

## Statement of Timothy Bullard

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RFS-TAS-003 – Wayne

Name Tim Bullard

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### **Background**

1. This statement is made by me in response to RFS-TAS-003, issued on 24 February 2022 by the President of the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (the Commission), the Honourable Marcia Neave AO.
2. My name is Timothy John Bullard, and I am the Secretary of the Department of Education ("the Department").
3. I graduated from the University of Tasmania in 1994 with a Bachelor of Arts/Bachelor of Laws (Honours). I commenced my career as a lawyer in the Office of the Solicitor-General, before moving to the United Kingdom in 2000, where I worked in Corporate Finance for international law firm Clifford Chance from 2000 until 2002.
4. From 2002 until 2004 I worked as a policy officer for the London Borough of Redbridge where as part of my responsibilities, I provided policy support to the Local Education Authority, with a particular focus on seeking the views of children and young people and providing young people with agency. My work was featured at a national conference and showcased by the BBC.
5. In 2004 I returned to Australia and commenced at the Department of Premier and Cabinet working in various policy positions in the Policy Division, becoming Deputy Secretary (Policy) in 2014.

During this time, I led work on a broad range of policy areas, including working with the Department of Education and the Australian Government on the National Education Agreement and various national partnerships, assisting in the development of Child and Family Centres, and leading the Tasmanian team negotiating Better Schools (Gonski 1) funding.

6. In 2016 I commenced as Deputy Secretary (Strategy and Performance) at the Department, where I was responsible for a broad range of strategic functions. I acted for short periods as Secretary, whilst the previous incumbent was on leave, commencing an extended period of Acting Secretary from 28 November 2017 before being appointed Secretary of the Department on 29 March 2018. My tenure as Secretary is from 29 March 2018 for a period of five years.
7. During my time with the Department, I have served on two of the three national boards that oversee the delivery of education in Australia: the Australian Curriculum, Assessment and Reporting Authority and the Australian Institute of Teaching and School Leadership.
8. The Department of Education is responsible for the delivery of early year services and public school education, adult and community education, and library and archive services throughout Tasmania. The Department reports to Minister Jaensch as the Minister for Education, Children and Youth.
9. Education services are delivered across the State through 194 government schools, 12 Child and Family Learning Centres and 47 libraries. The number of students from pre-kindergarten to senior secondary is around 59,500. The Department also has over 10,000 employees, with a majority of staff working in its government schools.
10. The 2022-2025 Department of Education Strategic Plan, *Learners First: Every Learner, Every Day* drives the Department's culture, evidence-based actions, approach to improvement and allocation of resources. The Strategic Plan articulates the Department's shared commitment that together we inspire and engage all learners to learn more every day (refer Annexures).
11. The delivery of education from kindergarten to year 12 is governed by the *Education Act 2016* (TAS) and the *Australian Education Act 2013* (CTH).
12. The work of the Department is supported by four Divisions, namely Learning, Support and Development, Strategy and Performance, and Corporate and Business Services.

These Divisions support Child and Family Learning Centres, libraries and schools through the provision of services such as finance, human resources, facilities management, strategic policy advice, curriculum development, school improvement and school review.

13. The recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and the recent Independent Inquiry into the Department of Education's Responses to Child Sexual Abuse (DoE Inquiry) have provided the Tasmanian Government and the Department with a nationally consistent and evidence-based approach to improving our practices.
14. In response to the DoE Inquiry, we have established the Office of Safeguarding Children and Young People to lead the development of a whole-of-department child safeguarding strategy and policy framework.

### ***Commitment***

15. The Department of Education's vision is that Tasmanians are connected, resilient, and curious thinkers. This is underpinned by our obligations to ensure all children and young people have a right to an education, to be heard and to be kept safe from harm.
16. We know that as a Department, our duty of care requires that we act 'in loco parentis' in keeping children in our care, safe from harm.
17. The safety and wellbeing of children and young people in our care therefore, underpins all aspects of our work. Our Strategic Plan also acknowledges the rights of the child to be kept safe from harm and it is also reflected in our Strategic Plan goal of wellbeing, which requires us to ensure that all learners are 'safe, feel supported and are able to flourish so they can engage in learning'.
18. Just as the Tasmanian Government has endorsed the National Principles for Child Safe Organisations, which give effect to the Child Safe Standards defined by the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA), the Department is committed to developing and refining our practices to align with and support the National Principles.
19. I am personally committed to embedding practices that safeguard children and young people across our Department, by making our systems, policies, practices and training stronger.

***Areas for improvement***

20. We will only be truly successful when every learner in our system has the agency and confidence to speak up when they don't feel safe, and every employee in the Department has the knowledge and capabilities to support those who report abuse, and appropriately manage and report suspected instances of child sex abuse once they become aware of them.
21. Whilst there has been improvement in our processes and policies over the last few years, we accept that there are areas in which we can, and must, do more work to ensure that we are all working in a way that keeps children and young people in our care safe, and places them at the centre of all our decisions. One of these areas is the investigation of allegations of child sexual abuse committed by current staff, and the processes that underpin those investigations.
22. As will be discussed in further detail in relation to the specific case studies, I acknowledge that some past investigations have not been undertaken in accordance with best practice processes or in a manner that is timely and acknowledge that they have, at times, fallen short of community standards and expectations.
23. It is also of personal concern to me that the best interests of children and young people have not always been properly served by the manner in which allegations have been managed.
24. Of particular note, is the follow up support provided to children and young people who have made allegations of child sexual abuse against an employee or a peer. It appears that historically, effort has been directed at the management of the investigation and the employee/peer who is the subject of the allegations, rather than support for the child or young person making the allegations being prioritised.
25. The release of the DoE Inquiry corroborated evidence that we had begun to gather with regard to the lack of co-ordinated support for children making allegations and since that time we have put in place clear processes to ensure that this support occurs.
26. Information sharing within the Department, across agencies and with bodies such as the Teachers Registration Board (TRB) must also improve. There is more we must do, within the bounds of what is legally permissible, to enable information to be shared in a consistent and timely way to inform the decisions of all parties that have a role in keeping children and young people safe from harm.

27. In addition, I am of the opinion that in the past matters have not been dealt with as expediently as they should have been, including when this has involved other agencies. There are a number of reasons for the time it takes to bring a matter to a resolution, including criminal investigations, time taken by independent investigators, the resources required to co-ordinate the investigation and the process dictated by Employment Direction No. 5. We must do more to reduce the time we take to address allegations of child sexual abuse and bring closure to the incident for those who are involved.
28. Our record keeping systems have also been lacking. This has been due to a range of factors including schools maintaining local records and not always using central systems, a lack of functionality and interface capability with existing systems such as the Student Support System (SSS), and the capacity to share relevant information between agencies, such as Registration to Work with Vulnerable People (RWVP)<sup>1</sup> and Tasmania Police (TASPOL).<sup>2</sup> This has hindered the sharing of relevant information across the Department or in providing easy access to historical information and data to help inform our understanding of past matters. This means we have not always been able to effectively deal with allegations and suspicions of child sexual abuse. Whilst the use of the Department's record management system is now widespread in corporate areas it is not used by schools and the digitisation of historic records of abuse is still ongoing.
29. It is difficult to assess the degree to which children and young people have been believed in the past, as the records available tend to be as a result of an allegation being believed and therefore referred for action. The Department needs to continue to be clear and consistent in its expectations of staff in relation to the prevention, detection and response to child sexual abuse and in their willingness and ability to listen to the voices of children and young people. The release of *Our Approach to Improvement – A guide to student voice and agency*, last year is a further step in supporting a consistent and culturally embedded approach to student voice and agency.
30. We must also do more to support our staff—to help them understand how to prevent, detect and respond to suspicions and allegations of child sexual abuse, to listen to the voices of children and young people, to respond appropriately and to speak up when something does not fit with the culture we are trying to build, where children and young people's safety is at the centre of our

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<sup>1</sup> I note an information sharing agreement was entered into by the Department and RWVP in July 2018; refer to NTP-TAS-004 item 4

<sup>2</sup> I note a Memorandum of Understanding was entered into by the Department and TASPOL on 19 February 2022; refer to NTP-TAS-004 item 4

deliberations, values and actions, and where safeguarding the children and young people in our care is everybody's responsibility.

31. We are already working on these areas for improvement, and I am determined that, through this work, we will build a culture where every child and young person in our care can feel safe, supported and listened to.

### ***Current effort***

32. I established the Office of Safeguarding Children and Young People to: lead culture change across the Department; to ensure the safety, voices and views of children and young people are at the centre of our behaviours and decisions; and that our systems, practices, procedures and professional learning put the best interests of all children and young people first. This decision acknowledges not only the importance of this work, but the complexity of doing it well in an organisation that is as large and diverse as the Department.
33. As part of this, the Office is overseeing the implementation of the recommendations of the DoE Inquiry, and the implementation of seven outstanding recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA).
34. Since establishment of the Office of Safeguarding Children and Young People and release of the DoE Inquiry, we have:
  - discussed the importance of being child safe with all senior leaders across the Department (including Principals), and provided guidance on our contemporary approaches to recognising and managing child sexual abuse;
  - communicated with all staff regarding safeguarding;
  - revised and simplified our protocols for staff to support them in responding to concerns or complaints about abuse in a range of different scenarios, including adult-student abuse and student-student abuse and abuse involving the internet and related technologies;
  - negotiated and finalised a Memorandum of Understanding with Tasmania Police for preventing and responding to sexual abuse in government schools;
  - commenced a review and revision of approximately 70 policies and procedures to ensure they explicitly refer to safeguarding children and young people as a key consideration, as well as emphasising the goal of understanding, preventing and responding to child sexual abuse;

- conducted a system review of a significant, recent incident of child sexual abuse involving a staff member and student, and commenced implementation of the recommendations of this review;
- commenced the development of a comprehensive, integrated student safeguarding policy and Code of Conduct for all Department staff;
- continued the development of a comprehensive Case Management Platform as a means of effectively recording, storing and capturing all relevant child safety-related information and commenced a pilot of the first stage of this system;
- revised and updated the Department's current website and staff intranet pages to improve visibility of, and accessibility to, information about safeguarding children and young people;
- commenced the development of a stand-alone Safeguarding Children and Young People website that is more child and family focused, which will be easy to navigate and will provide practical guidance for all members of the community, and information on a range of child sexual abuse tools and supports;
- commenced discussions with the UTAS School of Education to explore ways the Bachelor of Education and Master of Teach programs can in future years include specific and substantive content and assessment on understanding, preventing and responding to child sexual abuse in schools; and
- updated the Department's mandatory reporting guidelines to ensure they are clear and easy to understand, and commenced the development of a fit-for-purpose mandatory training module for all staff that will place mandatory reporting obligations within the wider context of a safeguarding system.

35. This work will continue as a priority; however, we do not intend to stop there. We know there is much more to be done.

### ***The future***

36. We have planning underway to:

- a. work with the TRB and other government agencies to develop a more efficient and effective system of information-sharing;

- b. embed the newly developed Case Management Platform within the Department and explore opportunities to extend this system for use across other relevant State Government departments;
- c. create a range of professional development modules for all staff as part of embedding a child safe culture across the Department;
- d. revise and update all safeguarding-related policies and procedures to ensure they are focused on preventing child sexual abuse from occurring, as well as facilitating prompt, sensitive and effective responses to known concerns or allegations;
- e. develop risk management and assessment templates, guidelines and resources for use by schools and, in particular, School Safeguarding Officers; and
- f. develop and roll out annual training for school staff.

37. Through the standard 2022-23 State Budget process, resourcing decisions will be made in respect of the additional actions below:

- a. appointing a Student Safeguarding Officer in every government school, with appropriate induction and training being overseen by the Office of Safeguarding Children and Young People;
- b. working with each Safeguarding Officer to help them establish an individual and specific risk management plan and safeguarding risk assessment for their school; and
- c. developing and rolling out targeted information on understanding, preventing, identifying and responding to sexual abuse in inductions and annual training for all principals, teachers and teacher aides.

38. I would welcome any insights the Commission might be able to provide in terms of our current and planned approach, as well as suggestions for future focus as we work to address recommendations from the Royal Commission, the DoE Inquiry, and our own system reviews. We acknowledge that the scope of work is large and diverse, and it will require consistent and ongoing effort to embed it culturally within the organisation. Particular insights into prioritisation of effort for biggest impact would be particularly welcome.

***Further context regarding the role of the Secretary in responding to allegations of abuse***

39. Without limiting the above, I wish to provide some further context in relation to how I, as Secretary, approach the making of determinations in relation to allegations of child sexual abuse made against an employee, after I have been briefed on the investigation of these allegations, including any findings of an investigator.
40. As Secretary of the Department, I have a duty of care to children and young people while they are in our care. For this reason it is Department practice that in every case where allegations of child sexual abuse is made against a current employee the employee is requested, as soon as possible, to leave the workplace, prior to service of formal documentation. If after initial examination of the circumstances it is concluded that employees may have breached the State Service Code of Conduct, they are then formally suspended in accordance with Employment Direction No 4 at the same time as an investigation is commenced pursuant to Employment Direction No 5.
41. As Secretary of the Department, I am also a “person conducting a business or undertaking” (PCBU) for the purposes of workplace health and safety legislation and as such I must ensure, so far as reasonably practicable, that the Department’s workplaces pose no risk to the health and safety of any person, and I must do what is reasonable in the circumstances to mitigate or remove the risk or hazard.
42. In managing allegations of child sexual abuse against current employees, I must therefore ensure that the processes in place to respond to the allegations are fair, proportionate, abide by the principles of natural justice, and comply with the relevant legislation and employment directions.
43. I am also cognisant of the fact that it is for me to prove the allegations to the requisite standard required by law (not for the employee to disprove them), and that any determination made by me against the employee must be established on the evidence to the requisite standard required under law (on the balance of probabilities).
44. I am also aware that any sanction imposed must be proportionate, taking into account both the seriousness of the employee’s action that gave rise to the allegation and the impact that action had on the child or young person.
45. Additionally, I am acutely aware that allegations against Department employees and subsequent investigation invariably have a negative impact on an employee’s wellbeing.

I have, on a number of occasions, been informed of serious concerns for the safety and wellbeing of employees as a result of being investigated. In discharge of my responsibilities as employer, I have authorised access to additional personal and psychological support for these employees during the investigation.

***Determination of allegations of child sexual abuse under Employment Direction No. 5***

46. Determinations made by me for allegations of suspected child sexual abuse are made under *Employment Direction No. 5 ("ED5")*. This direction sets out the procedures for the investigation and the determination of a breach of the State Service Code of Conduct found in section 9 of the *State Service Act 2000* ("the Code").

47. The following provisions of the Code are the most applicable to matters alleging sexual abuse of a child:

1. An employee must behave honestly and with integrity in the course of State Service employment.
2. An employee must act with care and diligence in the course of State Service employment.
3. An employee, when acting in the course of State Service employment, must treat everyone with respect and without harassment, victimisation or discrimination.
4. An employee, when acting in the course of State Service employment, must comply with all applicable Australian law.
5. For the purpose of subsection (4) ,

***Australian law*** means –

- (a) any Act (including this Act) or any instrument made under an Act; or
- (b) any law of the Commonwealth or a State or Territory, including any instrument made under such a law...

(13) An employee, when acting in the course of State Service employment, must behave in a way that upholds the State Service Principles.

(14) An employee must at all times behave in a way that does not adversely affect the integrity and good reputation of the State Service.

48. Whilst an act of child abuse by an employee, if proven in a court of law, would constitute a breach of the Code by virtue of subsection 4, there are many instances where a prosecution does not proceed or is unsuccessful.
49. My experience is that, in these situations, the Code is not a framework well suited to the determination of allegations of child abuse. By way of example, if conduct cannot be established to have breached Australian law under subsection 4, then the determination of the matter will normally fall to subsection 1 – 3 as the basis for allegations made.
50. It's important to note that these subsections directly relate to conduct that is "in the course of State Service employment". In other words, misconduct that occurs outside the work context (e.g. at a weekend social event or after a young person has left the school where the alleged perpetrator is teaching), would not naturally invoke the ED5 process as it would not amount to "in the course of State Service employment".
51. As recommended in the DoE inquiry, the Office of Safeguarding Children and Young People is currently working with other departmental business units to develop a Department-specific Code of Conduct that is more relevant and effective in terms of child sexual abuse. Consideration of its implementation within existing legislative frameworks is under active consideration.
52. There are additional statutory arrangements that provide broader powers beyond in the course of employment, though these provisions are not within my authority or control as Secretary of the Department. For example, the:
- *Teachers Registration Act 2000* enables the TRB to determine whether an applicant for registration is of good character or fit to be a teacher (ss.17J and K) and the TRB can also hold an inquiry in respect of any matter relating to a person who is or was a registered teacher (s.20);
  - *Registration to Work with Vulnerable People Act 2013* enables the Registrar, Department of Justice, to consider applications for Registration to Work with Vulnerable People (RWVP) whereby the registration of a person can be subject to conditions, suspended or cancelled (ss.35 and 49).

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53. This allegation and investigation predates my time as Secretary of the Department, although the matter formed one of many historic investigations of alleged child sex abuse relating to current employees that I re-examined in 2021, as part of a review of whether or not any further action could and should be taken in relation to those matters. To address the matters outlined by the Commission, I have sought advice from the relevant officials within the Department.

54. These officials include:

- i. [REDACTED], Manager, Workplace Relations;
- ii. [REDACTED], Senior Workplace Relations Consultant;
- iii. [REDACTED], Assistant Director, Industrial Relations;
- iv. [REDACTED], Senior Project Manager, Office of Safeguarding Children and Young People
- v. Liz Jack, Executive Director, Office of Safeguarding Children and Young People;
- vi. [REDACTED], Principal Legal Advisor, Legal Services;
- vii. [REDACTED], Director, Workplace Relations and Legal Services (Director Human Resources);
- viii. Kane Salter, Deputy Secretary, Corporate and Business Services.

55. In relation to the review of previous management actions relating to historical child sexual misconduct allegations involving current employees, I have had regard to the material attached to my recommendations, as contained in the various Minutes to the Secretary (refer Annexures). I have also had the benefit of meeting with Workplace Relations to make determinations and/or to discuss processes or outcomes.

56. I note that the allegations pertaining to Rachel [REDACTED] were delivered to [REDACTED] Senior Workplace Relations Consultant, from the TRB in or about [REDACTED] 2021.

57. In relation to the review of previous management actions relating to historical child sexual misconduct allegations involving Wayne [REDACTED], I note that Workplace Relations advised me that there was the possibility of further allegations concerning Wayne [REDACTED].

58. On [REDACTED] 2021, the allegations referred to above were referred to me via a Minute to the Secretary (refer Annexures).

I was satisfied that I had reasonable grounds to believe that an offence had been committed contrary to Section 54(1)(e) of the *Tasmanian State Service Act 1984*. I further had reasonable grounds to believe that it was in the public interest to suspend Wayne [REDACTED] with full pay in accordance with Employment Direction No. 4 as I believed that Wayne [REDACTED] had, or may have breached, the *State Service Act 2000* Code of Conduct in such a manner that Wayne [REDACTED] should not continue in the performance of his duties.

59. The background as outlined by the Commission in RFS-TAS-003 is agreed. The only notation I make is that following the Department's notification to the Teachers Registration Board on [REDACTED] [REDACTED] 2007, the TRB re-instated Wayne [REDACTED]'s registration.

***Questions for Response: Policies and Procedures***

**Para 18 - Identify the policies and procedures of the Department:**

- a. in place between 2005 and 2007 which outlined how the Department ought to respond to allegations such as those made by Rachel [REDACTED] and Anne [REDACTED] in that period*

60. During the period 2005-2007, the Department's procedures for responding to allegations of abuse of a child by a Department employee were as follows:

***Procedures Regarding Alleged Maltreatment of Students by Employees of the Department of Education and the Arts (1995 and revised in 1996 and 1997).***

61. The Procedure outlines the relevant pathways for reporting, investigating, supporting students, supporting staff and communicating outcomes. A table outlining the relevant Sections is attached (refer Annexures).

62. Additionally, at the time of the allegations, employees were required to comply with the following:

***State Service Act 2000 - section 9: The State Service Code of Conduct ("the Code"); Protective Practices for Staff in their interactions with Students (2006); and Department's Conduct and Behaviour Standards 2006.***

63. The policies outlined at para. 62 are guidelines for appropriate behaviour, as opposed to processes required to be followed should appropriate behaviour be breached.

*b. in place at present which outline how the Department ought to respond to allegations such as those made by Rachel and Anne*

64. Should any of the allegations arise now, the relevant policies and procedures are as follows:

***Mandatory Reporting Procedure 2019***

***Professional Standards for Staff – Policy – 2015- current***

***Professional Standards for Staff – Guidelines – 2015 – current***

***Protective Practices for Staff in their Interactions with Students Guideline – 2019 - current***

***Registration to Work with Vulnerable People Policy – 2021 - current***

***Conduct and Behaviour Standards -2018 - current***

***Department of Education process where an allegation(s) of child sexual abuse is made against a current employee -2021 - current***

***Advice for DoE staff on responding to incidents, disclosures and suspicions of child sexual abuse – 2022- current***

***Communication Guide for Principal/Managers – Employees Subject to Child Sexual Abuse Allegations – 2022 - current***

***Duty of Care for Students on Departmental Education Sites Procedure - 2019 - current***

***Legal Issues Handbook;***

***State Service Act 2000 - section 9: The State Service Code of Conduct (Code);***

***Flowcharts for responding to incidents, disclosures and suspicions of child sexual abuse***

***Accountabilities Toolkit 2022 – current.***

- c. *in place between 2005 and 2007 concerning the standard of proof to be applied in investigations into alleged breaches of the Tasmanian State Service Code of Conduct, and*
- d. *in place at present concerning the standard of proof to be applied in investigations into alleged breaches of the Tasmanian State Service Code of Conduct.*

65. Since the implementation of the *State Service Act 2000* ("the Act"), the standard of proof for investigations has been on the balance of probabilities (refer Procedures for the investigation and determination of whether an employee has breached the code of conduct: Clause 1.6 Commissioner's Direction No.5 (CD5) (May 2002) and Clause 6.5, Employment Direction No.5 (ED5)).
66. CD5 clause 3.1 and ED5 clause 7.1 set out the procedure for the investigation and determination of whether an employee has breached the Code of Conduct pursuant to Section 9 of the Act. Accordingly, a Head of Agency must have "*reasonable grounds*" to believe that a breach of the Code may have occurred.

**Para 19 - Please explain what you understand to be the purpose of each of the policies and procedures referred to in [response to] paragraph 18 above.**

***Mandatory Reporting Procedure 2019:***

67. The Mandatory Reporting Procedure provides the process that staff and volunteers must comply with in their role as mandatory reporters under the *Children, Young Persons and Their Families Act 1997*. The procedure was issued in accordance with the Act and was approved and endorsed by the Secretary of the Department of Communities Tasmania. It sets out how staff and volunteers should comply with their obligation to report where they know, believe or suspect that a child is suffering, has suffered or is likely to suffer abuse or neglect.
68. The Mandatory Reporting Procedure is available on the intranet and explains the legislative requirements for Principals and staff to notify the Strong Families, Safe Kids Advice and Referral line (ARL) in the event of a sexual assault or a concern about the safety and wellbeing of a student/child. If more support is required, the Principal is required to phone Legal Services/Workplace Relations, depending on the form of alleged abuse/concerns about the safety

and wellbeing of a student (see further below in relation to current issues with mandatory reporting).

69. The Mandatory Reporting Procedure is also included in the Accountabilities Toolkit, a document that sets out, among other things, the key policies that school Principals must ensure all school staff have read and understood at the beginning of the school year.
70. I acknowledge, however, that there are issues with compliance in relation to all staff undertaking mandatory reporting training and, therefore, understanding their role as a mandatory reporter. In addition to the sheer number of staff we must ensure are trained and aware of their responsibilities (more than 10,000), we believe that there is general confusion about the threshold required for a report to be made, the timeframes around reporting and whether guidance must be sought, or the matter delegated to, senior Department staff.
71. While mandatory reporting information and relevant policies are available on the Department's intranet, mandatory reporting training is currently not provided on the intranet or in a systemic way through face-to-face training. The Office of Safeguarding Children and Young People is presently reviewing options to best deliver induction sessions and regular annual mandatory reporting training for all staff as an obligation of their employment to ensure staff understand and comply with their obligations.

***Professional Standards for Staff – Policy – 2015- current:***

72. This Policy provides departmental employees with standards of conduct and clearly defined behavioural expectations whilst working in the educational and learning environments. The policy statement covers physical contact with students, appropriate use of electronic communication and social media sites, and professional relationships between employees and students.

***Professional Standards for Staff – Guidelines – 2015- current:***

73. These guidelines provide further support to understand the standards of conduct and behavioural expectations detailed in the Professional Standards for Staff Policy. The guidelines provide direction and guidance for employees when conducting themselves both inside and outside of their workplace to ensure they provide a safe and inclusive physical and emotional environment

for students and colleagues. They are also designed to stimulate discussion amongst staff to develop a collective understanding.

***Protective Practices for Staff in their Interactions with Students – 2019 - current:***

74. The purpose of this document is to provide clear advice to all adult members of schools and colleges in the establishment of positive, caring and respectful relationships with children and young people. The main intent of this document is to safeguard the emotional and physical wellbeing of children, young people and employees by promoting an enhanced understanding of appropriate relationship boundaries. It covers a number of topics including duty of care, maintaining professional boundaries with students, communication, personal disclosure, physical contact, managing boundaries for staff in specialist roles and support staff, among other things.

***Registration to Work with Vulnerable People Policy – 2021 - current:***

75. This Policy highlights the Department's commitment to ensuring the safety and wellbeing of children and other vulnerable people on Department premises; ensures compliance with the *Registration to Work with Vulnerable People Act 2013* and sets out the requirements when enacting this policy for employees and any other person working or engaging in activities within the Department.

***Conduct and Behaviour Standards – 2018 - current:***

76. The Conduct and Behaviour Standards detail conduct and behaviour standards for Department of Education employees. The Standards cover a number of rights and responsibilities conferred by legislation, industrial awards and agreements, and Government directives.
77. Among other things, the standards cover professionalism and ethical conduct; duty of care; psychological harm to students; physical contact with students; and sexual conduct.

***Department of Education process where an allegation(s) of child sexual abuse is made against a current employee – 2021 - current***

78. The purpose of this document is to provide Department employees with clear guidance on the various steps that are to be followed if they receive an allegation of sexual abuse about a current

employee. The document also sets out the process that is followed by Workplace Relations should a notification be received.

***Advice for DoE staff on responding to incidents, disclosures and suspicions of child sexual abuse – 2022- current***

79. The purpose of this document is to provide Department employees with clear guidance on what to do and who to notify if they suspect a child is suffering, has suffered or is likely to suffer sexual abuse. The document also sets out the process that will be followed by Workplace Relations should a notification be received.

***Communication Guide for Principal/Managers – Employees Subject to Child Sexual Abuse Allegations – 2022 - current***

80. The purpose of this Guide is to assist Principals in the event of a current employee at the school or college being subject to allegations of child sexual abuse. The advice provides a recommended approach to the initial discussion with the employee who is subject to the allegations and any broader discussion that may need to occur with staff.

***Duty of Care for Students on Departmental Education Sites Procedure – 2019- current:***

81. The Duty of Care for Students on Departmental Education Sites Procedure details Department employees' duty to take reasonable care to avoid reasonably foreseeable risks of harm. It details the roles and responsibilities for staff when caring for students with different needs in different circumstances.

***Legal Issues Handbook (current, although under review):***

82. The Legal Issues Handbook provides general guidance for departmental employees only. The handbook is published on the Departmental Intranet and is largely utilised by Principals and staff employed within schools to assist in school related issues, including but not limited to, family law and child safety matters, student administration, health and medication issues, Cyber safety and student behaviour.

***State Service Act 2000 - section 9: The State Service Code of Conduct (“the Code”):***

83. The State Service Code of Conduct sets out the expected standards of conduct for State Service Employees. The Code includes a range of conduct standards that an employee must abide by in the course of their employment, including behaving honestly and with integrity; acting with care and diligence; and treating everyone with respect and without harassment, victimisation or discrimination.

***Flowcharts for responding to incidents, disclosures and suspicions of child sexual abuse:***

84. A new suite of flowcharts for the correct handling of suspicions or allegations of child sexual abuse is currently in the final stages of design and will be made available to staff in mid-April 2022. The flowcharts, which relate to incidents of harmful sexual behaviour and incidents involving current/former staff or family/community members and volunteers) have been developed to ensure the information is clear and consistent and all staff understand the required steps they need to take in each instance of child sexual abuse.

***Accountabilities Toolkit 2022 - current:***

85. Since 2017, the Department has published an Accountabilities Toolkit which was developed to support principals to fulfil their key accountabilities.
86. The toolkit is reviewed and updated annually. In February 2022, the toolkit was emailed directly to Principals and is made available on the staff intranet. The toolkit provides links for Principals to key agency-wide resources for Principals for the management of critical incidents. This includes:
- a. Mandatory Reporting Procedure;
  - b. Security & Emergency Management Procedures (SEMP), including information for Principals relating to incidents of sexual assault;
  - c. a link to DoE’s Critical Incident Response Procedure Document; a critical incident flowchart for Principals

***Procedures Regarding Alleged Maltreatment of Students by Employees of the Department of Education and the Arts (1995 and revised in 1996 and 1997):***

87. These Procedures cover legal responsibilities in relation to maltreatment of students by Department employees. These responsibilities existed under the *Child Protection Act 1974* and the *Child Protection Order 1977*. The Procedures cover different types of maltreatment, including sexual maltreatment, and how and when a report must be made. The Procedures were developed jointly with the Child Protection Unit of the Department of Community and Health Services, Tasmania.

**Para 20 - Identify whether the Department's response to Rachel's and Anne's complaints complied with the policies and procedures in place in 2005-2007. If the Department's response did not comply with the policies and procedures in place in 2005-2007, please explain the respects in which the Department's response did not comply.**

88. The Conduct and Investigations Unit process for a suspected breach of the Code in 2005-2007 is the same process as is current practice. That is, in 2005 – 2007, the then Conduct and Investigations Unit would have made a preliminary assessment of all the information concerning a potential breach of the Code and, if necessary, referred all information to enable the Head of Agency to form a view as to whether or not reasonable grounds exist that breach of the Code has occurred.

89. Mr John Smyth, then Secretary, investigated the allegations in accordance with CD5.

90. That is, Wayne was advised the substance of the alleged breaches of the Code, the intention to investigate the alleged breaches, who will investigate the alleged breaches, and of the possible implications if the matter proceeds to a determination that Wayne has breached the Code. Mr Smyth also suspended Wayne from duty in accordance with Commissioner's Direction No. 8.

91. Mr Smyth subsequently determined that Wayne did not breach the Code due to legal complexities in relation to whether Wayne's action was "in the course of employment".  
 . In a letter to Wayne, Mr Smyth did note his concerns about Wayne's conduct and judgement generally, reminded Wayne of appropriate conduct and judgement required of teachers and stated that the letter served as a "formal instruction".

92. Following conclusion of the investigation, Rachel and Anne were advised of the outcome.

93.



94. The following aspects are noted by way of observations:

- a. In the letter of [REDACTED] 2007, Mr Smyth comments *“all current investigations are now concluded and I consider these matters to be at an end...”*. The Department acknowledges that given Rachel’s further written allegations of [REDACTED] 2007, one of which was further investigated, this is a misstatement of fact; however, notes that it may not have been within Mr Smyth’s knowledge. It is noted, for example, that the further allegations of Rachel appear not to have been discussed/progressed within the Department as at the date of Mr Smyth’s letter [REDACTED] 2007) and the misstatement by the then Secretary appears on the face of it to have been unintentional, if the further allegations had not yet been brought to his attention. The matters are documented as having been brought to the attention of the Secretary on [REDACTED] 2007.
- b. The DoE Conduct and Behaviour Standards were also applicable during the relevant period. The Standards provide *“Employees should be aware that personal conduct outside of normal working hours can reflect either positively or adversely on the Department and should act appropriately in the presence of students at all times, both within and outside school hours. At all times employees should conduct themselves in a manner that does not bring the Department of Education into disrepute”*. The Conduct and Behaviour Standards don’t appear to be referred to in any written correspondence to Wayne and appear material to the facts.
- c. In regard to the further allegations raised by Rachel on [REDACTED] 2007, it appears from the records that the Department did not advise Wayne of the further allegations. Secondly, the Department considered one of the additional allegations (showing of dirty jokes/videos), however that allegation was not investigated in accordance with CD5. Rather an initial investigation was commenced. Additionally, a further allegation of giving a personal letter to Rachel at School appears to have been overlooked.

**Para 21 - Identify the respects (if any) in which the Department's response to Rachel and Ms Anne's complaints would be handled differently today. If these complaints would be handled differently today, please explain why this would be the case.**

95. If the allegations were reported in 2022, the practices applied by DoE are less restrictive and instead will now draw a nexus between the alleged conduct and the fact that it is by reason of employee's employment that the employee/student relationship in place. Ongoing conduct, even outside of school hours, can be held to account and therefore included in the ED5 process where the conduct occurred because of a relationship that had developed out of the employee/student relationship.
96. This is illustrated by the current ED5 investigation (as referred to previously) concerning Mr Wayne and the fact that the investigation is proceeding on the basis of the employee/student relationship despite the allegations not occurring on school grounds. If allegations such as those raised by Rachel were raised today, the Department would review all allegations in light of there being such a nexus between the allegations and being 'in the course of employment'.
97. The standard procedure since early 2021 is that all matters are referred to Workplace Relations for subsequent referral to me, as Secretary.
98. The need to establish a nexus between the alleged conduct and it being 'in the course of employment' means that the Department remains exposed to failings and criticism.
99. In my view, the process of investigation for employee conduct matters (i.e. ED5 process) related to child sexual abuse allegations would be better expanded to encompass all complaints and allegations, including those "arising from employment" or "arising outside employment, but connected to employment", rather than simply "in the course of employment". That said, changes such as those would require legislative amendment and consideration by various parties (e.g. the State Service Management Office, the Department of Justice, the various stakeholders including workers unions). The approach we are currently taking to investigating all allegations where we consider there may be a "nexus", is one that is broad in nature and has not been tested via legal challenge.
100. In the absence of any legislative amendment, I am conscious that the Department must have risk management strategies in place to reduce the risk of harm to our learners.

Such strategies include my determination of every matter referred by Workplace Relations, which in turn could result in redeployment of an employee to an area of non-contact with young people, having appropriate conduct and behaviour policies that are regularly reviewed and suitable training and reminders to staff about those policies. In this regard, the Office of Safeguarding Children and Young People are working to improve these areas.

101. If complaints such as Rachel's and Anne's were received today, Wayne would be asked to immediately leave the workplace pending the receipt of letter from the Secretary informing him of the commencement of the ED5 investigation. Workplace Relations would then refer the allegations to the Secretary for his determination of whether he has reasonable grounds to believe a breach of the Code of Conduct has occurred. Further, the matters would be formally referred to relevant agencies, specifically, notifications would be made to Tasmania Police ("TAS POL"), the Department of Justice RWVP ("RWVP"), the Teachers Registration Board ("TRB") and the Integrity Commission. Each of these agencies is provided with a full summary of the nature of the allegations.

102. The ED5 Investigation must comply with ED5 at each step of the investigative process.

103. The appointed Contact Officer, who will be a Senior Workplace Relations Consultant, is guided by an internal document titled the *ED5 Investigation Checklist*. This ensures that all necessary steps are taken in a timely manner.

104. The current practice implemented by Workplace Relations is as follows:

- a. Allegations of alleged breach/es of the Code are reported to Workplace Relations, either directly by the person affected, a staff member suspecting the breach, Learning Services Regional HR or the Principal.
- b. After being briefed by the person who reported, the Senior Workplace Relations Consultant will discuss the alleged conduct with [REDACTED] Manager Workplace Relations, and [REDACTED], Assistant Director Industrial Relations, and an initial assessment will be made as to the nature and seriousness of the allegations.
- c. If the matter is assessed as more serious, Workplace Relations will brief the Secretary as to whether the matter should be investigated under ED5 (noting that all allegations of child sexual abuse are referred to the Secretary to consider) however best practice is

that the employee is asked to immediately leave the workplace and await correspondence from the Secretary.

- d. If the matter is more serious, Workplace Relations immediately informs Tas Pol, RWVP, and if the employee is a teacher notification is also made to the TRB.
- e. Depending on the severity of the allegations Workplace Relations may refer the matter to Learning Services Regional HR to provide support to the school, or make referrals for support, and to obtain further information.
- f. If Workplace Relations assesses the allegation/s as being at the lower level of seriousness (i.e. not an allegation of child sexual abuse or otherwise inappropriate physical contact or not within the ordinary meaning of serious misconduct) the matter may be handled locally in consultation between the Principal and Learning Services, without a referral to the Secretary.
- g. If the Secretary determines that the matter is to be investigated under an ED5 process, an investigator will be appointed. The employee is formally advised and, at the same time, they may be suspended from duty with pay, pending the outcome of the investigation.
- h. Once the investigator has provided their report, and the employee has had the opportunity to consider and respond to that report, the matter will be referred to the Secretary for determination. If the Secretary is satisfied that the employee has breached the Code, the Secretary then imposes a sanction/s.
- i. Regardless of whether the matter is resolved at the school level, Learning Services level or under an ED5, the TRB must be notified if there is any disciplinary action against a teacher under the *Teachers Registration Act 2000*. Workplace Relations considers that 'disciplinary action' encompasses a warning letter from the Principal.

105. Specifically, in relation to the initial complaint raised by Anne [REDACTED] in 2005 and the subsequent conclusion by the Department, I note the following are areas of concern:

- a. It is agreed that the community expectations both during 2005-2007 and now are that teachers behave appropriately towards students and young people and that they be cautious when interacting with students, both during school hours and outside school hours;

- b. That the Department considered that the non-wearing of the tank top to have significance in terms of exposing the community to inappropriate conduct. By the very nature of the giving of the top and the admission that he did so, affected the integrity and good reputation of the State Service. I am confident that the conclusion reached in 2006, is not one that the Department would reach today. Today's assessment is in accordance with guiding principles and policies applicable to staff, not in accordance with whether or not the community had been aware or exposed to inappropriate conduct. If this type of conduct was investigated today and was found to have occurred in the course of State Service employment, and if it was a singular event for a teaching employee, it would likely result in a sanction of a formal reprimand and specific counselling around professional boundaries and appropriate interaction with students. If the welfare of the student, ongoing risk or public perception was such that the employee should not return to that workplace, re-assignment of duties may also be considered.

106. In relation to Rachel's further allegations which were provided in writing on 2007, I have a number of concerns in relation to the Department's handling of the further allegations:

- a. Whilst a mandatory report was made to CPAARS and Rachel's letter of further allegations provided with that mandatory report, those further allegations in their entirety did not form part of the further Departmental investigation on the basis that most of the allegations were "not in the course of employment". As mentioned previously in this statement, this is not a failing by the Department, but rather, a limitation in the *State Service Act*, Code of Conduct.
- b. The matters outlined by Rachel that did not form part of the Departmental investigation were:
  - i. that he would supply her with alcohol;
  - ii. that on an occasion he put his finger in her mouth and made her suck it and then he did the same to her;
  - iii. that he'd written a letter to her and told her he loved her. He gave her the letter at school and asked her to write back to him;
  - iv. that he told her that once she left school and was 18 they could start dating and everything would be fine;

- v. that he told her to put her phone on vibrate and then put it down her pants so that when she received further text messages it would vibrate in her pants.
  
- c. It is evident that the above matters are ones that are entirely inappropriate of a teacher towards a student, regardless of whether they are “in the course of employment”. They are matters indicative of grooming behaviour. The DoE Conduct and Behaviour Standards provide *“Employees should be aware that personal conduct outside of normal working hours can reflect either positively or adversely on the Department and should act appropriately in the presence of students at all times, both within and outside school hours. At all times employees should conduct themselves in a manner that does not bring the Department of Education into disrepute”*. As mentioned previously, if the above matters were reported today, the Department would draw a nexus between the conduct and the fact that it is by reason of employment that an employee/student relationship is formed. Ongoing conduct, even outside of school hours, can be held to account.
  
- d. Additional information was received by the Department (via email) on [REDACTED] 2007 in relation to Wayne’s inappropriate conduct with other females (including past students). There are no records to indicate whether or not this information was investigated further and/or provided to Police.
  
- e. The formal letter sent to Wayne [REDACTED] by the Department suggested that he not put himself in a position whereby his conduct could be deemed inappropriate and that he should use appropriate judgement in his dealings with students. At the very least, these statements ought to have been supported by the provision of the various policies in place at the time in relation to “appropriate conduct”.

107. The Department did, however, fully investigate all allegations in 2021 during a review period of all conduct matters involving current employees.

108. Following review of this matter, I instructed Workplace Relations to proceed to ED5 investigation and engage an investigator for that purpose. The Minute to the Secretary dated [REDACTED] 2021 notes all matters I instructed to be undertaken, noting that a number were not able to be reinvestigated due to a CD5 investigation having been concluded.

109. The investigation is ongoing. The Department is awaiting finalising of an Investigation Report of [REDACTED], regardless of the fact that Wayne has resigned in the interim (resigned effective [REDACTED]).

**Questions for response: Investigation and Response**

**Para 22: Did the Department carry out a full investigation into the allegations that, while Mr Wayne was a teacher employed by the Department he:**

- a. *kissed Rachel on a number of occasions in his car*
- b. *on at least one occasion, Mr rubbed his hand up and down her leg and touched her crotch area (over her clothing)*
- c. *texted her saying 'I love you' on a number of occasions, and*
- d. *showed her 'dirty jokes or videos from his computer in his own office'.*

110. The allegation predates my appointment as Secretary of the Department of Education and is drawn from an unsigned Briefing Note to Mr John Smyth (then Secretary) dated [REDACTED] 2007.

111. On [REDACTED] 2007, [REDACTED], Assistant Director Industrial Relations, and [REDACTED] Manager Workplace and Consultancy Services, met with Rachel and Anne to inform Rachel of the outcome of the 2006 CD5 investigations.

112. Rachel became visibly upset when informed that the Secretary did not find a breach of the Code of Conduct and informed [REDACTED] and [REDACTED] that her original complaint had been incomplete. Rachel then verbally provided a lengthy and detailed set of new allegations.

113. On [REDACTED] 2007, Rachel documented a new set of allegations and forwarded them to the Department. The allegations were detailed and included the four allegations contained the Question for Response above.

114. On [REDACTED] 2007, [REDACTED] then Manger Conduct and Investigations, verbally informed CPAARS of the new allegations.

115. On [REDACTED] 2007, [REDACTED] met with [REDACTED] and Mr Greg Glass (then Deputy Secretary Corporate Services) and agreed that the allegations relating to Wayne touching and kissing

Rachel would be most appropriately handled through a referral to CPAARS who would refer on to TASPOL.

116. The key reason for this decision related to the limitations that would be on any departmental investigation given that the alleged events took place outside of school hours and school grounds, there were no witnesses, and no additional sources of evidence that the Department could pursue.

117. I further note that the Department separately arranged for Rachel to speak to Police at CIB about the matter.

118. Conduct and Investigations did conduct a preliminary investigation into the allegation of Mr Wayne showing Rachel "dirty jokes or videos from his computer in his office" however no evidence was identified.

**Para 23: If an investigation was carried out into the matters set out in paragraph 22, above:**

- a. *identify the scope of that investigation*
- b. *identify the position, role and reporting line of any Official responsible and involved in undertaking that investigation*
- c. *identify the standard of proof applied in that investigation, and*
- d. *provide an outline of the outcome of that investigation.*

119. In terms of the investigation that was carried out in relation to that listed at para. 22(d), then Manager (Conduct and Investigations) was the person responsible for the investigation. The standard of proof was on the balance of probabilities, to determine whether there were reasonable grounds to believe that Wayne had breached the State Service Act 2000 Code of Conduct. In the process of investigation, did the following:

- a. met with Rachel and obtained a separate statement in relation to the dirty jokes/video allegation;
- b. arranged an appointment for Rachel to talk to CIB in relation to all allegations outlined in Rachel's letter of 2007;

- c. Met with witness [REDACTED] and obtained a statement in relation to what she saw/heard in relation to the dirty jokes/video allegation;
- d. Liaised with the Director of ITS [REDACTED] in an attempt to establish the existence of the alleged material on Wayne [REDACTED]'s laptop or desktop computer;
- e. Attended [REDACTED] seeking further information/evidence in relation to the allegation, specifically, speaking to Principal [REDACTED] and [REDACTED];
- f. Liaised with the Investigating Officer at [REDACTED] CIB as to the progress of the independent Police investigation and the final determination;
- g. Prepared the final briefing note to the Secretary with options and recommendations.

**Para 24: If no investigation was carried out into some or all of the matters set out in paragraph 22, above.**

- a. **please explain why no investigation was carried out;**

120. There is no documentation on the file to assist me in knowing why no investigation was carried out into some or all of the matters in paragraph 22, other than to observe that the final outcome and decision by the then Secretary on the CD5s was that the matters alleged did not occur in the course of State Service employment and therefore that Wayne [REDACTED] had not breached the Code.

121. The subsequent matters raised by Rachel [REDACTED] appear to be either outside the course of State Service employment, as it was interpreted at that time (the allegations alleged to have occurred in Wayne [REDACTED]'s car and text messages) or could not proceed to CD5 due to a lack of evidence (the allegations regarding showing Rachel [REDACTED] dirty jokes/inappropriate internet content). A further recommendation was that final closure be brought to past CD5 investigations by the publishing of an agreed statement between the Department and Wayne [REDACTED] (see further below).

- b. ***Explain whether the Department considers that this approach would be appropriate today. If the Department does not consider that this approach would be appropriate today, explain:***

- (i) *why it would not be appropriate; and*
- (ii) *what approach the Department would take today, with reference to each of the matters identified in paragraph 23 above.*

122. I cannot comment on the appropriateness of the investigation in 2005-2007, other than to say that documentation on the file suggests that the matters were not considered “in the course of employment”. The Department would not take this approach today. If the allegations were raised today, I would take the view that, on the facts as presented, there is sufficient nexus to employment to warrant an investigation into all matters (as mentioned previously). The process undertaken would be that as outlined under Item 19 heading.

**Para 25: Outline the steps taken by the Department or [REDACTED] in response to the allegations made by Rachel [REDACTED] and Anne [REDACTED] to:**

- a. assess the risk posed by Wayne [REDACTED] to Rachel [REDACTED] and to students at the [REDACTED] [REDACTED] more generally**

123. It is evident in the factual material on the investigation file that the Department determined the risk posed to Rachel [REDACTED] and other students at [REDACTED] was that further inappropriate conduct could occur that would subject Rachel [REDACTED] and other students to significant risk. As a result, Wayne [REDACTED] was suspended pending the outcome of investigations.

- b. provide support to Rachel [REDACTED], her family, students or staff at the [REDACTED] [REDACTED]**
- c. communicate with Rachel [REDACTED], her family, students or staff at the [REDACTED] [REDACTED] regarding actions taken in response to the allegations, and**

124. In relation to supports and communications with Rachel [REDACTED] and her family, students or staff at [REDACTED], I have been unable to locate any records about supports put in place for Rachel [REDACTED] or others involved in the matter. It is evident from the *Procedures Regarding Alleged Maltreatment of Students by Employees of the Department of Education and the Arts*, that no support processes formed part of the procedures. This is inconsistent with today's arrangements whereby the usual practice now is to ensure the Student Support Team would be notified and that affected students have access to the school social worker and psychologist, and access is facilitated to community-based organisations such as the Sexual Assault Support Service (SASS).

125. Our current processes have been enhanced to include immediate involvement of Learning Services as a liaison point to affected students and their families/carers.

126. It is worth noting that a schematic problem existed at the time of these allegations in relation to the consideration of “immediate risk”. Specifically, if the Department had suspended an employee pending investigation, the Advice and Referral Line would not action a notification on the basis that there was “no immediate risk” as a result of the suspension.

### ***Joint Statement and Information Sharing***

**Para.26: Do you consider that the joint statement recommended to be issued on [REDACTED] [REDACTED] (extracted at paragraph 14, above) was accurate at the time it was published? Please give reasons for your answer.**

127. The joint statement published was as agreed by the then Secretary Mr Smyth and Wayne [REDACTED] and his legal representative. The statement was published in a local publication called the [REDACTED] [REDACTED] in the [REDACTED] community of [REDACTED]. I can't comment on reasons as to why the publication occurred. In terms of the accuracy of the statement, the following are observations I make, rather than comments about accuracy:

- a. It is stated that the Department did an “extensive investigation”. In my view, an extensive investigation would include an investigation of all allegations, even those that may not fall into “the course of employment”;
- b. I take the view that the use of the words “this letter serves as a formal instruction” in Mr Smyth’s letter to Wayne [REDACTED] on [REDACTED] 2007 may constitute a reprimand, which is a breach of the Code of Conduct in accordance with Section 10(1)(b) of the Act.

**Para.27: Do you consider that the Department’s correspondence with the Teachers Registration Board (referred to at paragraph 17 above) provided a proper and complete and accurate outline of the information that was necessary or appropriate for the Teachers Registration Board to fulfil its functions? Please give reasons for your answer.**

128. I do not consider the Department’s correspondence with the Teachers Registration Board (TRB) provided a proper, complete and accurate outline of the information that was necessary or appropriate for the TRB to fulfil its function. I say this because the letter accompanying the TRB letter, only mentions the matters that the Department investigated, not the entire complaint as outlined by Rachel [REDACTED] in her letter of [REDACTED] 2007.

**Para 28: Would the Department approach correspondence with the Teachers Registration Board in the same way today? If not, please explain the respects in which the Department would approach correspondence with the Teachers Registration Board differently today.**

129. Workplace Relations now provides the TRB a copy of the ED5 letter to the Employee and all relevant documentary evidence.

130. Workplace Relations provides to the TRB the outcome of the ED5.

131. Workplace Relations also provides to the TRB with statements obtained during the Investigation Report where those witnesses have given permission for that to occur.

#### **REQUEST FOR DOCUMENTS**

- 18 Produce copies of policies and procedure that are either referred to or relevant to your response as in place at the relevant time. Where any document is provided that is no longer current, please provide the current version of that document.
- 19 Produce copies of any training materials in place at the date of this Notice concerning:
  - (a) mandatory reporting
  - (b) communications with the Teachers Registration Board, and
  - (c) carrying out investigations into allegations of the kind set out in paragraph 6, above.
- 20 Produce copies of any documents (if any) supporting your responses to paragraphs 22, 23 and 25 above.

## Attachments

### ***Re Request for Documents (18): in place at the relevant time***

- i. *Procedures Regarding Alleged Maltreatment of Students by Employees of the Department of Education and the Arts (1995 and revised in 1996 and 1997);*
- ii. *State Service Act 2000 - section 9: The State Service Code of Conduct (“the Code”);*
- iii. Commissioner’s Declaration No. 5
- iv. *Protective Practices for Staff in their interactions with Students (2006); and*
- v. *Department’s Conduct and Behaviour Standards 2006.*

### ***Re Request for Documents (18): in place now***

- vi. Mandatory Reporting Procedure 2019;
- vii. Professional Standards for Staff – Policy – 2015- current;
- viii. Professional Standards for Staff – Guidelines – 2015 – current;
- ix. Protective Practices for Staff in their Interactions with Students Guideline – 2019 – current;
- x. Registration to Work with Vulnerable People Policy – 2021 – current;
- xi. Conduct and Behaviour Standards -2018 – current;
- xii. Department of Education process where an allegation(s) of child sexual abuse is made against a current employee -2021 – current;
- xiii. Advice for DoE staff on responding to incidents, disclosures and suspicions of child sexual abuse – 2022- current;
- xiv. Communication Guide for Principal/Managers – Employees Subject to Child Sexual Abuse Allegations – 2022 – current;
- xv. Duty of Care for Students on Departmental Education Sites Procedure - 2015 – current
- xvi. Legal Issues Handbook;
- xvii. *State Service Act 2000 - section 9: The State Service Code of Conduct (Code);*
- xviii. Employment Direction No. 5
- xix. Social Media Policy (2020 to current);
- xx. Social Media Procedures (2020).

***Re Request for Training Material (19)***

The Department does not have any formalised training materials in relation to any of the matters set out in 19(a), (b) or (c).

***Re Request for Documents (20):***

- A. Advice: Office of the Solicitor-General (re “in the course of State Service employment”)
- B. Advice: Office of the Solicitor-General (re investigation ED5 and “re-investigations”)
- C. Minute to the Secretary: [REDACTED]/2021
- D. Minute to the Secretary: [REDACTED] 2021
- E. Minute to the Secretary: [REDACTED] 2021
- F. Workplace Relations ED5 Investigations Checklist

**ANNEXURES**

- G. 2022-2025 Department of Education Strategic Plan
- H. Master Table: *Policies, procedures and guidelines relating to child sexual abuse incidents*