



**Commission of Inquiry into
the Tasmanian Government's
Responses to Child Sexual
Abuse in Institutional Settings**

WITNESS STATEMENT OF ALANA SUSAN GIRVIN

I, Alana Susan Girvin of [REDACTED], in the State of South Australia, former Director of the Incident Management Directorate (**Directorate**) in the South Australian Department for Education, [REDACTED], do solemnly and sincerely declare that:

1. I make this statement in my personal capacity.
2. I make this statement on the basis of my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true.

BACKGROUND AND QUALIFICATIONS

3. I have the following qualifications:
 - (a) Master of Social Science;
 - (b) Bachelor of Education 'Staff and School Development'; and
 - (c) Diploma of Teaching.
4. I held the role of Director of the Directorate at the South Australian Department for Education between its inception in 2013 and my leave in 2020 leading to retirement in 2021.
5. Prior to my appointment as Director of the Directorate, I was the Murray Mallee Regional Director at the South Australian Department for Education.
6. Attached to this statement and marked **ASG-1** is a copy of my curriculum vitae.
7. Unless otherwise specified, in this statement any reference to:
 - (a) the 'Department for Education' or 'the Department' is a reference to the South Australian Department for Education; and
 - (b) 'site leaders' is a reference to principals and pre-school directors.

THE HISTORY AND FUNCTION OF THE DIRECTORATE

8. In 2012, the South Australian Minister for Education called for an independent inquiry to be conducted by the Honourable Bruce DeBelle AO QC. The inquiry, which came to be known as the 'DeBelle Inquiry', was charged with undertaking an independent review of the response to allegations of child

sexual abuse that had been made against an outside school hours care director at a South Australian school.

9. The Debelle Inquiry released its final report in September 2013 (**Debelle Report**). Attached to this statement and marked **ASG-2** is a copy of a document prepared for the purposes of this witness statement which summarises the key recommendations contained in the Debelle Report. These included recommendations in relation to clear policies and procedures for responding to allegations of child sexual abuse, improved record-keeping, the need for a single point of contact for site leaders and a coordinated approach between sites (including schools), the Department and agencies such as SA Police.
10. At the same time as the Debelle Inquiry was taking place, the Department also conducted an internal review of how it could improve its procedures. The internal review considered how the Department manages critical incidents, as well as allegations of sexual abuse.
11. The internal review resulted in the development of the Directorate. The Debelle Inquiry focused on the management of allegations of sexual misconduct. Of particular significance was the establishment of the case management role which I discuss below.
12. As a result of the Department's own inquiry into the management of critical incidents and the findings of the Debelle Inquiry, the Department pulled together a number of existing functions and units to create the Directorate, which provides a centralised, single point of contact for managing critical incidents, including allegations of child sexual abuse. While the Directorate's role extends to independent schools and other care settings, in this statement I focus on the Directorate's role as it relates to Department schools.
13. The Debelle Report set out a very clear 'playbook' in relation to the role and functions of the Directorate.
14. The function of the Directorate is to coordinate the receipt, assessment and response of incidents, particularly those of a severe/critical nature, those requiring urgent attention and/or the investigation of allegations of employee serious misconduct and all associated disciplinary processes.

15. The Directorate has three units — the Incident Report Management Unit, the Investigations Unit and the Misconduct, Disciplinary Advice Unit.
- (a) The **Incident Report Management Unit** is responsible for case management and overseeing the Incident Report Management System. The aims of the Incident Report Management Unit are to ensure:
- (i) parents and carers can be confident and assured that the interest and safety needs of their children are met; and
- (ii) incidents (particularly those of a severe/critical nature) and reports of serious misconduct are responded to in an effective and timely manner, with respect, transparency and professionally.
- (b) The **Investigations Unit** is responsible for investigating all matters of alleged employee serious misconduct. Investigators interview respondents and witnesses and compile a report of evidence that is given to a Misconduct Adjudicator.
- (c) The **Misconduct, Disciplinary Advice Unit** is responsible for examining the investigation report to determine if the evidence demonstrates serious misconduct and if so, preparing a briefing for the delegate (Chief Executive/Chief Operating Officer) outlining the evidence of serious misconduct and the disciplinary processes open to the delegate, such as reprimand, suspension with or without pay, fine, demotion, dismissal etc.
16. The disciplined teams across the Directorate work cooperatively with one another, as well as closely with other divisions within the department such as People & Culture, Schools, Preschools and Legal Services.
17. I discuss each of the three units further below.
18. The Directorate has always been under the leadership of people with education and law enforcement backgrounds. For example, when the Directorate was first established, the Director had a law enforcement background, and the Assistant Director (me) had an education background. This mix of expertise was important because it enabled the Directorate to understand both the pressures that site managers were under, how sites and

their communities function, as well as the broader legal context relevant to allegations of child sexual abuse. For example, court processes and procedures around when people should and should not be named.

CODE OF ETHICS AND PROTECTIVE PRACTICES POLICY

19. It is necessary to outline the broader policy settings in which the Directorate conducts its work. The Directorate's role is to investigate and manage incidents which are, or may be, in breach of the Department's Policy regarding Protective Practices or the Code of Ethics for the South Australian Public Sector (**Code of Ethics**) to which all public sector employees are bound. Both the Code of Ethics and the Department's Policy regarding Protective Practices were applicable prior to the Debelle Inquiry.
20. Attached to this statement and marked **ASG-3** is a copy of the Department's Code of Ethics and Policy regarding Protective Practices, entitled '*Protective practices for staff in their interactions with children and young people guidelines for staff working or volunteering in education or care settings*'. I refer to the latter document as the 'Protective Practices policy'.
21. The Protective Practices policy was initially released in 2005 and updated in 2017 and 2019. Amongst other things, the fourth edition of this document, released in 2019, contained revisions in relation to identifying grooming behaviour and reporting obligations in relation to grooming behaviour.
22. The Protective Practices policy forms part of the Code of Ethics. It sets out the boundaries that staff need to maintain with students and gives guidance as to how, and how not, to interact with students.
23. An alleged breach of the Protective Practices policy may trigger an investigation and possible disciplinary action as does a breach of the Professional Conduct Standards under the Code of Ethics. Contravention or failure to comply with the Professional Conduct Standards will constitute misconduct as defined by the *Public Sector Act 2009 (SA)* (**Public Sector Act**). Any employee who fails to comply with the Professional Conduct Standards may be liable to disciplinary action.
24. In my opinion, it is important in an education setting — and probably in other settings where contact with children is commonplace — to have bespoke policies to clearly identify conduct with respect to children, including boundary

breaches and child sexual abuse, that constitutes a breach of the Code of Ethics. Such policies provide clear advice to adults about how to build positive, caring and respectful relationships with children and young people in education and care settings enabling safeguarding of the emotional and physical wellbeing of children and young people. Policies must assist adults to understand appropriate boundaries in relation to their role and interactions with children and young people. Bespoke policies enable staff to feel confident about the Department's expectations and conduct obligations and enable line managers to clearly address any concerns raised in performance management discussions and written records.

25. The Protective Practices policy is designed to safeguard children, not to protect adults against allegations of misconduct. The policy makes clear that it is a staff member's responsibility to ensure that their conduct protects children and maximises student learning opportunities. All staff, including teachers, relief teachers and School Services Officers (teachers' aides), professional service providers, pastoral care workers/chaplains and volunteers (e.g. mentors) are given specific training about the Protective Practices policy when they undertake the '*Responding to Risks of Harm, Abuse and Neglect - Education and Care*' (RRHAN-EC) mandatory notification training.
26. To work or volunteer in education it is a requirement to have completed the RRHAN-EC training. There are two approved courses for RRHAN-EC – the Fundamental Course and the Masterclass Course. The courses include training on the mandatory reporting guidelines (mandated notifiers must contact the Child Abuse Report Line if they suspect on reasonable grounds that a child is at risk from harm, including from abuse or neglect). The key documents referred to in the RRHAN-EC training are the Protective Practices policy, the policy regarding '*Responding to problem sexual behaviour in children and young people*', the guidelines regarding '*Managing allegations of sexual misconduct in SA education and care settings*' and the '*Information Sharing Guidelines*'. The Fundamentals Course is a shorter course designed for, for example, staff with a current certificate who need an update, volunteers, bus drivers, canteen workers and corporate staff who do *not* work with children and young people. The Fundamentals Course is a two hour self-directed, online course. To receive full RRHAN-EC certification, some staff must also do the Masterclass Course. The Masterclass Course is only for staff who work

with children and young people, are new, do not have a current certificate. The Masterclass Course extended training is a two hour online Fundamentals course that covers the essentials plus a four hour facilitator-led masterclass. The training course was developed and endorsed by the Department for Education, Catholic Education South Australia and Association of Independent Schools of South Australia.

27. The Protective Practices policy is relatively prescriptive. For example, it sets out circumstances in which it may be acceptable to physically hold a child, such as if they are hurting someone else, and how to do so in an appropriate way.
28. The policy provides clear professional and role boundaries and gives examples of boundary violations, such as:
 - (a) transporting a child or young person unaccompanied;
 - (b) offering overnight/weekend/holiday care of children and young people as respite to parents (unless a family day care educator, or employed by a respite organisation and with the site leader's knowledge);
 - (c) photographing or filming children or young people via any medium when not authorised by the site leader to do so and without parent consent; and
 - (d) initiating, permitting or requesting inappropriate or unnecessary physical contact with a child or young person (e.g. massage, kisses, tickling games) or facilitating situations that unnecessarily result in close physical contact with a child or young person.
29. The Protective Practices policy performs an educative function for Department employees. For example, the policy explains what grooming is and identifies the numerous ways that grooming can take place. It also makes clear that staff are responsible for reporting concerns about possible grooming. If a staff member observes another staff member engaging in conduct that might be grooming and they do not report what they have seen, the non-reporting staff member may be in breach of the Code of Conduct.
30. I recall that when the requirement to report concerns in relation to possible grooming was first implemented 2017, many staff were really uncomfortable about reporting their colleagues. That was especially the case because many

staff did not really know what grooming looked like or how to identify it. However, as a result of the Protective Practices policy there is a greater readiness by Department staff to report any concerns to their site leader.

MANAGING ALLEGATIONS OF SEXUAL MISCONDUCT GUIDELINES

31. Following the DeBelle Inquiry and in accordance with its recommendations, the Department for Education implemented guidelines specifically regarding the management of allegations of sexual misconduct in education and care settings.
32. These guidelines are set out in the Department for Education document entitled "*Managing allegations of sexual misconduct in SA education and care settings*". I refer to this as the 'Managing Allegations Guidelines'. Attached to this statement and marked **ASG-4** is a copy of the Managing Allegations Guidelines.
33. For completeness, I note that allegations of problem sexual behaviour involving children and young people raise different issues and responsibilities, when compared to allegations of sexual misconduct by adults. The Department has issued a separate guideline in relation to problem sexual behaviour. Attached to this statement and marked **ASG-5** is a copy of the '*Responding to problem sexual behaviour in children and young people*' guidelines.

Practical step-by-step guidance

34. The Managing Allegations Guidelines set out how site leaders and sector office staff should respond to allegations of sexual misconduct in a clear, step-by-step way. The procedures in the guideline apply to allegations of sexual misconduct made against any adult who has a connection with the site where the allegations affect the suitability of that adult to work or volunteer with children and young people. The guideline applies only to allegations of sexual misconduct by an adult against a child or young person. For incidents involving sexual harm between children and young people sites refer to the document titled '*Responding to problem sexual behaviour in children and young people*' (ASG-5).
35. The Managing Allegations Guidelines acknowledge that sexual misconduct may take many forms, and can include, but is not limited to, sexual assaults of

all kinds and other forms of unlawful sexual behaviour including offences such as being in possession of child pornography and acts of gross indecency.

36. The immediate actions that a site leader must take when they receive an allegation of sexual misconduct are set out below. These steps are not always undertaken in a sequential order, and some actions may be undertaken simultaneously.

- (a) **Step 1:** obtain medical assistance for the child or young person if required.
- (b) **Step 2:** Receive report of the allegation. If the allegation is made to a staff member, it should be immediately reported to the site leader. If the allegation concerns the site leader, the report should be made to the relevant sector office.
- (c) **Step 3:** Report the allegation to SA Police.
- (d) **Step 4:** Notify the Child Abuse Report Line.
- (e) **Step 5:** Take basic steps to preserve any evidence, if applicable. For example, by blocking access to the site's computer network if an allegation regarding child pornography is made, or locking the room in which an incident is alleged to have occurred.
- (f) **Step 6:** Inform the sector office and establish who will be assisting.
- (g) **Step 7:** Prevent the accused person from having any access to or further contact with children and young people.
- (h) **Step 8:** Inform parents of the victim of the allegation, unless the parent is the accused person.
- (i) **Step 9:** Inform the accused person of his or her immediate work requirements.
- (j) **Step 10:** Complete sector specific reporting requirements, including for State schools, the Department's critical incident report through the Incident Response Management System, and
- (k) **Step 11:** Document all information/discussions/observations.

Clear roles and responsibilities

37. The Debelle Inquiry identified that issues can arise when the management of allegations of sexual misconduct require reports to different teams within a Department (e.g. People & Culture, Legal and Incident Reporting) but there is no co-ordination between those teams. The issue of a timely response and coordinated communication and information flow was also highlighted.
38. To address this concern, the Managing Allegations Guidelines details the actions required by the site leader and the actions required by the Directorate. The Department for Education also established an internal procedure to ensure effective, timely management and coordination of activities, responses, communication and information flow. The internal procedures ensure that upon receipt of an allegation of sexual misconduct by an adult associated with a site against a child or young person, the Director or Assistant Director of the Directorate will immediately email the Chief Executive, the Minister and the relevant alert group (described in the paragraph below), providing the information available. The Directorate will also provide a more detailed written briefing to the Chief Executive and Minister as soon as practicable and within 48 hours. The Directorate will keep the Chief Executive and Minister Informed with further written briefings as events unfold so that they are in a position to respond quickly and appropriately to any issue that may arise.
37. The alert group for immediate email notification includes the:
- (l) Chief Executive;
 - (m) Manager, Office of the Chief Executive;
 - (n) Senior Executive Group;
 - (o) Director and Assistant Director of the Directorate;
 - (p) Director, People and Culture;
 - (q) Director, Communications;
 - (r) Director, Legal Services;
 - (s) Manager, Media Unit;
 - (t) Manager, Investigations Unit; and
 - (u) Minister for Education and nominated Minister's staff.

35. A copy of the alert email is then forwarded to the Education Director of the relevant school.
36. This alert email then triggers the following response process:
 - (a) a more detailed briefing in relation to the allegation or arrest is sent to the Chief Executive and to the Minister;
 - (b) when appropriate a letter to the school community notifying them of the allegation or arrest. The letter is approved by the Chief Executive and noted by the Minister;
 - (c) the site leader, with direction from the Case Manager, is then responsible for issuing the approved letter that has been provided by the Directorate to the school community. The letter must be emailed and/or posted and not be given to the students to take home in their school bags or posted on the notice board;
 - (d) the Directorate is provided a signed copy of the letter to the school community as it goes out; and
 - (e) the Case Manager continues to provide support to the site leader in relation to following the guidelines at the relevant stages of the process, e.g. monitoring court proceedings, informing the school community at the relevant stages.
36. Copies of each of the letters and other relevant correspondence are kept on a central file by the Case Manager.
37. Following the Debelle Inquiry, the Minister for Education is notified of any allegations of sexual misconduct as a matter of course. This is helpful as it removes any scope for plausible deniability by the Minister's office.

Providing support to students, staff and the school community

38. One key recommendation in the Debelle Report was that the Department should offer appropriate support to students, families, staff and other members of the school community who are affected by allegations of child sexual abuse.
39. The Debelle Report recommended that the site leader should meet with the parents of the victim to discuss continuing support for the victim. The Managing Allegations Guidelines provide guidance to site leaders in relation to counselling and support. This might include educational support, such as

curriculum modifications or counselling services. Counselling services may be accessed via the Department's school support counsellors or through the family's regular doctor. Site leaders are required to offer this support both verbally and in writing.

40. When an allegation of child sexual abuse is made, the Department will send support staff onto site in the days following the allegation. They will be available to students, parents and staff – anyone who has been affected by the allegation and needs to access the support.
41. The Directorate does not have a specific role in providing support to the student and others potentially affected by the allegation or incident. Rather, the Case Manager from the Incident Report Management Unit will provide information to the site leader in relation to the relevant people or office to contact, such as student social workers, employee support, psychologists and so on.

THE INCIDENT REPORT MANAGEMENT UNIT

42. As explained at paragraph 15 above, the aims of the Incident Report Management Unit are to ensure:
 - (a) parents and carers can be confident and assured that the interest and safety needs of their children are met; and
 - (b) incidents (particularly those of a severe/critical nature) and reports of serious misconduct are responded to in an effective and timely manner, with respect, transparency and professionally.
43. The Incident Report Management Unit has two key roles:
 - (a) case management — assisting site leaders with the implementation of the Managing Allegations Guidelines, being the prime point of contact for the site leader and overseeing the single file for all matters of allegations of sexual misconduct; and
 - (b) overseeing the Incident Report Management System — sites log all critical incidents into this central online system, including harmful sexual behaviour by children, student fights, inappropriate parent behaviour. These incident reports are viewed daily by two Critical Incident Coordinators to ensure all appropriate actions are being taken by sites.

44. When an allegation is referred for investigation, an Intake and Assessment Officer (whose role is line managed under the Incident Report Management Unit) assesses whether an allegation or incident is capable (if established) of constituting serious misconduct. If the answer to that question is “no”, then the Directorate will refer the matter to the Performance Management and Incapacity Unit within corporate office. This unit will assist site leaders with performance management matters and minor misconduct matters.
45. If the Intake and Assessment Officer determines that it is not to be investigated, the report will be referred to the appropriate corporate office and recorded in the central online Incident Report Management System, as well as in any documentation kept on site. If there are ongoing problematic behaviours, that may be relevant for the Directorate to investigate.
46. The Intake and Assessment Officer receives reports of allegations of employee serious misconduct including reports of allegations of sexual misconduct. The Intake and Assessment Officer gathers all relevant information and presents it to the Assessment Panel comprised of the IMD Director, Assistant Director, Investigations Unit Manager and Misconduct Unit Principal Investigator.
47. Site leaders are very busy people who do not necessarily have the time, skills or training to conduct effective investigations or to deal with the complexities that allegations of child sexual abuse and harmful sexual behaviour can throw up. Fortunately, most site leaders never have to address allegations of child sexual abuse. Despite being a senior teacher and a site leader for many years, I personally never had to deal with an allegation of child sexual abuse by an employee or adult associated with the school. However, this means that when allegations are made, site leaders usually need assistance to guide them through how to best respond.
48. The Incident Report Management Unit plays a critical support role by providing site leaders with a Case Manager who assists them, or ‘holds their hand’, through the process of responding to a critical incident.
49. Where the critical incident is an allegation of child sexual abuse, the Case Manager will assist the site leader through the process as set out in the Managing Allegations Guidelines. Site leaders work long hours, and so I always took the view that it was necessary for myself and Case Managers to also be available outside regular working hours where necessary.

50. By working with site leaders through the process of managing allegations of sexual abuse, the Directorate, in particular the Case Manager, minimises site leaders' discretion in the process, allowing site leaders to focus on the aspects of their role that are within the scope of their skills and training.
51. Once a school community has been notified of an allegation of child sexual abuse, rumours and gossip can run rampant. It often follows that the site leader is blamed.
52. It is usually a site leader's line manager who assists them through that situation. The best approach to minimising and managing gossip is for the site leader to ensure their staff know to direct any queries from parents to the leadership team. The leadership team should also be clear about the procedures that are being followed and know what information they can provide (as detailed in the Managing Allegations Guidelines) and when to direct people to SA Police should they want further information.
53. The Directorate does not have a specific role in managing rumours following an allegation. Rather, the site leader and their line managers have responsibility for managing rumours, while the Directorate's Case Manager will be available to provide support and discuss any concerns or issues in this regard.

THE INVESTIGATIONS UNIT

54. The Investigations Unit investigates all allegations of possible serious employee misconduct made against Department staff, both within and outside a school setting, even if the allegation does not involve a student of a school (e.g. where the alleged misconduct arises in relation to club sporting activities).
55. Serious misconduct is defined as any behaviour that may result in a disciplinary outcome. Contravention or failure to comply with the Professional Conduct Standards will constitute misconduct as defined by the *Public Sector Act*. Any employee who fails to comply with the Professional Conduct Standards may be liable to disciplinary action. This broad jurisdiction reflects the Department's attitude that its employees are public servants "24/7".
56. Investigators are responsible for gathering evidence, undertaking interviews and taking witness statements, and preparing reports for consideration by the Misconduct, Disciplinary Advice Unit's Adjudicators.

57. All of the investigators in the Investigations Unit have a background in policing, whether that is with SA Police, the Australian Federal Police or the British Police. All investigators undertake a training course about interviewing children in matters of sexual misconduct by an adult. This course is a 'Specialist Vulnerable Witness Forensic Interview Training' course, which is conducted by the Centre for Investigative Interviewing at Griffith University. It is an online course which is self-paced and takes place in 15 modules over approximately 4 months. A certificate is provided upon completion. The course focuses on how to elicit important evidence from children in a narrative format. Topics include choosing effective questions, eliciting reliable disclosures and tailoring interview techniques for culturally diverse groups.
58. Through that training, investigators are taught specifically in the context of interviewing children how to elicit important evidence in a narrative format by choosing effective questions and how to elicit reliable disclosures. They are taught that to do so, the questions should be open ended and the parent must be present or must have given permission for the child or young person to be interviewed (unless in the case of child sexual abuse allegations, the parent is the alleged perpetrator). They are also taught how to tailor interview techniques for culturally diverse groups.
59. In matters that are not being pursued by SA Police and fall within the realm of possible serious misconduct, it is important that there are specifically trained investigators who are independent of the school staff. I would be concerned if a site leader or school staff member is involved beyond the initial recording of a disclosure.
60. The work of the Investigations Unit does not end with a referral to SA Police. While any criminal allegations are referred to SA Police, conduct that does not meet relevant criminal thresholds or the necessary standard of proof for a conviction may still amount to a breach of the Protective Practices policy and Code of Conduct. For that reason, if someone is acquitted following a criminal trial that does not preclude the Directorate from investigating their conduct. That said, the Directorate would place its own investigations on hold while the criminal process plays out.
61. Likewise, an investigation does not conclude simply because the subject of an allegation resigns from their employment or passes away. If the person

resigns, the Directorate will inform the employee that if they seek employment with the Department again, the investigation will be reopened. If the person passes away, the information will still be placed on their record.

62. While the alleged offender cannot be compelled to cooperate with the investigation once they cease to be a Department employee, the investigators will still complete their investigation as best as they can and the misconduct adjudicators (discussed below) will still prepare a report.
63. Depending on the outcome of the investigation and the report's conclusion, the Directorate may write to the Department's People & Culture team identifying any reasons why the person should not be employed by the Department again. Should the alleged offender apply for another job with the Department in the future, they cannot be re-employed until the matter has been reopened. Where appropriate, the Directorate would also make reports to the Teachers Registration Board, the Department of Human Services Screening Unit, the Education Standards Board and the Office of the Commissioner for Public Sector Employment.
64. Although investigations are firmly focused on the individual, if investigators identify room for improvement in the response of a site leader (e.g. in relation to documentation or record keeping), the Directorate would inform the site leader's line manager of the matter so that the site leader can be informed of the way in which their actions or response could be improved in future. If the investigation suggests there are systemic issues beyond an individual complaint, the Director informs the Executive Director of Partnerships, Schools and Preschools, who determines the appropriateness of further investigation or review.

THE MISCONDUCT DISCIPLINARY ADVICE UNIT

65. The Misconduct, Disciplinary Advice Unit is a separate unit that is staffed by Misconduct Adjudicators.
66. It is responsible for examining the Investigation Report prepared by the Investigations Unit to determine if the evidence demonstrates serious misconduct. If so, the Misconduct Adjudicator prepares a briefing for the delegate (Chief Executive/Chief Operating Officer) outlining the evidence and the disciplinary processes open to the delegate, such as reprimand, suspension with or without pay, fine, demotion, dismissal etc.

67. Misconduct Adjudicators follow the Commissioner for Public Sector Employment's guidelines regarding '*Management of Unsatisfactory Performance (including Misconduct)*'. The term 'misconduct' is defined in the *Public Sector Act* as:
- (a) a breach of a disciplinary provision of the public sector code of conduct while in employment as a public sector employee; or
 - (b) other misconduct while in employment as a public sector employee.
68. Conduct that constitutes employee misconduct is that which has been found proven on the balance of probabilities following a process affording an employee procedural and substantive fairness, to be:
- (a) conduct that contravenes one or more of the provisions in the Professional Conduct Standards of the Code of Ethics for the South Australian public sector;
 - (b) conduct that is misconduct at common law, such as a breach by an employee of one of their duties, such as their duty of obedience and cooperation (i.e. failure to comply with lawful and reasonable direction);
 - (c) pre-employment conduct in the form of the provision of a false (including misleading) information in connection with an application for engagement as a public sector employee; and/or
 - (d) a public sector employee being convicted whilst in public sector employment of a criminal offence punishable by imprisonment.
69. Employee misconduct can consist of out of hours conduct where there is a connection between the conduct and an employee's employment in the South Australian public sector and/or their status as a public sector employee.
70. Where serious misconduct is made out the adjudicator will provide a briefing to the Department's Chief Executive or Chief Operating Officer, and to the Director of the Directorate, setting out:
- (a) a summary of the allegation and the evidence gathered by the investigators;
 - (b) the adjudicator's conclusion as to whether there is evidence of serious misconduct; and

- (c) the adjudicator's recommendation as to any disciplinary sanction that should be made.
68. The Department Chief Executive determines disciplinary matters for school leaders (or corporate leaders), whereas the Chief Operating Officer determines disciplinary matters for all other staff.
69. Where the Directorate concludes there has been serious misconduct, i.e. a breach of the Code of Ethics and/or Protective Practices, the employee who has engaged in that serious misconduct will either be given a disciplinary sanction ranging from, for example, reprimand for less serious misconduct to termination from employment or suspension without pay for a substantial period of time for the most serious of matters. Disciplinary sanctions or actions available to the Chief Executive and/or the Chief Operating Officer are outlined in the *Education and Children's Services Act 2019 (SA)* or in the *Public Sector Act*.

THE CRITICAL INCIDENT COORDINATION COMMITTEE

70. The Directorate has a separate Critical Incident Coordination Committee which is made up of members of the Directorate including:
- (a) the Director;
 - (b) Assistant Director;
 - (c) Case Manager;
 - (d) Manager of the Investigations Unit; and
 - (e) members of relevant corporate office divisions, including the Director responsible for the early years and out of school hours care, Director People & Culture, Director Schools and Preschools, Manager Media Unit.
71. The Critical Incident Coordination Committee sits outside the Directorate's formal units. It meets once a week to monitor every case of involving an allegation of sexual misconduct being managed by the Directorate. Updates are provided in relation to court monitoring, court dates, the next letter that should be sent to the school community, the accused employee's status (suspension, termination), media issues and to ensure each case is

progressing along the prescribed path as set out in the Managing Allegations Guidelines as set out in the Managing Allegations Guidelines.

72. The work of the Critical Incident Coordination Committee makes it very difficult for any particular case or any step in a case to be missed or to fall through the cracks because each upon specific event in a case, the committee will ensure a letter is sent out to the relevant community to provide that update. In my view, this is very important given the length of time that court processes can take and the opportunity that presents for any particular step to fall through the cracks.

CLOSE PARTNERSHIP WITH SA POLICE

73. One of the key recommendations of the DeBelle Inquiry was that SA Police and the Department work closely together where allegations of child sexual abuse arise in a school setting.
74. Importantly, SA Police must notify the Department if they have arrested, or intend to arrest, a Department staff member. The Managing Allegations Guidelines identify the details that SA Police are required to provide to the Department pursuant to the SA Police's Interagency Code of Practice,¹ including the identity of the person charged and the nature of the charge, the education or care site involved, and whether there is a reasonable suspicion that there might be other victims.
75. By the end of my role as the Director of the Directorate, the coordination between SA Police and the Department was so sophisticated that SA Police would simply send an email to the Director and the Assistant Director of the Directorate (and various other people as required) with the required details.
76. I recall that on at least one occasion, the Directorate and SA Police were able to have a discussion about the fact that, if police arrested an employee at 12.30 pm on a school day, everyone would be in the playground and it could be a terrible experience for the school community. Instead, a plan was formulated for the arrest to take place before or after the lunchtime break.
77. In my view, communication and the relationship with SA Police has improved enormously because of the DeBelle Inquiry and the systems that the Directorate has put in place.

¹ Section 3.2.2 of the Managing Allegations Guidelines.

78. Once the Directorate receives a notification from SA Police, a Case Manager would be allocated to assist and provide guidance to the site manager while the criminal process played out. For example, the Case Manager would:
- (a) notify the site manager that the arrest had taken place and let them know what they need to do, step-by-step and by reference to the Managing Allegations Guidelines;
 - (b) prepare a letter in an approved form for the site manager to issue to the school community (approved by the Chief Executive and noted by the Minister);
 - (c) advise the site manager what to tell the school's governing council and staff; and
 - (d) remind the site manager of upcoming court dates.

RECORD-KEEPING AND INFORMATION SHARING

76. In my view, the adequacy and success of record keeping and information sharing across the education sector in South Australia has greatly improved due to the Debelle Inquiry and the implementation of its recommendations.
77. Where sexual misconduct is established against a Department staff member, the Directorate will put a file note/prompt against their name to prevent re-employment. I would also expect that they would not receive a clearance for working with children from the Department of Human Services Screening Unit.
78. As explained above, where a Department staff member resigns prior to the conclusion of an investigation and later applies for new employment with the Department, the investigation will be re-opened in order to determine (among other matters) whether a new contract should be offered.
79. If a staff member moves to a new school, the site leader's performance management reports should follow the staff member. As a matter of course, the former site leader should proactively contact the new site leader to discuss any concerns in relation to the staff member.
80. If a staff member leaves a school on a period of unpaid leave or an extended period of sick leave (rather than moving straight to another school) and the site leader has concerns about the staff member's conduct which does not quite

amount to serious misconduct, the site leader ought to report their concerns in the Directorate's Critical Incident Report System.

81. If there is a statement in the Critical Incident Report System that there are several concerns about a particular individual, the Directorate can bring it to the attention of the Department's People & Culture Division and they will put a prompt against that person's name. That process would ensure that contact is made with the Incident Management Directorate for information prior to any appointment and the new school can be made aware of the previous concerns before offering the person a new contract.
82. The Directorate also successfully shares information, in accordance with the Information Sharing Guidelines, about substantial investigations of allegations of sexual misconduct with the Teachers Registration Board and the Department of Human Services, Education Standards Board.
83. Attached to this statement and marked **ASG-6** is a copy of the Information Sharing Guidelines.
84. Information sharing with the Department of Human Services takes place at the point of a SA Police investigation. SA Police advises the Teacher's Registration Board and Education Standard Board of Arrests in relation to an allegation of sexual abuse. All of the above are able to contact the Directorate at any stage of the process for information.

THE DIRECTORATE'S SUCCESS

85. Since the Directorate was established, the number of allegations of child sexual abuse that the Directorate investigates has decreased and now constitutes only a small proportion of the Directorate's work.
86. In my view, as a result of the mandatory training on the Protective Practices policy, and staff awareness of the process that will follow any allegations of sexual misconduct. They are aware a letter will be sent out to the school community, that they will be named in the criminal process at the appropriate time and that they may be dismissed. They are aware that the structures and procedures in schools are carefully watching for this kind of serious misconduct.
87. In this sense, although the Directorate is concerned with investigation and response, my strong feeling is that its work has also had a preventative effect.

88. While I was the Director of the Directorate, the Directorate received a lot of informal feedback from site leaders who were so thankful for the support they received from their Case Manager. For example, I heard lots of feedback along the following lines, which I think is a sign of the Directorate's success: "thank you for your support. This was obviously a horrible situation and I never wanted to have to go through it in my career, but I felt supported and it has gone as smoothly as it possibly could have. You were there to listen to me at 9 o'clock at night".
89. In relation to allegations of sexual misconduct matters the Directorate measures its success in terms of the timely response, flow of accurate information, the effectiveness of the case management and single file and adherence to the guidelines/procedures.
90. In my view, another reflection of the Directorate's success is that the education union was supportive, or at least did not object, to the Directorate's work and its implementation of the Debelle recommendations.

REPORTABLE CONDUCT SCHEME

91. In South Australia, any termination of a public servant's employment, and the reasons for the termination, must be reported to the Commissioner for Public Sector Employment, so that the person is unable to gain employment elsewhere in the public service.

CONCLUSION

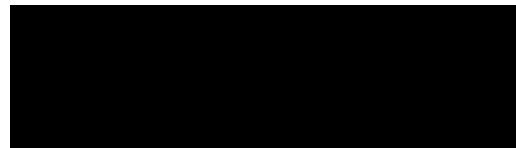
92. In my view, there is certainly a role for something similar to the Directorate outside the education setting, including in institutional contexts like out of home care.
93. For example, I am aware that the Department of Human Services has an Incident Management Unit that investigates employee misconduct. I would suggest it takes a similar approach to allegations of sexual misconduct in relation to carers in the disability sector. I also would imagine that the Department for Child Protection's investigation unit could benefit from a similar approach to allegations of sexual misconduct by adult employees in residential care homes. The timely response and the accurate information flow to relevant stake holders would be of paramount importance to managing such matters, as would be the relevant policies and training for employees with regard to

understanding protective practices to minimise harm to children and young people.

I make this solemn declaration under the *Oaths Act 2001* (Tas).

Declared at 

on 28 April 2022



Alana Susan Girvin

Before me

