level in order to construct local solutions, and yet one respondent indicated that child protection departments do not collect data at an individual community level. Another respondent spoke about the need for data that tracks the movement of families and children from one part of the system to the other.

For a number of respondents, adopting a positive and supportive approach to implementation and the barriers encountered was seen as important in promoting transparency. Staff members need to see that monitoring is *"… there to help, not to beat them up … so that together we could work in a collaborative way to create change".*

6.9 Unintended consequences of recommendations

But you could swing the whole of our society to a position of such regulation in an attempt to prevent that [child abuse] ever happening and, in doing so, you would actually have massive unintended consequences on civil society and on individual children. The big challenge for this Royal Commission will be to think with wisdom about the unintended consequences of its recommendations."

– Inquirer

During the course of the interviews, respondents spoke about the likelihood of unintended negative consequences flowing from the implementation of recommendations.[107] The complexity inherent in the field of child protection – sitting as it does within and across a range of other systems such as health, education, policing, community welfare and justice – was seen to bring with it an increased risk of unanticipated flow-on effects. One respondent commented that child protection reform was *"all about unintended consequences".*

The following draws on interviewees' experience of, and thoughts about, possible unforeseen effects of reform generally and from recommendations relevant to child protection in particular, including those already raised in the preceding discussions.

Respondents identified the following potential adverse outcomes arising from the implementation of recommendations generally.

- A freeze on strategic decision-making or change in the sector under review – pending the release of the report – can result in a form of organisational stasis.

- In developing standards, there is a risk that compliance will be focused at the lowest common denominator.

- Over regulation can foster a culture of compliance rather than change.

- When reforms are trying to effect culture change in an organisation, it may be necessary to concentrate power and decision-making at senior levels, resulting in disempowerment of more junior staff.

- Because recommendations arising from inquiries usually result in what one respondent described as a *"sort of tightening of things, putting in more checks and balances and controls"*, government agencies are at risk of becoming more defensive, resulting in a more rigid, top-down approach that is insular and less collegiate.

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[107] Respondents were asked the following question in the interviews: *"Have you observed any unanticipated or unintended effects from the implementation of recommendations?"*

- Implementation of reforms may result in a drain on human resources at the organisational level as more able staff members are directed away from direct service provision to work on implementation.

6.9.1 Unintended consequences in child protection reform

Dominating the responses from interviewees was concern that reform in the area of child protection should strike a balance between measures that seek to protect children from abuse and an approach that creates an overly fearful and risk-averse culture in the regulation of activities and services involving children. While the aim of certain policies may be to create organisations that are child-safe, they were seen to be unlikely to be child-friendly, as the following quote suggests:

> *"I remember in [location] young people in care speaking very poignantly about how they could not, in foster care … spend the night at a sleepover at one of their school friend's places because the parents of that school friend would have to undergo police checks. Now in the previous Labor government, a brave minister took that regulation away so that foster carers, kinship carers, residential carers actually were exercising the sort of judgment that we expect parents to exercise every single day and I thought that was a really good move."*
>
> *– Inquirer*

Respondents were of the view that over-regulation of activities, services and other interactions involving the care of children had the potential to impact negatively not only on children, but also on the adults that work with them and the community at large in the following ways:

- Introducing a degree of rigidity and fear in relation to the physical interaction between adults and children can have the result of denying children, particularly young children, *"access to ordinary human warmth"* when they need it, such as a comforting arm around the shoulder when they are hurt or upset.

- Stringent screening requirements for children can inhibit normal social interaction for children in out-of-home care (as is evidenced by the above quote).

- Placing onerous obligations on carers may discourage people from taking up foster care, leading to further reductions in an already diminishing pool of available carers.

- Too strong an emphasis on risk of abuse may have the effect of focusing carers on issues of that nature at the expense of other aspects of care for children.

- Overburdening small, non-professional and largely volunteer organisations with regulations aimed at larger, centralised or well-resourced entities, may discourage the former from working with children.

- There can be an over-emphasis on tertiary solutions for child abuse, at the expense of early intervention. This can increase the incidence of reporting, which leads to children coming into care at an earlier age. Children who spend a longer time in out-of-home care were seen to have reduced chances of returning to their families.

- Ascribing secondary or tertiary-like functions relating to children's safety onto universal services, such as Maternal & Child Health, can result in resources being directed away from their primary role and risks stigmatising them as services only for vulnerable families.

- Mandatory reporting obligations may result in a high number of vexatious or unsubstantiated notifications, thereby overloading the system. Agencies that are anxious to be seen to be fulfilling their obligations to report may err on the side of notifying in circumstances where it is not warranted.

- When employment screening or allegations against staff are not handled with skill and care, careers and personal reputation can be destroyed.

- Employment screening may create a false sense of security in organisations.

- The introduction of structured decision-making processes in the assessment of risk to children, described by one respondent as "*child protection work by following the dots*", can lead to some practitioners suspending their professional judgment and diminishing the quality of the response.

6.9.2   No surprises – avoiding unintended consequences in reform

Respondents had few concrete suggestions for avoiding unintended consequences, such as those listed above. Rather, insights about the best ways for inquiry bodies to go about their work[108] provide some guidance for recommendation formulators. Consulting widely with stakeholders and providing draft recommendations for comment were seen by many of those interviewed as the best way to identify and work through potential problems and minimise the risk of aberrant outcomes.

In addition, starting the inquiry process with an analysis of the nature of the problem under review and conducting the inquiry in a holistic, positive and balanced manner and with appropriate focus on community values[109] was seen to give recommendations the best chance of achieving the intended outcome.

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[108] See the discussion in 6.4 Aims and context of inquiry.

[109] See the discussion in 6.4.2 Focus and values.

6.10 Summary of chapter

This chapter presented responses from 43 expert informants to a series of open-ended questions about the factors affecting the implementation of recommendations arising from inquiries. Respondents deemed to have in-depth knowledge of child protection reform or public policy reform more generally, were drawn from a pool of former high-level officials from government, senior staff in statutory regulatory bodies, non-government organisations, peak bodies, academia and professional groups. Feedback from respondents from all states and territories (except Tasmania) with experience in one or more of the phases of reform – including formulation, implementation or the monitoring of implementation of recommendations – was explored thematically.

The degree of detail and contextual information from the data provides rich insights – the back story to government reports on implementation of recommendations and the government stakeholder survey. Collectively, data from the stakeholder interviews provide insights into a range of factors that can affect the implementation of recommendations, including the political, social and structural context of reform; resourcing issues; the nature of the inquiry body itself, including the powers and processes used, and the way recommendations are formulated; factors at the organisational and systems level; the processes used in the rollout of reforms; the evaluation and monitoring of reforms and; potential unintended consequences flowing from recommendations.

When coded as either barriers or facilitators of implementation, the responses of interviewees suggest that the methods used in the implementation of reforms, leadership and stakeholder ownership and the need for transparency in monitoring and evaluation are factors most commonly associated with successful implementation by respondents. Conversely, organisational culture, the structural context in which recommendations "land" and leadership and stakeholder ownership were viewed by respondents as likely barriers to reform.

A number of key themes emerged from the stakeholder interviews in relation to the factors that inhibit or promote successful inquiry-led reform. Foremost among them were the following:

- The underlying aim of reform work is for the government and those who will be implementing the reforms to embrace the spirit and intent of the recommendations, rather than adopting an approach that is merely compliance-focused. Articulating the vision of the proposed changes at every media opportunity – in consultations with stakeholders and in both the inquiry report and the recommendations arising from it – is an important task of inquiry bodies.

- It is essential for inquiry bodies to be alert to the context in which recommendations will ultimately "*land*" and, regardless of the scope of their terms of reference, to maintain a wider focus on the implications of their recommendations.

- Collaboration, coordination and communication are essential components of inquiry-led reform.

- Organisational culture is a powerful force affecting reform work and can be pivotal in determining the success or failure of recommendations.

- The resourcing implications of reform are issues of primary concern for government. Analysing the projected costs of recommendations (both monetary and human), suggesting potential economies in other areas, and emphasising the cost-effectiveness of a given proposal can help smooth the path through the political process.

- Inquiries play a potentially important role in contributing to the knowledge base relevant to the issue under investigation. This is achieved by providing analysis that is informed by the available literature, research commissioned by the inquiry and insights from the testimony of lay and expert witnesses.

- Strong leadership at both the political and agency level is essential to drive reform agendas.

In conclusion, it seems vital that the recommendations proposed by inquiry bodies be relevant to their intended audience and doable. Other important features include providing detailed and unambiguous guidance for implementers on the purpose of the reforms, the action required to achieve that purpose, the allocation of responsibility for implementation, a timeframe for completion and indication of costs, and the measures by which they can be assessed.

7. DISCUSSION

This project employed a multi-method design to assess the implementation of 288 recommendations selected by the Royal Commission from 67 previous inquiries related to child sexual abuse. Data was extracted and evaluated from: (i) government commentary on implementation and accompanying documentation; (ii) legislation verification; (iii) surveys of key government stakeholders; and (iv) interviews with diverse parties engaged in the implementation of recommendations. This report identified a diverse range of contributors to the successful implementation of recommendations, which are synthesised in this chapter. The analysis is structured according to the aims identified for this project.

7.1 Extent of implementation

Overall, 48% of the selected recommendations were 'implemented in full' and 16% were 'partially implemented'. In 14% of cases, implementation status was undetermined due to insufficient information provided by governments in their documents. The remaining 21% of recommendations were 'not implemented'. However, of the recommendations rated as 'not implemented', 39% were under consideration or their implementation was in progress.[110]

The jurisdictions with the highest proportion of recommendations 'implemented in full' were Western Australia (71%), Queensland (63%) and New South Wales (59%). It was beyond the scope of this study to determine why some jurisdictions had a higher rate of 'fully implemented' recommendations. This study was based on select recommendations, and the statistics on rates of implementation, and jurisdictional rankings, may well vary if the recommendations on all relevant inquiries were measured.

Specific analyses of the data on implementation reveal the following:

- The proportion of recommendations implemented per inquiry is greater for older inquiries and lesser for more recent inquiries.

- According to type of recommendations, those relating to systems had the highest proportion of recommendations that were 'implemented in full'. By contrast, recommendations relating to legislation had the highest proportion that were 'not implemented'. Recommendations that were policy-oriented had the lowest proportion of 'not implemented'.

- With respect to the subject matter of the recommendations, those most likely to be 'implemented in full' related to 'employment screening'. Those most likely to be 'partially implemented' were on the subject of 'criminal justice system'.

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[110] Percentages are rounded up.

Recommendations that were most likely to be 'not implemented' were on the subject of 'training in child protection'.

7.2   Factors contributing to successful implementation

Implementation of recommendations takes place in a rich political, strategic and economic context. Successful implementation, according to respondents, is contingent on the scope of the inquiry and the inquiry process; the nature and pertinence of the recommendations; and the commitment of governments to implement the recommendations. Community attitudes and the role of the media are also perceived as shaping the formulation of recommendations, the decision to implement (by individual or successive governments) and the monitoring and evaluating of the implementation process. Thus the implementation process is much broader than the decisions of a government at the time that the recommendations are released.

Furthermore, as explored in this section, in order to assess the factors that contribute to successful implementation of recommendations, it is necessary to also assess the barriers confronted in implementation and how they may be overcome through effective strategies. The data collected in this project addressed both the contributing and inhibiting factors to implementation.

7.2.1   Facilitating factors

Clarity of vision: It appears important that the vision and principles underpinning reform be clarified and promoted, especially through the media. From the beginnings of an inquiry, it is suggested that a coherent message be articulated about the broad vision of the reforms which is then used to inform the agenda of the inquiry and ensuing recommendations. Stakeholders need to become well versed and responsive to this vision. Specifically, review systems relating to the care of children are best driven by the best interests of children and their right to care and protection. Clarity of vision can also be woven through the recommendations.

High-level leadership: Having a champion of reform either within or outside the political process can help to garner community support, bridge political divides (through obtaining bipartisan support) and drive political will for action. Bipartisan political engagement can be particularly important for reforms withstanding changes in government.

Engagement with media: Inquiry bodies that make good use of the media can develop community will for reform and political will. The message needs to be clear and consistent. Focusing on the stories of victims can engage the media and in turn the government. Engaging the media should nonetheless tread a fine line between promoting a sense of short-term alarm or crisis and maintaining deep-rooted public interest in the issue.

Conducting early and ongoing consultation with relevant stakeholders: Consultation and regular briefings with government, agencies and other stakeholders such as NGOs, interest groups and experts can facilitate fiscal and political buy-in. Wide consultation may broaden

the potential support base for the implementation of recommendations and assure the sector ownership necessary for implementation. Consultation that extends to victims, children and young people – providing there are appropriate safeguards in place – may increase the likelihood that recommendations are appropriately tailored to these groups. Stakeholders could be engaged in problem identification and problem solving, including in relation to drafting recommendations to ensure their suitability and feasibility. The staged release of discussion papers and draft reports, with mechanisms for feedback, may assist in the consultative process.

Alignment between the intent of inquiry, the spirit of the recommendations and the implementation process: Findings suggest that those involved in the inquiry process articulate their intentions and principles through recommendations to those ultimately implementing reform. Such an alignment may lead to government and implementers embracing the spirit and intent of the recommendations. This approach does not preclude formulators from crafting recommendations in response to stakeholder feedback, but ensures that the intention of the inquiry underpins and informs all recommendations. Also, implementers may adapt recommendations to circumstances, while being mindful of the intent of the inquiry and spirit of the recommendations.

Holistic approach to drafting recommendations: The most effective sets of recommendations appear to be interconnected and reflect an understanding of how the entire system should work. A piecemeal approach to the formulation of recommendations may not address the overall problem that is based on an interconnectedness of issues. In other words, piecemeal recommendations can overlook the big picture. Multi-disciplinary representation on the inquiry body and widespread consultation with stakeholders are two ways to assist in providing a more holistic response to the issues.

Recommendations drafted with specificity and flexibility: Findings suggest that recommendations that are specific and focused on the required change tend to be easier to implement and monitor. Where recommendations are overly broad or have multiple parts, both implementation and oversight may be made more difficult, which in turn compromises accountability. At the same time, if the wording of recommendations is so tight that it precludes a degree of flexibility in the implementation, it may prove difficult for governments to adapt the implementation process to their circumstances. Flexibility is also needed to ensure that the recommendations remain current notwithstanding changes in technology.

Recommendations that are outcome-focused and achievable: The SMART criteria could provide a useful frame of reference for drafting of recommendations: Specific (see directly above), Measurable (incorporating a monitoring framework to map outcomes), producing Attainable outcomes (based on political viability and capacity), Relevant (especially to the needs of victims, children and young people) and have built-in Timeframes. In addition,

recommendations could be tailored to the circumstances of different jurisdictions, agencies and NGOs to ensure that they are achievable.

Formulation of evidence-based recommendations: Findings suggest that governments may respond better to recommendations that are supported with evidence and best practice. Where governments regard the evidence to be lacking or are of the view that there is a competing body of plausible evidence, they could be reticent to engage in the implementation process.

Mindfulness of capacity issues in drafting recommendations: Resourcing implications of reform was a major concern for governments and they were more likely to implement recommendations that were economically viable. Where governments lacked resources or faced other capacity issues (such as data capacity within IT systems or human resources) implementation suffered. Adequate resourcing is vital for both implementation and ongoing effectiveness of programs. Strategies that an inquiry body could undertake in order to address resourcing issues include consultation with Treasury officials or economists to cost proposed reforms (in both monetary and human terms). This could, in turn, result in the inquiry body limiting cost-intensive recommendations. An economic impact statement may also provide relevant data with the additional benefit of accounting for savings, such as potential savings from preventative and early intervention strategies or suggesting potential economies in other areas.

Jurisdictional collaboration: The Council of Australian Governments (COAG) could play a useful role in facilitating collective discussion by states in a federal reform process, providing it does not slow down the process. The Australian Government may facilitate this process by demonstrating leadership and attaching funding incentives to reform.

Agency collaboration and coordination: This can be important for effective implementation and may require interagency training, improved communication, delineation of roles in implementation and incentives for collaborative work. Cross-sector reform and interagency work can be assisted by managing budgets across departments. Also, the sharing of resources and expertise in implementation can be encouraged through the formation of partnerships between agencies or between agencies and government.

Government oversight bodies: These may be necessary for monitoring and tracking of reforms. Central bodies keep a check on and co-ordinate the implementation progress. They can bring a focus to implementation that sits above the culture of the department, agency or sector under review; promote interagency engagement; and ensure the policy and fiscal attention of government. This is particularly important with large-scale, cross-sector or cross-jurisdictional reforms. It is also important where recommendations require a whole-of-government strategy. The oversight body needs to have authority and influence. For example, for reforms that are wide-reaching, an appropriate oversight body may be a Cabinet committee comprising ministers in relevant portfolios and supported by steering groups, with

representation from the various bodies and significant stakeholders. Additionally, it may be important to have independent committees or statutory bodies (such as a Children's Commissioner or Ombudsman) overseeing reform.

Staging implementation: Implementation may be more successful where governments plan implementation according to a number of stages to facilitate a gradual and feasible process. Staging can allow allocation of resources in a manner that will not disproportionately burden government's capacity. It is equally important to stage the swift implementation of some key recommendations alongside longer-term reforms to maintain momentum in the reform agenda and keep the issue alive. Inquiry bodies may facilitate this process by proposing staged implementation plans that single out particular reforms for immediate attention while flagging those that require longer-term planning and implementation. To assist effective implementation and accountability, reforms could be lined up to allow training, computer systems, budgets and other resources to be in place when the policy begins.

Government tracking and evaluation of implementation: Governments that were able to demonstrate that the implementation of recommendations was tracked had the capacity to describe the stage, outcomes and limitations of implementation. In these cases, there were clearer channels of oversight and accountability. Tracking appeared particularly crucial for recommendations that were not fully implemented (because they are in a state of progress) and those that required systemic change. Tracking requires access to information, independent scrutiny and regular reporting to help promote responsiveness in the system. Evaluation may require more than statistical reporting, but also an appreciation of the extent to which the reforms give meaning to the spirit of the recommendations and assist the target group that was the concern of the inquiry.

7.2.2 Inhibiting factors

Policy conflict: A significant factor impeding implementation was that the recommendation was at odds with current government policy. In some instances, the media and community attitudes could sway governments in favour of pursuing the policy embedded in the recommendation. More commonly, however, governments resisted implementation because they privileged their pre-existing policy commitment. One standout area in which policy tensions arise is in relation to mandatory reporting. A number of jurisdictions were reluctant to expand the scope of mandatory reporting and to back it up with punitive measures, citing adverse consequences of expansion.

Political resistance to long-term/preventative/early intervention strategies: A wide view emerged in this project that governments were more inclined to implement recommendations that could achieve results in the short term. There is greater difficulty in securing political will to implement strategies – irrespective of their effectiveness – that are geared to prevention and had longer-term outcomes.

Difficulty in implementing whole-of-government recommendations: Findings suggest that implementation may be more straightforward and manageable for governments where they only affect one aspect of government. Changing government culture or attempting to change data systems across government departments or create whole-of-government analyses of patterns (such as offending) can present challenges. This is particularly the case in relation to interdepartmental and interagency collaboration, communication and agreement.

Inability to implement reforms ultra-jurisdiction: Governments have limited powers to affect the actions of other jurisdictions or external agencies. Therefore, where recommendations relate to a body other than the government for which the inquiry relates, or concern powers beyond the jurisdiction or ambit of the relevant government, it may be difficult for governments to implement recommendations and/or monitor the implementation process. In framing their recommendations, it is suggested that formulators be mindful of the powers of the relevant government over other governments or agencies. This may require that recommendations are formulated with specific action that the government may take in relation to external bodies, such as putting proposals at the Council of Australian Governments (COAG) meetings or setting protocol for agencies to report back to governments on implementation.

Challenges in implementing multiple reforms: In a number of jurisdictions, governments mentioned that they had difficulty in implementing multiple inquiry-led or other related reforms concurrently. This had the effect of stretching resources as well as creating conflicts among reforms. The consequence could be that important reforms from previous inquiries, or other core business, are stalled in favour of implementing new reforms. Alternatively, new recommendations take a back seat while other reforms are pursued.

Conflicting legislation: This was noted by several governments in relation to recommendations that conflict with privacy laws. This was particularly the case for sex offender registers. Interviewees suggested that inquiry bodies should consult with the relevant Privacy/Information Commissioner on recommendations requiring information collection and sharing.

Organisational culture can be resistant to change and prone to inertia: Reform may be impeded where agencies or departments are not open to new practices or agendas. This can be perpetuated by organisational leaders entrenched in the old culture. By contrast, new leadership may scrutinise the situation from an external standpoint and accommodate change. This needs to be matched with retaining expertise and corporate memory in the organisation. Either way, it can be argued that senior management needs to be united in its commitment to change, and middle management needs to directly manage cultural change as its leadership shapes organisational behaviour.

Resource limitations: This included funding, time and staffing. Related issue were difficulties in recruitment and retention of qualified staff, which were particularly challenging when

implementation was required in rural and regional areas. Professional education and training of staff was important for the development of a skilled workforce to implement reforms.

7.3 Relationship between factors determining successful implementation

The Project Team discerned a number of relationships between factors determining successful implementation of recommendations. Data collected from participants did not touch on these relationships, as the Project Team was not in a position to direct questions on this matter. Rather, this discussion is based on identifying crossover and overlaps in the implementation themes and factors conveyed by participants. It discusses the major relationships and is not an exhaustive analysis of connected factors. With these interconnected factors, it is often the case that you cannot have one factor without the other.

Stakeholder engagement and acceptable reform formulation: The drafting of recommendations that secure wide support is likely to depend on stakeholder engagement. Stakeholders can play a critical role in ensuring the reforms are feasible, tailored to the target population, evidence-based and effective. Stakeholders' involvement spans the discussion phase of an inquiry (where general issues relating to child protection are canvassed), as well as commenting on draft recommendations. Simultaneously, formulators of recommendations could provide a blueprint for recommendations that respond to the concerns of stakeholders. If the nature of recommendations and related discussion papers do not take up key concerns, stakeholders may not engage in the process.

Stakeholder engagement and commitment to reform implementation: In the inquiry process, it is suggested that stakeholders be engaged to ensure that their views are reflected in the inquiry's findings and recommendations. Without such engagement, it may be difficult to have stakeholders commit to implementing the recommended reforms ensuing from the inquiry. At the same time, stakeholders need to be committed to the vision of the inquiry in order to engage in the process. Engagement involves a range of techniques, including direct access to victims and other affected persons.

Clarity of vision, clear messaging and effective use of media: Findings suggest that engaging the media can help inquiries to communicate their vision. A strong vision may not translate into community will – or often political will – unless it is aired in the media. At the same time, the media may not be responsive to, and report on, the work of an inquiry unless the inquiry has clarity of vision and a capacity to communicate this vision.

Organisational culture and leadership: It was widely recognised that in order to undertake cultural change to assure implementation, strong leadership was needed in an agency, both at senior and middle management levels. It is not possible to have cultural change without also ensuring leaders are committed to the change. In some circumstances, this may require changes in leadership.

Interagency collaboration and ability to exchange information and work across organisational boundaries: Effective interagency work can depend on effective systems of information exchange and cooperative working partnerships. Without systems to share data, adequate communication channels and principles for working together, interagency work may well break down. Equally, information exchange and the development of principles of cooperation may not occur unless collaborations are developed among agencies.

Oversight body and tracking recommendations: The monitoring and evaluation of the implementation of recommendations can be effectively conducted through an oversight body. Ideally, this could be an external body that brings a range of expertise and carries some degree of authority. The oversight body can set standards for tracking recommendations. Benchmarks can be both quantitative and qualitative, and reflect the spirit of the recommendations and intention of the inquiry. Without such a body, tracking recommendations is dependent on internal review that may lack accountability.

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